

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

NECHOLE GARCIA,

Appellant,

v.

EVGENY SHAPIRO,

Respondent.

Electronically Filed  
Mar 28 2022 04:49 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court  
Case No.: 83992-COA

**APPEAL FROM DECISION AND ORDER**

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

---

**AMENDED JOINT APPENDIX – VOL. 15**

---

Emily McFarling, Esq.  
Nevada Bar # 8567  
McFarling Law Group  
6230 W. Desert Inn Road  
Las Vegas, NV 89146  
(702) 565-4335  
*Attorney for Appellant,  
Nechole Garcia*

Jennifer Isso, Esq.  
Nevada Bar # 13157  
Isso & Hughes Law Firm  
8965 S. Eastern Ave  
Suite 120M  
Las Vegas, NV 89123  
(702) 434-4424  
*Attorney for Respondent,  
Evgeny Shapiro*

## INDEX OF JOINT APPENDIX

<b><u>VOLUME:</u></b>	<b><u>BATES NUMBER:</u></b>
1	000001 – 000250
2	000251 – 000500
3	000501 – 000750
4	000751 – 001000
5	001001 – 001250
6	001251 – 001500
7	001501 – 001750
8	001751 – 002000
9	002001 – 002250
10	002251 – 002500
11	002501 – 002750
12	002751 – 003000
13	003001 – 003250
14	003251 – 003500
15	003501 – 003750
16	003751 – 004000
17	004001 – 004250
18	004251 – 004500

19

004501 - 004750

20

004751 - 004896

**INDEX OF JIONT APPENDIX  
CHRONOLOGICAL ORDER**

<b><u>VOL.</u></b>	<b><u>DATE</u></b>	<b><u>DOCUMENT TITLE</u></b>	<b><u>BATES NO.</u></b>
1	08/07/2020	Complaint for Custody	JA000001 JA000005
1	08/07/2020	Financial Disclosure Form	JA000006 - JA000015
1	08/07/2020	Motion for Custody, Child Support, Attorney's Fees, and Other Related Relief	JA000016 - JA000025
1	08/07/2020	Amended Motion for Custody, Child Support, Attorney's Fees and Other Related Relief	JA000026 JA000035
1	08/14/2020	Answer and Counterclaim	JA000036 - JA000044
1	08/18/2020	Defendant's Opposition to Plaintiff's Amended Motion for Custody, Child Support and Other and Countermotion for Immediate Return of Child; for Primary Physical Custody; Child Support and Child Support Arrears; for Plaintiff to Share in Medical Costs for Child; for Attorney's Fees and All Other Related Relief	JA000045 - JA000061
1	08/26/2020	Reply In Support of Plaintiff's Amended Motion for Custody, Child Support, Attorney's Fees and Costs, and Other Related Relief	JA000062 - JA000074
1	08/26/2020	Plaintiff's Exhibits in Support of Plaintiff's Reply and Opposition	JA000075 - JA000161
1	09/04/2020	Def's General Financial Disclosure Form	JA000162 - JA000171
1	09/10/2020	Reply to Counterclaim	JA000172 - JA000174
1	09/11/2020	Exhibit in Support of Defendant's Opposition	JA000175 - JA000176
1	09/14/2020	Supplemental Exhibit in Support of Defendant's Opposition	JA000177 - JA000196
1	09/17/2020	Order for the Our Family Wizard Website Seervices	JA000197 - JA000198
1	10/29/2020	SAO CUSTODY EVALUATION	JA000199 - JA000201

1	11/03/2020	Notice of Entry of Stipulation and Order	JA000202 - JA000206
1	11/25/2020	D-20-612006-C - Shaprio v. Garcia - ORDR - Order After Hearing	JA000207 - JA000212
1	11/25/2020	Notice Of Entry Of Order	JA000213 - JA000220
1	12/21/2020	Order Adopting this Court's Holiday Schedule re Christmas D612006	JA000221 - JA000226
1	12/21/2020	Defendant's Objection To Plaintiff s Ex Parte Request For Holiday Visitation Time On Order Shortening Time	JA000227 - JA000231
1	12/21/2020	Defendant's Motion For Reconsideration Motion for Reconsideration and Objection and Plaintiff's Countermotion to Extend Custodial Time and For Attorney's Fees and Other Related Relief	JA000232 JA000240
1	12/28/2020	Minute Order Modifying the Decision and Order filed 12-21-20	JA000241 - JA000243
1-2	12/28/2020	Plaintiff's Opposition to Defendant's Motion for Reconsideration and Objection and Plaintiff's Countermotion to Extend Custodial Time and For Attorney's Fees and Other Related Relief	JA000244 - JA000253
2	12/28/2020	Exhibits in Support of Plaintiff's Opposition and Countermotion	JA000254 - JA000261
2	01/04/2021	Plaintiff's Re-Notice of Countermotion	JA000262
2	03/11/2021	Defendant s Reply To Plaintiff s Opposition To Defendant's Motion For Reconsideration And Objection And Plaintiff's Countermotion To Extend Custodial Time And For Attorney s Fees And Other Related Relief	JA000263 - JA000268
2	03/16/2021	PLAINTIFF S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION	JA000269 - JA000272
2	03/23/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY AND EXPERT REPORT PURSUANT TO NRCP 16.1(a)(2)	JA000273 - JA000286

2	03/23/2021	Custody Evaluation by Kathleen L. Bergquist, Licensed Clinical Social Worker <sup>1</sup>	JA000287 - 000319
2	04/20/2021	Order From Hearing On March 16, 2021	JA000320 - JA000324
2	05/04/2021	Notice of Scheduling Settlement Conference	JA000325 - JA000328
2	05/04/2021	Notice Of Entry Of Order	JA000329 - JA000334
2	05/29/2021	Notice of Seminar Completion EDCR 5.302	JA000335
2	05/29/2021	Financial Disclosure Form	JA000336 - JA000343
2	07/13/2021	Settlement Conference Minutes	JA000344 - JA000345
2	07/13/2021	Expert Witness List	JA000346 - JA000369
2	07/19/2021	PLAINTIFF S MOTION FOR A SANCTIONS AND FOR ATTORNEY S FEES AND COSTS AND OTHER RELATED RELIEF	JA000370 - JA000378
2	07/20/2021	Defendant's Opposition to Plaintiff's Motion for Sanctions and for Attorney's Fees and Costs and Other Related Relief Defendant's Countermotion for Plaintiff's Motion to Be Stricken; for Attorney's Fees and Costs; for Related Relief	JA000379 - JA000395
2	08/12/2021	Order Setting Civil Non-Jury Trial	JA000395 - 000400
2	09/07/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY PURSUANT TO NRCP 16.1(a)(2)	JA000401 - JA000414
2	09/08/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY PURSUANT TO NRCP 16.1(a)(2)	JA000415 - JA000429
2	09/15/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS REPORT	JA000430 - JA000437
2	09/21/2021	Trial Subpoena - Video Testimony Only	JA000438 - JA000440

---

<sup>1</sup> Submitted under seal subject to Court approval.

2	09/21/2021	Trial Subpoena - Video Testimony Only For Dr Mario Gaspar De Alba	JA000441 - JA000443
2	09/22/2021	Trial Subpoena - Video Testimony Only For Marine Lancz	JA000444 - JA000446
2	09/23/2021	Notice Of Taking Remote Deposition	JA000447 - JA000448
2	10/05/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000449 - JA000456
2	10/05/2021	General Financial Disclosure Form	JA000457 - JA000466
2	10/06/2021	Financial Disclosure Form	JA000467 - JA000482
2	10/07/2021	Plaintiff's Pre-Trial Memorandum	JA000483 - JA000492
2-3	10/08/2021	Defendant's Pretrial Memorandum	JA000493 - JA000530
3	10/09/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000531 - JA000539
3	10/14/2021	Calendar Call - Evidentiary Hearing	JA000540
3	10/15/2021	Financial Disclosure Form	JA000541 - JA000556
3	10/15/2021	Defendant's Emergency Motion for Witness Accomodation, or Alternatively, to Continue Trial on an order Shortening Time	JA000557 - JA000573
3	10/28/2021	Plaintiff's Reply to Defendant's Opposition to Motion for Witness Accommodation	JA000574 - JA000577
3	10/28/2021	Defendant s Limited Opposition To Plaintiff s Motion For Witness Accommodation And Request For Attorney s Fees And Costs Hearing Minutes	JA000578
3	11/02/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000579 - JA000587
3	11/03/2021	Trial Exhibit: Child's TMG Exit Records. Eugene	JA000588 - JA000612
3	11/03/2021	Trial Exhibit: Carter Counseling Autism Treatment Plan	JA000613 - JA000637
3	11/03/2021	Trial Exhibit: Firefly treatment plan for ABA Therapy. Eugene 4484-4508	JA000638 - JA000643

3	11/03/2021	Trial Exhibit: Dr. Gaspar Pediatric Report. Eugene 4462-4467	JA000644 - JA000649
3-4	11/03/2021	Trial Exhibit: Teladoc Health inc. records for Nechole Garcia. Eugene 3997-4111 <sup>2</sup>	JA000650 - JA000764
4	11/03/2021	Trial Exhibit: Pictures of child with scratches and diaper rash. Eugene 3715-3732	JA000765 - JA000782
4	11/03/2021	Trial Exhibit: Pictures of child with her brothers. Eugene 3700-3714	JA000783 - JA000797
4-5	11/03/2021	Trial Exhibit: Therapy Manage Group CARS Report Information. Eugene 3140-3152	JA000798 - JA000810
5	11/03/2021	Trial Exhibit: 2021 Additional Child Photos and Videos. Eugene 3134-3137	JA000811 - JA000814
5,6,7	11/03/2021	Trial Exhibit I: All Our Family Wizard Communications, Updated	JA000815 - JA001715
7 -15	11/03/2021	Trial Exhibit: Text Messages between the parties. Eugene 0845-2754	JA001716 - JA003625
15	11/03/2021	Trial Exhibit G: Constructive Arrears	JA003626 - JA003669
15	11/03/2021	Trial Exhibit: Dr. Pickar' s Report: Defendant Ex	JA003670 JA003684
15	11/03/2021	Evidentiary Hearing - Minutes	JA003685
15-17	11/03/2021	Transcript of Hearing: Evidentiary Hearing (Corrected)	JA003686 - JA004027
17	11/04/2021	Telephonic Hearing - Minutes	JA004028
17	11/04/2021	Transcript of Hearing: Telephonic Hearing	JA004029 - JA004037
17-18	11/05/2021	Transcript of Hearing: Evidentiary Hearing	JA004038 - JA004344
18	11/05/2021	Trial Exhibit: Plaintiff's PayPal Account. Eugene 0828-0844	JA004345 - JA004361
18	11/05/2021	Trial Exhibit: Child expenses and receipt from Dr. Berquist. Eugene 0800-0823	JA004384- JA004385
18	11/05/2021	Plaintiff's Mortgage Statement. Eugene 0795-0799	JA004386- JA004390
18	11/05/2021	Trial Exhibit: Plaintiff's traceable expenses report. Eugene 0793-0794	JA004391- JA004392

---

<sup>2</sup> Submitted under seal subject to Court approval.

18	11/05/2021	Trial Exhibit: Ledger of checks and cash given to Defendant. Eugene 0706-0707	JA004393 - JA004394
18	11/05/2021	Trial Exhibit: Child Medical Expenses. Eugene 0701-0705	JA004395- JA004399
18	11/05/2021	Trial Exhibit: Amazon Manage Order. - Eugene 0624-0625	JA004400- JA004401
18	11/05/2021	Trial Exhibit: Wal-Mart receipts. Eugene 0566-0623	JA004402- JA004459
18	11/05/2021	Trial Exhibit: Proof of Purchases for Baby Proofing. Eugene 0318-0322	JA004460- JA004464
18	11/05/2021	Trial Exhibit: Proof of Humidifier Purchase; Eugene 0316-0317	JA004465 JA004466
18-19	11/05/2021	Trial Exhibit: Checks and Cash Paid to Defendant by Plaintiff; Eugene 0080-0121	JA004468 JA004508
19	11/05/2021	Trial Exhibit: Statement related to health insurance for the minor child, Defendant Ex	JA004509 JA004512
19	11/05/2021	Trial Exhibit: Plaintiffs Bank Records, Defendant Ex W-0001 - Defendant Ex W-0086	JA004513 JA004599
19	11/05/2021	Trial Exhibit Z: Coparenting Concerns Involving CCSD, Defendant Ex Z-0001 to Defendant Ex Z-0015	JA004600 - JA004615
19	11/05/2021	State of Nevada Individualized Educational Program (IEP)	JA004616 JA004636
19	11/05/2021	Trial Exhibit: Defendant's 2018 Tax Return	JA004637
19	11/05/2021	Trial Exhibit: Defendant's 2019 Tax Return	JA004638 - JA004640
19	11/05/2021	Trial Exhibit: Defendant's 2020 Tax Return	JA004641 JA004645
19	11/05/2021	Trial Exhibit: Plaintiff's 2018 Tax Return	JA004646- JA004653
19	11/05/2021	Trial Exhibit: Plaintiff's 2019 Tax Return	JA004654 JA004665
19	11/05/2021	Trial Exhibit: Plaintiff's 2020 Tax Return	JA004666 JA004677
19	11/16/2021	SAO TO EXTENDED DUE DATE OF BRIEF	JA004678 JA004680
19	11/23/2021	Defendants Closing Brief	JA004681

			JA004690
19	11/24/2021	Defendant's Nechole Garcia's Brief Regarding Child Support	JA004691 JA004695
19	11/25/2021	PLAINTIFF S CLOSING BRIEF	JA004696 JA004705
19	11/26/2021	PLAINTIFF S CLOSING BRIEF	JA004706 JA004715
19	12/15/2021	Decision and Order for November 03, 2021 and November 05, 2021 Evidentiary Hearings	JA004716 JA004728
19	12/18/2021	Notice of Appeal	JA004729 JA004731
19	12/18/2021	Plaintiff's Motion For Attorney's Fees And Reimbursement Of Costs And Memorandum Of Fees And Costs Incurred	JA004732 JA004750
20	12/21/2021	Exhibits In Support Of Defendants Motion For Attorneys Fees And Costs Pursuant To NRCP 54(d)	JA004751 JA004829
20	12/21/2021	Defendant's Motion For Attorney's Fees and Costs Pursuant To NRCP 54(d)	JA004830 JA004846
20	12/22/2021	Defendant's Opposition to Plaintiff's Motion for Attorney's Fees and Reimbursement of Costs and Memorandum of Fees and Costs Incurred	JA004847 JA004862
20	12/27/2021	Plaintiff's Opposition To Defendant's Motion For Attorney's Fees And Costs And Counter Motion For Sanctions Under NRCP 11	JA004863 JA004874
20	12/29/2021	Order Deferring Motions Pending Appeal	JA004875 JA004877
20	01/06/2022	Emergency Motion to Stay The Court's Order	JA004878 JA004885
20	01/09/2022	Opposition to Motion to Stay	JA004886 JA004892
20	01/12/2022	Notice of Entry of Decision and Order	JA004893
20	01/12/2022	Decision and Order Denying Request for Stay	JA004894 JA004896

**INDEX OF JOINT APPENDIX  
ALPHABETICAL ORDER**

<b><u>VOL.</u></b>	<b><u>DATE</u></b>	<b><u>DOCUMENT TITLE</u></b>	<b><u>BATES NO.</u></b>
1	08/07/2020	Amended Motion for Custody, Child Support, Attorney's Fees and Other Related Relief	JA000026 JA000035
1	08/14/2020	Answer and Counterclaim	JA000036 - JA000044
3	10/14/2021	Calendar Call - Evidentiary Hearing	JA000540
1	08/07/2020	Complaint for Custody	JA000001 JA000005
2	03/23/2021	Custody Evaluation by Kathleen L. Bergquist, Licensed Clinical Social Worker <sup>3</sup>	JA000287 - 000319
1	11/25/2020	D-20-612006-C - Shaprio v. Garcia - ORDR - Order After Hearing	JA000207- JA000212
20	01/12/2022	Decision and Order Denying Request for Stay	JA004894 JA004896
19	12/15/2021	Decision and Order for November 03, 2021 and November 05, 2021 Evidentiary Hearings	JA004716 JA004728
3	10/28/2021	Defendant s Limited Opposition To Plaintiff s Motion For Witness Accommodation And Request For Attorney s Fees And Costs	JA000578
2	03/11/2021	Defendant s Reply To Plaintiff s Opposition To Defendant's Motion For Reconsideration And Objection And Plaintiff's Countermotion To Extend Custodial Time And For Attorney s Fees And Other Related Relief	JA000263 - JA000268
1	12/21/2020	Defendant's Motion For Reconsideration Motion for Reconsideration and Objection and Plaintiff's Countermotion to Extend Custodial Time and For Attorney's Fees and Other Related Relief	JA000232 JA000240

---

<sup>3</sup> Submitted under seal subject to Court approval.

1	12/21/2020	Defendant's Objection To Plaintiff's Ex Parte Request For Holiday Visitation Time On Order Shortening Time	JA000227 - JA000231
19	11/23/2021	Defendants Closing Brief	JA004681 JA004690
3	10/15/2021	Defendant's Emergency Motion for Witness Accommodation, or Alternatively, to Continue Trial on an order Shortening Time	JA000557 - JA000573
20	12/21/2021	Defendant's Motion For Attorney's Fees and Costs Pursuant To NRCP 54(d)	JA004830 JA004846
19	11/24/2021	Defendant's Nechole Garcia's Brief Regarding Child Support	JA004691 JA004695
1	08/18/2020	Defendant's Opposition to Plaintiff's Amended Motion for Custody, Child Support and Other and Countermotion for Immediate Return of Child; for Primary Physical Custody; Child Support and Child Support Arrears; for Plaintiff to Share in Medical Costs for Child; for Attorney's Fees and All Other Related Relief	JA000045 - JA000061
20	12/22/2021	Defendant's Opposition to Plaintiff's Motion for Attorney's Fees and Reimbursement of Costs and Memorandum of Fees and Costs Incurred	JA004847 JA004862
2	07/20/2021	Defendant's Opposition to Plaintiff's Motion for Sanctions and for Attorney's Fees and Costs and Other Related Relief Defendant's Countermotion for Plaintiff's Motion to Be Stricken; for Attorney's Fees and Costs; for Related Relief	JA000379 - JA000395
2-3	10/08/2021	Defendant's Pretrial Memorandum	JA000493 - JA000530
1	09/04/2020	Def's General Financial Disclosure Form	JA000162 - JA000171
20	01/06/2022	Emergency Motion to Stay The Court's Order	JA004878 JA004885
15	11/03/2021	Evidentiary Hearing - Minutes	JA003685
1	09/11/2020	Exhibit in Support of Defendant's Opposition	JA000175 - JA000176

20	12/21/2021	Exhibits In Support Of Defendants Motion For Attorneys Fees And Costs Pursuant To NRCP 54(d)	JA004751 JA004829
2	12/28/2020	Exhibits in Support of Plaintiff's Opposition and Countermotion	JA000254 - JA000261
2	07/13/2021	Expert Witness List	JA000346 - JA000369
1	08/07/2020	Financial Disclosure Form	JA000006 - JA000015
2	05/29/2021	Financial Disclosure Form	JA000336 - JA000343
2	10/06/2021	Financial Disclosure Form	JA000467 - JA000482
3	10/15/2021	Financial Disclosure Form	JA000541 - JA000556
2	10/05/2021	General Financial Disclosure Form	JA000457 - JA000466
1	12/28/2020	Minute Order Modifying the Decision and Order filed 12-21-20	JA000241 - JA000243
1	08/07/2020	Motion for Custody, Child Support, Attorney's Fees, and Other Related Relief	JA000016 - JA000025
19	12/18/2021	Notice of Appeal	JA004729 JA004731
20	01/12/2022	Notice of Entry of Decision and Order	JA004893
1	11/25/2020	Notice Of Entry Of Order	JA000213 - JA000220
2	05/04/2021	Notice Of Entry Of Order	JA000329 - JA000334
1	11/03/2020	Notice of Entry of Stipulation and Order	JA000202 - JA000206
2	05/04/2021	Notice of Scheduling Settlement Conference	JA000325 - JA000328
2	05/29/2021	Notice of Seminar Completion EDCR 5.302	JA000335
2	09/23/2021	Notice Of Taking Remote Deposition	JA000447 - JA000448
20	01/09/2022	Opposition to Motion to Stay	JA004886 JA004892

1	12/21/2020	Order Adopting this Court's Holiday Schedule re Christmas D612006	JA000221 - JA000226
20	12/29/2021	Order Deferring Motions Pending Appeal	JA004875 JA004877
1	09/17/2020	Order for the Our Family Wizard Website Seervices	JA000197 - JA000198
2	04/20/2021	Order From Hearing On March 16, 2021	JA000320 - JA000324
2	08/12/2021	Order Setting Civil Non-Jury Trial	JA000395 - 000400
19	11/25/2021	PLAINTIFF S CLOSING BRIEF	JA004696 JA004705
19	11/26/2021	PLAINTIFF S CLOSING BRIEF	JA004706 JA004715
2	09/15/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS REPORT	JA000430 - JA000437
2	03/23/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY AND EXPERT REPORT PURSUANT TO NRCP 16.1(a)(2)	JA000273 - JA000286
2	09/07/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY PURSUANT TO NRCP 16.1(a)(2)	JA000401 - JA000414
2	09/08/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY PURSUANT TO NRCP 16.1(a)(2)	JA000415 - JA000429
2	07/19/2021	PLAINTIFF S MOTION FOR A SANCTIONS AND FOR ATTORNEY S FEES AND COSTS AND OTHER RELATED RELIEF	JA000370 - JA000378
2	03/16/2021	PLAINTIFF S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION	JA000269 - JA000272
2	10/05/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000449 - JA000456
3	10/09/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000531 - JA000539
3	11/02/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000579 - JA000587
18	11/05/2021	Plaintiff's Mortgage Statement. Eugene 0795-0799	JA004386- JA004390

1	08/26/2020	Plaintiff's Exhibits in Support of Plaintiff's Reply and Opposition	JA000075 - JA000161
19	12/18/2021	Plaintiff's Motion For Attorney's Fees And Reimbursement Of Costs And Memorandum Of Fees And Costs Incurred	JA004732 JA004750
20	12/27/2021	Plaintiff's Opposition To Defendant's Motion For Attorney's Fees And Costs And Counter Motion For Sanctions Under NRCP 11	JA004863 JA004874
1-2	12/28/2020	Plaintiff's Opposition to Defendant's Motion for Reconsideration and Objection and Plaintiff's Countermotion to Extend Custodial Time and For Attorney's Fees and Other Related Relief	JA000244 - JA000253
2	10/07/2021	Plaintiff's Pre-Trial Memorandum	JA000483 - JA000492
2	01/04/2021	Plaintiff's Re-Notice of Countermotion	JA000262
3	10/28/2021	Plaintiff's Reply to Defendant's Opposition to Motion for Witness Accommodation	JA000574 - JA000577
1	08/26/2020	Reply In Support of Plaintiff's Amended Motion for Custody, Child Support, Attorney's Fees and Costs, and Other Related Relief	JA000062 - JA000074
1	09/10/2020	Reply to Counterclaim	JA000172 - JA000174
1	10/29/2020	SAO CUSTODY EVALUATION	JA000199 - JA000201
19	11/16/2021	SAO TO EXTENDED DUE DATE OF BRIEF	JA004678 JA004680
2	07/13/2021	Settlement Conference Minutes	JA000344 - JA000345
19	11/05/2021	State of Nevada Individualized Educational Program (IEP)	JA004616 JA004636
1	09/14/2020	Supplemental Exhibit in Support of Defendant's Opposition	JA000177 - JA000196
17	11/04/2021	Telephonic Hearing - Minutes	JA004028
15-17	11/03/2021	Transcript of Hearing: Evidentiary Hearing	JA003686 - JA004027
17-18	11/05/2021	Transcript of Hearing: Evidentiary Hearing	JA004038 - JA004344

17	11/04/2021	Transcript of Hearing: Telephonic Hearing	JA004029 - JA004037
15	11/03/2021	Trial Exhibit G: Constructive Arrears	JA003626 - JA003669
5,6,7	11/03/2021	Trial Exhibit I: All Our Family Wizard Communications, Updated	JA000815 - JA001715
19	11/05/2021	Trial Exhibit Z: Coparenting Concerns Involving CCSD, Defendant Ex Z-0001 to Defendant Ex Z-0015	JA004600 - JA004615
5	11/03/2021	Trial Exhibit: 2021 Additional Child Photos and Videos. Eugene 3134-3137	JA000811 - JA000814
18	11/05/2021	Trial Exhibit: Amazon Manage Order. - Eugene 0624-0625	JA004400- JA004401
3	11/03/2021	Trial Exhibit: Carter Counseling Autism Treatment Plan	JA000613 - JA000637
18-19	11/05/2021	Trial Exhibit: Checks and Cash Paid to Defendant by Plaintiff; Eugene 0080-0121	JA004468 JA004508
18	11/05/2021	Trial Exhibit: Child expenses and receipt from Dr. Berquist. Eugene 0800-0823	JA004384- JA004385
18	11/05/2021	Trial Exhibit: Child Medical Expenses. Eugene 0701-0705	JA004395- JA004399
3	11/03/2021	Trial Exhibit: Child's TMG Exit Records. Eugene	JA000588 - JA000612
19	11/05/2021	Trial Exhibit: Defendant's 2018 Tax Return	JA004637
19	11/05/2021	Trial Exhibit: Defendant's 2019 Tax Return	JA004638 - JA004640
19	11/05/2021	Trial Exhibit: Defendant's 2020 Tax Return	JA004641 JA004645
3	11/03/2021	Trial Exhibit: Dr. Gaspar Pediatric Report. Eugene 4462-4467	JA000644 - JA000649
15	11/03/2021	Trial Exhibit: Dr. Pickar' s Report: Defendant Ex	JA003670 JA003684
3	11/03/2021	Trial Exhibit: Firefly treatment plan for ABA Therapy. Eugene 4484-4508	JA000638 - JA000643
18	11/05/2021	Trial Exhibit: Ledger of checks and cash given to Defendant. Eugene 0706-0707	JA004393 - JA004394
4	11/03/2021	Trial Exhibit: Pictures of child with her brothers. Eugene 3700-3714	JA000783 - JA000797

4	11/03/2021	Trial Exhibit: Pictures of child with scratches and diaper rash. Eugene 3715-3732	JA000765 - JA000782
19	11/05/2021	Trial Exhibit: Plaintiff's 2018 Tax Return	JA004646- JA004653
19	11/05/2021	Trial Exhibit: Plaintiff's 2019 Tax Return	JA004654 JA004665
19	11/05/2021	Trial Exhibit: Plaintiff's 2020 Tax Return	JA004666 JA004677
19	11/05/2021	Trial Exhibit: Plaintiffs Bank Records, Defendant Ex W-0001 - Defendant Ex W-0086	JA004513 JA004599
18	11/05/2021	Trial Exhibit: Plaintiff's PayPal Account. Eugene 0828-0844	JA004345 - JA004361
18	11/05/2021	Trial Exhibit: Plaintiff's traceable expenses report. Eugene 0793-0794	JA004391- JA004392
18	11/05/2021	Trial Exhibit: Proof of Humidifier Purchase; Eugene 0316-0317	JA004465 JA004466
18	11/05/2021	Trial Exhibit: Proof of Purchases for Baby Proofing. Eugene 0318-0322	JA004460- JA004464
19	11/05/2021	Trial Exhibit: Statement related to health insurance for the minor child, Defendant Ex	JA004509 JA004512
3-4	11/03/2021	Trial Exhibit: Teladoc Health inc. records for Nechole Garcia. Eugene 3997-4111 <sup>4</sup>	JA000650 - JA000764
7 -15	11/03/2021	Trial Exhibit: Text Messages between the parties. Eugene 0845-2754	JA001716 - JA003625
4-5	11/03/2021	Trial Exhibit: Therapy Manage Group CARS Report Information. Eugene 3140-3152	JA000798 - JA000810
18	11/05/2021	Trial Exhibit: Wal-Mart receipts. Eugene 0566-0623	JA004402- JA004459
2	09/21/2021	Trial Subpoena - Video Testimony Only	JA000438 - JA000440
2	09/21/2021	Trial Subpoena - Video Testimony Only For Dr Mario Gaspar De Alba	JA000441 - JA000443
2	09/22/2021	Trial Subpoena - Video Testimony Only For Marine Lancz	JA000444 - JA000446

---

<sup>4</sup> Submitted under seal subject to Court approval.

## **CERTIFICATE OF SERVICE**

I, an employee of McFarling Law Group, hereby certify that on the 28<sup>th</sup> day of March, 2022, I served a true and correct copy of this Joint Appendix as follows:

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

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

Jennifer Isso, Esq.  
[ji@issohugheslaw.com](mailto:ji@issohugheslaw.com)

/s/ Alex Aguilar  
Alex Aguilar

Message sent 7/22/2020 8:56:57 AM

Ava pooped.

Message sent 7/22/2020 9:43:34 AM

Ava pooped again.

Message received from Nechole 7/22/2020 9:43:59 AM

I'm going to have a trial today so I won't be able to come and see Ava for lunch.

Message sent 7/22/2020 9:45:58 AM

That sucks!  
Best of luck with your trial, I hope you win!!!

Message received from Nechole 7/22/2020 10:06:40 AM

<red heart> Will you please feed Athena after you lay Ava down for her nap? Its 1/2 can of wet food and a scoop of dry food.

Message sent 7/22/2020 10:15:53 AM

Yes, no worries.

Message received from Nechole 7/22/2020 10:17:37 AM

Thanks

Message sent 7/22/2020 10:26:41 AM

You're welcome.

Message sent 7/22/2020 11:20:44 AM

Ava ate two containers of chicken apple, cheerios, and couple of bites of fruit bar.

Message sent 7/22/2020 11:45:55 AM

Ava pooped again.

Message sent 7/22/2020 11:56:49 AM

I put Ava to bed. She ate a few more bites of fruit bar before that.

Message received from Nechole 7/22/2020 1:34:02 PM

Is she sleeping?

Message sent 7/22/2020 1:35:17 PM

No, she's been playing. I think she's finally settling down. If she doesn't fall asleep by 2, I'm going to get her.

Message sent 7/22/2020 1:39:45 PM

She just fell asleep.

Message received from Nechole 7/22/2020 1:55:20 PM

Ok, good. Please don't let her sleep past 4, or I'll have problems getting her to sleep tonight.

Message sent 7/22/2020 2:10:29 PM

I will not let her sleep past 4.

Message received from Nechole 7/22/2020 2:15:25 PM

Thanks

Message sent 7/22/2020 2:16:13 PM

You're welcome.

Message sent 7/22/2020 3:39:11 PM

Ava's up.

Message sent 7/22/2020 3:59:11 PM

Ava ate almost three containers of chicken apple and some cheerios.

Message sent 7/22/2020 4:12:48 PM

Ava pooped again. She's been eating very well today, but mostly chicken apple.

Message sent 7/22/2020 4:13:24 PM



Message sent 7/22/2020 4:41:13 PM

She ate a few more bites of both bars.

7/23/2020

Message received from Nechole 7/22/2020 5:38:51 PM

<red heart>

Message sent 7/23/2020 1:08:17 PM

Hi,

I got 7 two-pack containers of chicken apple for Ava. She ate a lot of them yesterday.

Message received from Nechole 7/23/2020 1:20:32 PM

Ok, thanks.

Message sent 7/23/2020 1:20:51 PM

You're welcome.

Message received from Nechole 7/23/2020 2:54:14 PM

I don't know if I already told you, but I'm off work next week.

Message sent 7/23/2020 2:56:18 PM

Yes, you did.

Message sent 7/23/2020 4:44:14 PM

I'm on my way.

7/24/2020

Message sent 7/23/2020 5:08:42 PM

Your mom just left.

7/25/2020

Message received from Nechole 7/25/2020 11:15:29 AM



Message sent 7/25/2020 11:17:00 AM

<red heart>

7/26/2020

Message sent 7/26/2020 8:15:11 AM

Good morning.  
Please let me know when I can see Ava.

Message received from Nechole 7/26/2020 8:26:35 AM

Let's meet at 9am at the park.

Message sent 7/26/2020 8:26:59 AM

Okm

Message sent 7/26/2020 8:27:04 AM

Ok.

Message received from Nechole 7/26/2020 12:58:10 PM

10am tomorrow works for me.  
Also, I have to take Athena to the vet Tuesday at 7:30, so you could come at 6:45 on Tuesday if that works. If coming over that early on Tuesday doesn't work, please let me know today so I can see if my mom is available.

Message sent 7/26/2020 1:15:56 PM

Ok, this works tomorrow and Tuesday.

Message received from Nechole 7/26/2020 1:17:36 PM

Ok, thanks for letting me know.

Message sent 7/26/2020 1:17:53 PM

You're welcome.

---

7/27/2020

Message sent 7/27/2020 9:45:47 AM

Good morning.  
I'm on my way.

---

7/28/2020

Message sent 7/28/2020 7:34:09 AM

Ava ate chicken apple and cheerios.

Message received from Nechole 7/28/2020 10:00:22 AM

Athena is ready. Can you come back now?

Message sent 7/28/2020 10:01:16 AM

Yes.

Message sent 7/28/2020 10:07:31 AM

On my way.

Message sent 7/28/2020 11:17:53 AM

Ava ate chicken apple and cheerios again.

Message received from Nechole 7/28/2020 11:19:39 AM

I'll be home in about 15 minutes

Message sent 7/28/2020 11:20:01 AM

Ok.

Message sent 7/28/2020 11:28:22 AM

She ate a few bites of fruit bars.

---

7/29/2020

Message sent 7/29/2020 8:16:44 AM

Good morning. Please let me know when I can see Ava.

Message received from Nechole 7/29/2020 8:27:04 AM

10am works for me.

Also, I have a 9am appointment tomorrow, so you can come at 8:15 tomorrow if that works for you.

Message sent 7/29/2020 8:28:07 AM

Ok.

Message received from Nechole 7/29/2020 8:28:52 AM

Does 8:15 tomorrow work as well?

Message sent 7/29/2020 8:29:15 AM

Yes, it does.

Message received from Nechole 7/29/2020 8:32:01 AM

Ok, thanks

Message sent 7/29/2020 8:33:42 AM

You're welcome.

Message sent 7/29/2020 9:48:23 AM

On my way.

7/30/2020

Message sent 7/30/2020 7:00:29 AM

HAPPY BIRTHDAY!!!!!!

Message received from Nechole 7/30/2020 7:04:04 AM

Thanks so much!!

Message sent 7/30/2020 7:11:15 AM

You're welcome.

Message sent 7/30/2020 8:01:14 AM

On my way.

Message sent 7/30/2020 8:38:03 AM

Ava ate chicken apple and some cheerios.

Message sent 7/30/2020 9:11:22 AM

Ava ate a few bites of fruit bars.

Message received from Nechole 7/30/2020 11:15:23 AM

I'm on my way home

Message sent 7/30/2020 11:15:41 AM

Ok.

Message sent 7/30/2020 11:16:06 AM

Ava ate two containers of chicken apple, cheerios, and one bite of fruit bar.

Message received from Nechole 7/30/2020 4:32:24 PM

The vet called, Athena's cancer is back. There is one final treatment I can try before giving up. It would involve her going the next two weeks in a row for treatment, then evaluating to see how she responds. I'm not 100% sure I'm going to do the treatment, but if I so, my work schedule is going to make it hard to take her. Would you be willing to take her? I would give you money for gas.

8/2/2020

Message sent 8/2/2020 8:05:45 AM

Good morning.  
Please let me know when I can see Ava.

Message received from Nechole 8/2/2020 8:15:52 AM

Let's meet at 9am at the park.

Message sent 8/2/2020 8:16:28 AM

Ok.

Message received from Nechole 8/2/2020 9:54:45 AM

Since you have a training for your temp census job tomorrow, my mom will watch Ava. Also, because you said your schedule for the census job is unpredictable and in flux, and I can't just play it by ear each day because I have to be at work, I've arranged for childcare for Ava for the remainder of my work week as well.  
Finally, just as an FYI, I no longer feel comfortable allowing you unfettered access to my house, so I changed the locks.

Message sent 8/2/2020 10:02:58 AM

That is not what I said. I said I'll get clarity on it tomorrow, maybe even today.

Does that mean I can't see Ava this week?

Message received from Nechole 8/2/2020 10:07:28 AM

You definitely can see her. As I've told you, I want you guys to have a relationship. When you know what your census work schedule will be, then let me know when you will have free blocks of time this week to see Ava. However, please be advised that I want to do a home inspection to make sure your house is safe before bringing her to you because you previously refused to baby proof. Also, if the time includes Ava's nap time, I will want to see that you have gotten safe and appropriate sleeping furniture (aka a crib), as you currently only have a playpen, which is not safe for a 22 month old of her height, weight, and activity level.

---

8/3/2020

Message sent 8/3/2020 4:40:29 PM



**JA003510**  
Eugene 2639

Message sent 8/3/2020 4:41:01 PM



**JA003511**  
Eugene 2640

Message sent 8/3/2020 4:42:34 PM

Everything is ready for Ava.  
I can do tomorrow and Thursday. I'll pick her up from you at 7:10 am in your driveway and bring her back at 5:45.  
I'd also like to see her on Saturday and Sunday morning.

Message received from Nechole 8/3/2020 4:56:18 PM

I can come by after work today do the inspection. If everything is babyproofed, then Tuesday and Thursday at the times you proposed will work. I will not agree to Saturday and Sunday, as those are the only days I have with Ava (I work 10 hours a day during the week).  
Please let me know if you'll be home so I can come by to inspect.

---

8/4/2020

---

Message received from Nechole 8/3/2020 5:18:03 PM

I'm leaving work soon so I wanted to check with you again about me coming by to verify your entire house is babyproofed. I will not agree to you picking up Ava tomorrow unless I verify myself that your house is safe.  
Unfortunately, I cannot trust your word or photos because you fought me about babyproofing in the past.  
Please let me know before I leave work at 5:30 - I don't want you to miss out of time with Ava tomorrow.

Message sent 8/3/2020 5:18:13 PM

I'm sorry Nechole, I am not going to authorize you doing an inspection. I have sent you pictures that show the house is baby proofed. I am the one who's watching Ava both days, no one else. I do not come to your house to check on what you've done. As you can see from the pictures, Ava has a crib to take a nap in and everything is safe. Thank you.

Message received from Nechole 8/3/2020 5:23:07 PM

Unfortunately, I won't be able to agree until I can verify for myself because you repeatedly refused to babyproof in the past, even after the pediatrician recommended it. I hope you reconsider - it will only take a few minutes and I really want you and Ava to have time together. I will not agree for you to pick up Ava tomorrow unless I verify it is safe.

Message sent 8/3/2020 5:27:31 PM

The house has been baby proofed for months. I have provided pictures that show that.  
You have no authority or expertise to check on that.  
Ava is 50% mine and I have a right to see her.  
So I am asking to see my daughter.

Message received from Nechole 8/3/2020 5:30:02 PM

I'm sorry Eugene, I just need to verify that she'll be safe. Please let me know when I can come by and verify its fully babyproofed. Thanks.

Message sent 8/4/2020 7:13:00 AM

Ava is my daughter and I have the same rights to see her as you do. I am asking to see her today.  
She has been coming to this house since she was born and as recently as a couple of months ago when you got mad at your mom and changed a schedule so she can't see Ava.

Message received from Nechole 8/4/2020 7:17:03 AM

Hey Eugene. Up until this week, you spent your visitation with Ava almost exclusively at my house for the past few months. You did this because my house is fully babyproofed and spacious, while yours was not. There was also no safe sleeping furniture for Ava at your home.  
During the months you spent with Ava in my home (often without me being present), you had plenty of opportunity to raise any babyproofing or safety concerns, but you did not. I'm simply asking for the same courtesy I extended you all these months; the ability to verify you have now fully babyproofed.  
Since I have notified you that I no longer feel comfortable allowing you to have your visitation in my home without me present, you apparently just got a crib, which is great. You also now claim to have babyproofed.  
Unfortunately, I cannot go off a few photos when you stubbornly refused to fully babyproof for months.  
Anyway, hopefully this explanation helps you understand my point of view. I will possibly have time after court this morning to come by and verify, so please let me know. If your house is babyproofed like you say, it won't be an issue. I don't want you to miss out on time with Ava over something that can be resolved in just a few minutes.

Message sent 8/4/2020 7:30:11 AM

That is not true. I have taken Ava here in a last few months, as well as prior to that all the time. I have provided 16 pictures of baby proofing that all but one (the crib) have been in place for months. You have no legal authority to come to my house and "inspect" it.  
This is nothing but intimidation, control and bullying.  
In the meantime, you have a dog at your house, a wonderful dog, but a dog that Ava is allergic to and that your mom can barely control, that you wouldn't remove and wouldn't even tell your mom that Ava's allergic to.

Message received from Nechole 8/4/2020 8:13:51 AM

I don't want to argue with you Eugene. Like I said, I just want to verify that your home is now safe. Please just let me know when I can come by to verify. Thanks.

Message received from Nechole 8/4/2020 10:47:14 AM

Sorry for the delayed detailed response, I just got out of court. This is the first time you've ever mentioned anything about my dog, Athena. As you know, Athena has terminal lymphoma and likely won't be alive in a few weeks/months, and I take extensive measures to limit her interaction with and exposure to Ava to ensure Ava's health and safety. Regardless, if you have legitimate safety concerns about Athena I welcome hearing them. My only concern here is what's in Ava's best interest. Thanks Eugene.

---

8/5/2020

Message sent 8/5/2020 7:34:05 AM

I want to see Ava today. I have a right to see her as her father and I have not seen her for 3 days. I want to make sure she's alright.

Message received from Nechole 8/5/2020 8:27:56 AM

Good Morning Eugene. Ava is doing well. My mom is watching her today. As I mentioned on Sunday, I had to make childcare arrangements for this week because I couldn't play it by ear each day due to my job. My mom had to reschedule some things and drove all the way across town to babysit, so I'm not going to abruptly change that today. I can swing by your house to verify its fully babyproofed after work today and then we could go ahead with your previous suggestion to have Ava tomorrow, picking her up from my driveway at 7:10 am and bringing her back at 5:45pm. Please let me know. In the meantime, I'll ask my mom to send me a picture of Ava today that I will then forward to you. Thanks.

Message received from Nechole 8/5/2020 8:28:27 AM



Message received from Nechole 8/5/2020 8:28:48 AM



Message sent 8/5/2020 8:40:47 AM

Good morning Nechole. My Census job that I just started has flexible hours and I can always rearrange when I'm working. Right now, I'm in training at home and haven't yet started going to the field. As far as "playing by ear," that's what you've done for almost two years of Ava's life, sometimes switching between me watching Ava to your mom and back pretty much overnight.

As I stated several times, you don't have an authority to "check" on baby proofing. The baby proofing has been in place for months now. Ava has been to my house many times since the baby proofing was installed. The only thing added to it was Ava's bed. I have provided multiple pictures that show the baby proofing, including her bed. That is more than sufficient.

Thank you for the pictures. I want to see my daughter in person, which I have the right to because I'm her father.

Message received from Nechole 8/5/2020 9:10:48 AM

Thanks for letting me know a little about your schedule, as you had not provided that info previously. Text messages, the video cameras in my home, and other evidence contradicts your claims that you have fully babyproofed for months, and establishes that up until this weekend, you spent the vast majority of your visitation with Ava at my home, especially in the last few months as she's become increasingly mobile (making full babyproofing even more important). And when she visited your home in the past, it was for very short durations, because your home was not fully babyproofed. Since last year, you've been clear you couldn't fully babyproof because your parents (who still live with you) had difficulty with it.

Regardless, I'm struggling to understand your refusal. I provided you the same opportunity in my home these past months, and you never raised any issues. I don't pose a danger to you, and it would literally only take a few minutes. I get that you're angry with me, but let's not let that get in the way of what's best for Ava. I just want to make sure she'll be safe. She's become a rambunctious toddler who runs through the house and has figured out how to open doors. Complete babyproofing is necessary to her safety and well being.

Message sent 8/5/2020 9:15:39 AM

That is absolutely not true. My house is fully baby proofed, which the pictures I sent you show. This is nothing but a campaign of control, intimidation, and bullying. I am Ava's father, I have a right to see her and I'm requesting to see her today.

Message received from Nechole 8/5/2020 9:46:14 AM

I'm sorry you feel that way Eugene. My offer to swing by after work still stands.

---

8/6/2020

Hey Eugene. I've tried to avoid getting into this, but since we're at an impasse, maybe a discussion of the pictures you sent will help you understand why this is so important. Your pictures only show a small area in your kitchen and living room. I've been to your house many times Eugene, and know there are more hazards than just in those spaces. You provide a picture of one door with a door knob cover, but what about the other doors in your house? When I asked you to cover them back in December 2019 and again in January 2020, you said your parents complained that it prevented them from opening the door, so you took them off. I then suggested installing a baby gate instead, but you refused that idea too. I can only conclude from your lack of pictures of other doors there are no covers and there is no gate. Ava can open doors now, so the covers are necessary on all doors.

A section of your living room is cluttered with books, games, other items stacked on the floor, and a desk cluttered with other items. That is the main area where you expected Ava to play. When I raised that hazard to you in January of this year, you said you didn't know how to babyproof it. You agreed to let me come over to see if I had any ideas. I suggested using your play yard gate to block the area, but only as a temporary measure because Ava would soon be able to pull it down on herself. You agreed to do that temporarily. You sent no pictures of that area, so I can only presume you haven't resolved that issue either. That area poses another trip/fall hazard. Also, Ava could pull the play yard gate and other items on herself.

In your pictures, there is a tall end table with a knitted cover on the top. Before Ava became mobile, your mom would use that to but keep her from leaving the play area. Ava is now big enough to tip it over or pull it down on herself. Your pictures do not show that it is secured, or that you put it away somewhere so Ava cannot pull it down onto herself.

You sent a picture of a corner of a room where there is a crib. I'm assuming that's in your bedroom. On the other side of your bedroom, there is a TV stand with sharp corners. The corners are Ava's height. Besides a TV she can pull down on herself, there are several bobble heads and other trinkets that could pose choking hazards. There's also a dresser, and lots of clutter (books, papers, a child's folding bed, etc) on the floor in your room. What about those hazards? Your pictures do not address that either. And what about your practice room? It's full of musical equipment and a 3-D printer. You don't have any pictures of the baby proofing for that room, or even a cover for that door knob for that matter.

Finally, what about outlet covers? That's an electrocution risk for Ava. There's no pictures of those either.

So regardless of your current claims, the pictures simply are not sufficient to establish that your house is now fully baby proofed and safe for Ava. When you combine that with the many months I spent trying to convince you to fully baby proof and your refusal to let me verify now, its clear I cannot just simply take your word that everything is safe and free of hazards. Hopefully this explanation will help you understand the rationale behind my request and why the pictures you sent are not sufficient. Its not to control you; its to ensure Ava is safe. Let's cooperate to make sure your house is safe move beyond this impasse.

Message sent 8/6/2020 7:42:22 AM

Hello Nechole,

my house is baby proofed. I have provided sufficient evidence of that. It has been baby proofed for months.

I have a right to see my daughter, I am her father and I have been seeing and taking care of her every day since she was born, except when you would refuse to let me see her. At this point, I have not seen her for four days. I am asking to see her today. Thank you.

Message received from Nechole 8/6/2020 8:20:02 AM

I'm sorry that my explanation did not help you understand why your pictures don't establish that your house is babyproofed.

Ava has lived with me full time since she was born, and I have been her primary caretaker and only financial provider. There is plenty of evidence to establish that. I have allowed you into my home on a regular basis because I wanted to foster your relationship with her. I've even hosted your boys in my home so she knows her siblings.

You spent almost all your time with Ava at my house because your house small and cramped, and your elderly parents live there. You've never had her at your house than for more than 3-4 hours, and never overnight. You also never spent the night at my home. Besides the lack of babyproofing, there is no room for her there, or for your 2 adolescent sons, who have to share your bedroom with you during their visits. I have had a serious problem with this for years, and made you well aware of that.

In December 2019 when Ava was becoming more mobile, you also started refusing to babyproof. You said your parents complained about it, and that you or your 80 year old mom would watch Ava all the time, so it was not necessary. You refused even after the pediatrician told us it was important. I finally convinced you do some partial babyproofing that your parents wouldn't object to, at least during the short time Ava would be present. Then I had to press you to tell your parents and follow through. Again, I have the texts confirming this.

In January I also told you I planned on putting Ava in preschool at age 2, because she'd be very mobile and sadly, I could not feel comfortable your house would be safe when she was that age. You agreed with that plan. Since March of this year, Ava has been to your home 3 times. Each time she was there for no longer than 3 hours. The rest of the time, you saw her at my home.

Even though I broke up with you on July 3rd, I still let you spend time with Ava at my home while I was at work, because my home was spacious and safe. You were fine with that arrangement. This past weekend, I decided that since we broke up, I was no longer willing to let you have a key to my home. I asked you to get a crib, and let me verify that you finally babyproofed your house. Now you refuse that request.

I've been trying for months to help you understand why babyproofing is so important and even tried to help you make your home more suitable for Ava. Now that you are upset I changed my locks, you are refusing to cooperate with me to ensure Ava is safe in your home.

Eugene, I'm at a loss here. I'm trying all I know to reason with you and cooperate. We're both Ava's parents and should both spend time with her, but in a SAFE environment.

I'm here when you're ready and willing to work together to make that happen.

**JA003518**

Eugene 2647

Message sent 8/6/2020 8:32:22 AM

What you said is simply not true on all of the points.

However, I am not here to argue. I am Ava's father. I have a right to see her and I am asking to see her today.

I have provided evidence that my house is baby proofed.

I miss my daughter and I'd like to see her.

Message received from Nechole 8/6/2020 8:44:04 AM

Like I've said, I'm here when your ready to cooperate. Please let me know.

Message sent 8/6/2020 8:47:52 AM

As I've said and demonstrated, I have my house ready for Ava and I want to see her and make sure she's okay.

Intimidation, bullying, and control is not cooperation.

Message received from Nechole 8/6/2020 8:53:43 AM

I didn't realize you are concerned about Ava's well being today. She's doing well.

---

8/7/2020

Message sent 8/7/2020 7:02:38 AM

Good morning Nechole.  
I want to see Ava today.

Message received from Nechole 8/7/2020 7:09:12 AM

Hi Eugene. I work 10 hours a day Monday through Thursday. Friday through Sunday are the only days I get parenting time with Ava, and I want to enjoy that time uninterrupted. Let's get this babyproofing issue resolved so we can start visitation in your home on Tuesdays and Thursdays from 7:10 to 5:45 as you suggested.

I raised several specific safety issues/hazards in your home (that I pointed out months ago) that are not addressed in your pictures. Again:

1. Door handle covers. Ava is very mobile and has figured out how to turn door handles. Because of that, I put door handle guards on all my doors months ago. Back in January, you told me your parents complained that they could not open the doors with the covers, so you took them off. You also refused to use a baby gate. So what have you now done to address this specific hazard?
2. The area in your living room cluttered with books, games, etc. You followed my suggestion several months ago to use the play yard gate to block the area, but that was a temporary measure. Ava is bigger and stronger now, and can pull that gate down on herself and/or trip or fall on the clutter. How have you babyproofed that area?
3. The TV stand, bobble heads, trinkets and other clutter in your room. Ava can pull the TV onto herself, choke on the bobble heads or trinkets, or seriously injure herself on the corners of the stand. How have you addressed these safety hazards?
4. Are there outlet covers on all the outlets within her reach?

Message sent 8/7/2020 7:17:49 AM

Whether you work 10 hours or not, I have a right to see Ava, I am her father.

As I stated many times before, my house is baby proofed, has been for months, and is ready for Ava. I have provided more than sufficient evidence of that.

Message received from Nechole 8/7/2020 7:22:06 AM

Will you please respond to my specific questions about hazards in your home? I'm sure that as her father, you wouldn't deliberately refuse to address the safety hazards I have observed in your home just because you're angry with me, right?

Message sent 8/7/2020 7:32:49 AM

I am Ava's father and I have a right to see her, which at this point I have been denied for 5 days. I am asking to see her today.

My house has been baby proofed and is ready for Ava. I have provided more than sufficient evidence of that.

Message received from Nechole 8/7/2020 7:50:53 AM

So you're not going to respond to my specific concerns? Eugene, whoever is advising you to stonewall and parrot a few phrases to me is doing you a disservice. This is about Ava's safety. We need to be able to coparent together, and that includes working together to resolve issues like this. I'm not asking for anything I didn't already do for you.

Do you remember how Ava's wrist was injured while you were caring for her in my home in June? I took Ava to the doctor, who said her wrist might be broken. Thankfully it wasn't. If that happened in my babyproofed home, what could happen in your home with the many hazards I've described (that you refuse to address)? This is very important.

Message sent 8/7/2020 8:03:36 AM

I have addressed all of your concerns. I have my house baby proofed. I've had Ava at my house many times before. I have repeatedly asked to see Ava and was told no. This is not coparenting, this is intimidation, bullying, and control. I am asking to see Ava today.

Message received from Nechole 8/7/2020 8:15:51 AM

But you haven't. Have you gotten door knob covers? Addressed the area in your living room? The TV stand in your room? Outlet covers? None of your pictures or your texts address those. You understand that, right? Why won't you answer me on those? Is it because you haven't resolved them?

And Eugene, parroting the phrase "intimidation, bullying and control" every time I raise these issues is hyperbolic and comes off as an attempt to deflect and a gross overreaction. Any reasonable person would understand my concern for Ava's safety, especially in light of your history. Tell whoever is advising you to keep repeating that phrase they are not helping.

---

8/8/2020

Message sent 8/8/2020 7:24:50 AM

Good morning Nechole.  
I want to see Ava today. Also, I am available to have Ava every day next week.

Message received from Nechole 8/8/2020 7:25:39 AM

Hi Eugene. Have you put door knob covers on the doors?

Message sent 8/8/2020 7:28:28 AM

My house is baby proofed and ready for Ava, including the door knobs.

Message received from Nechole 8/8/2020 7:30:45 AM

Great, will you send me a video or picture? I get that you don't want me in your house because you're angry. It's hypocritical, because I allowed you the opportunity, but fine.  
Also, will you include the outlet covers, TV stand in your room, and living room area.

Message sent 8/8/2020 7:47:26 AM

I have door knobs, outlet covers, and everything else secured. I have provided enough pictures to demonstrate that the house is baby proofed. It has been for months. I guarantee Ava's safety.

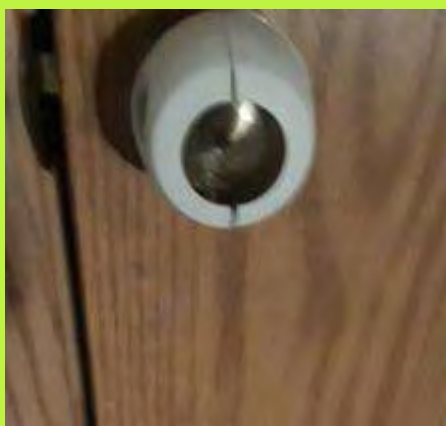
Message received from Nechole 8/8/2020 7:48:48 AM

All I'm asking for is a few more pictures. It will take a couple minutes. This is a compromise I'm willing to make. Will you please do that so we can resolve this issue?

Message received from Nechole 8/8/2020 8:12:24 AM

Are you going to respond to my request?

Message sent 8/8/2020 8:18:02 AM



Message received from Nechole 8/8/2020 8:28:30 AM

Thanks for finally compromising with me.  
As I've said previously, I want uninterrupted parenting time this weekend. Since I returned to work, the vast majority of the time you cared for Ava at my home 2 days a week, and my mom cared for her the other 2 days. Based on that and your suggestion to have Ava on Tuesday and Thursday, I have already made child care arrangements for Monday and Wednesday of next week. But I will agree to the schedule you proposed, where you pick her up at 7:10 am on Tuesday and Thursday. I will pick her up from your house on Tuesday and Thursday at 5:45pm.

Message received from Nechole 8/8/2020 8:30:07 AM

Btw, please tell your lawyer that I am represented by counsel so she needs to serve the complaint and motion on my attorney, Michelle Hauser.

Message sent 8/8/2020 8:41:21 AM

I have sent you enough pictures on Monday to show that my house is baby proofed, and it has been for months, which you new, and Ava's been here. It is you who finally compromised.

I also deserve to have Ava on the weekends, and I will not just be seeing and having her on weekdays.

Message sent 8/8/2020 8:41:42 AM

\*knew

Message received from Nechole 8/8/2020 9:00:57 AM

Well, the evidence will contradict your claims. Our attorneys will address the history of this issue and whether one of us or both compromised on proof of babyproofing in court.

I'm agreeing to the visitation you proposed last week, which was 7:10 to 5:45 on Tuesday and Thursday. Except for that I will pick up Ava from your driveway at 5:45 pm on Tuesday and Thursday.

We've already addressed the weekends extensively, and I am not going to debate it further. You said last week that your schedule is flexible, but mine is not. I work 10 hours a day Monday through Thursday, and Friday through Sunday are my days off. I will not agree to weekend visitation.

Message sent 8/8/2020 9:47:49 AM

Nechole,

I am happy to see Ava on Tuesday and Thursday, but I am ultimately seeking week on week off schedule.  
I will never agree to just Tuesdays/Thursdays or just week days.

Message received from Nechole 8/8/2020 9:52:47 AM

Its clear we're not going to agree on a permanent schedule at this point, which is why we're asking the court to intervene, right? So going back and forth over it at this point is unproductive.

But in the interim, I will agree to your proposal of Tuesdays and Thursdays from 7:10a.m. to 5:45pm.

Message sent 8/8/2020 10:41:45 AM

Just to be clear, I also asked to see and have Ava on the weekends, which you have denied.

Message received from Nechole 8/8/2020 11:06:59 AM

I think our text interactions are already clear.

Its obvious you're trying to create a record at this late date that your home has been fully babyproofed for months, and that I'm impeding your relationship with Ava. Like I said, the evidence contradicts your claims. I have the text messages where I had to repeatedly ask you to babyproof months ago. I have records showing when Ava went to your house and for how long in the past. My text messages, security system and security cameras corroborate that I fostered your relationship with Ava by allowing you at my home the vast majority of the time until last week, and I can testify as to the condition of your home when I was in it not long ago versus the conditions in your pictures. Thus, my request to verify babyproofing was very reasonable in light of your history.

Further, it is actually quite unreasonable for you to repeatedly demand to see Ava during the only times that I'm off work, especially in light of your flexible schedule. Its also unreasonable an inappropriate to seek week on week off custody for a child of Ava's age and development level.

Regardless, all of this is going to have to be resolved through our lawyers and with the courts, so there really isn't a lot of point in us continuing to debate it in text messages. Unless you're simply doing it to win in court.

---

8/9/2020

Message sent 8/9/2020 7:04:12 AM

Good morning Nechole.  
I want to see Ava today.

Message received from Nechole 8/9/2020 7:09:49 AM

I thought I already addressed this. Did you not get my texts from yesterday and the before? I can resend them.

Message received from Nechole 8/9/2020 7:14:59 AM

You accuse me of intimidation, bullying and control. At what point do your daily texts become bullying and harassing? It almost seems like you are purposely trying to disrupt my parenting time.

Message sent 8/9/2020 7:26:32 AM

I have a right to see Ava on the weekends and I have not seen Ava in 7 days.

Message received from Nechole 8/9/2020 7:33:54 AM

Ok, this is officially starting to become harassment. I've made my position abundantly clear and its not changing. I'm not withholding Ava, as I've agreed to your proposal of Tuesdays and Thursdays. You'll see her on Tuesday. Ultimately, the court will have to decide the final custody arrangement. Why are you starting contentious text exchanges during my time with Ava? Do you believe I don't deserve uninterrupted parenting time?

8/11/2020

Message sent 8/11/2020 9:38:32 AM



Message received from Nechole 8/11/2020 9:49:25 AM

<red heart> How's she doing?

Message sent 8/11/2020 9:50:25 AM

Ava is doing great.

Message received from Nechole 8/11/2020 9:53:59 AM

Good.

Message sent 8/11/2020 2:55:15 PM

Nechole,

since I have not seen Ava for 8 days, I am going to keep her here for a couple of weeks to make up for the time I've lost. I am her father and I have a right to have her on a 50/50 basis.

Message received from Nechole 8/11/2020 3:11:06 PM

Eugene, I do not agree to that. It would also be traumatic for Ava, who hasn't been away for a single night. Please don't do that. We can get this resolved through the courts. I will say that you try to withhold Ava when I come to pick her up at 5:45 today, I will call the police. Please, please don't make do that.

Message received from Nechole 8/11/2020 3:21:38 PM

Please respond ASAP.

Message received from Nechole 8/11/2020 3:22:32 PM

If you love Ava as much as you say, you won't do this. Ava hasn't been away from me for a single day. She's still nursing. This will be traumatic for her. Put your anger and "rights" to the side and do what's best for Ava. You'll get overnights eventually, but we need to do it a way that's best for her. Not to mention you tricked me into handing her over to then withhold her. Please don't make me call the police and take drastic legal action, because I will.

Message sent 8/11/2020 3:27:00 PM

I have the same rights to Ava as you do. I have asked for a week on week off schedule that is fair that you have not agreed to. Ava is doing great, she loves her new bed, she just slept in it for 3 hours. The house is safe and she loves it here. So I am keeping her for a while to make up for the time with her that you denied me. Please don't come here at 5:45. I deserve the same time with her as you do.

Message received from Nechole 8/11/2020 3:37:36 PM

Eugene, please don't do this to Ava. You're going to traumatize her for the sake of your pride and rights.  
I will be there, and I promise I will call the police if you don't bring her out. I'm also going to file an emergency motion to have her returned. I have the texts showing you agreed to me picking her up.  
Please don't make me take drastic legal action. I don't want to, but I will for Ava's sake.

Message sent 8/11/2020 3:45:28 PM

Nechole,

I am keeping Ava, she's 50 percent mine. If you wanted to call the police, go ahead, but please don't come here. Ava is staying at my house.

Message received from Nechole 8/11/2020 3:49:41 PM

I'll be there and will be calling the police.

Message sent 8/11/2020 3:50:03 PM

Ok.

Message sent 8/11/2020 3:54:51 PM

On what grounds are you coming here and calling the police?  
I have a right to exercise my parental rights.

---

8/12/2020

Message received from Nechole 8/12/2020 7:01:18 AM

Please see the attached articles. A toddler Ava's age will suffer harm by abruptly changing her environment for a prolonged period of time. It can cause permanent psychological harm. That's why I don't agree to week on/week off at her age and stage of development, and why keeping her for 2 weeks will traumatize her.

Also, Ava still gets many nutrients from breastmilk, especially since she can't have dairy and won't drink other alternatives. Further, Ava is still heavily dependent on nursing for comfort and because she's teething. She starts crying if I even delay nursing her. Forcing her to abruptly stop breastfeeding will traumatize her. Hopefully these articles will help you refocus on what's in Ava's best interest, instead of your rights

Message received from Nechole 8/12/2020 7:01:47 AM

Age-Appropriate Visitation - FamilyEducation  
<https://www.familyeducation.com/life/visitation/age-appropriate-visitation>

Message received from Nechole 8/12/2020 7:02:12 AM

What is a Step Up Parenting Plan? Parenting Plan Joint Custody  
<https://www.purposedrivenlawyers.com/what-is-a-step-up-parenting-plan/>

Message received from Nechole 8/12/2020 7:02:28 AM

Extended Breastfeeding: Breastfeeding Your Toddler  
<https://www.whattoexpect.com/toddler/breastfeeding-a-toddler.aspx>

Message received from Nechole 8/12/2020 7:02:44 AM

Sudden Weaning From Breastfeeding  
<https://www.verywellfamily.com/sudden-weaning-from-breastfeeding-4140720>

Message received from Nechole 8/12/2020 7:03:02 AM

Weaning: How does it happen? • KellyMom.com  
[https://kellymom.com/ages/weaning/considering-weaning/how\\_weaning\\_happens/](https://kellymom.com/ages/weaning/considering-weaning/how_weaning_happens/)

Message received from Nechole 8/12/2020 9:31:41 AM

At least let me breastfeed Ava so she's not put through the additional trauma of being forced to wean abruptly. I'm willing to meet in a neutral location.

Message sent 8/12/2020 10:08:58 AM



Hi Nechole,

thank you for the articles. Ava's doing great.

You can drop off your breastmilk for Ava in the bottle on my front porch.  
Let me know when you're on your way and when it's been dropped off.

Message received from Nechole 8/12/2020 10:14:05 AM

Thanks for the pictures. Has she been crying? Her eyes look puffy. The articles discuss the benefits and comfort of drinking from the breast. Plus, you're well aware Ava refuses to drink milk from the bottle and refuses to drink anything but water from a sippy cup. I'm asking again, for you to think of Ava's best interests and allow me to breastfeed her as she is accustomed to.

Message received from Nechole 8/12/2020 10:16:42 AM

I'm a little concerned that you hadn't planned for this issue ahead of time, and that I had to be the one to raise it. It is completely unreasonable to expect me to pump milk on no notice and then drop it on your doorstep when I have a full time job and other responsibilities.

Message sent 8/12/2020 10:20:28 AM

Ava is doing great.  
Let me know when you wanted to drop off breastmilk for her.

Message received from Nechole 8/12/2020 10:24:59 AM

I asked you if she has been crying. I'm concerned for her welfare. Please respond to my specific concerns. Are you going to ignore what Ava is accustomed to and takes comfort in, especially while she's teething?

Message received from Nechole 8/12/2020 10:25:52 AM

And are you ignoring the facts are raised about Eva's unwillingness to drink milk from the bottle and the cup? I'm thinking about what's enables best interests.

Message received from Nechole 8/12/2020 10:27:41 AM

\*Ava's

Message sent 8/12/2020 10:28:31 AM

Ava has not been crying. She's very happy. She slept through the night, is eating really well, and enjoying her time with me.

Message received from Nechole 8/12/2020 10:30:36 AM

Please respond to my other concerns. Are you denying Ava what she takes comfort in and is accustomed to?

Message sent 8/12/2020 10:33:51 AM

Let me know when you wanted to drop off breastmilk for her.

Message received from Nechole 8/12/2020 10:34:45 AM

Please consider what's best for Ava.

Message received from Nechole 8/12/2020 1:59:02 PM

I'm deeply disturbed that you're not only withholding Ava, you made no sort of plan for the fact she breastfeeds, and show no consideration for her developmental needs. Only after I raised those issues did you decide that she does in fact need breastmilk, but then you demand that I must pump and bring it to you after a 10 hour work day. To add insult to injury, you won't even open the door to receive the milk or let me see Ava; rather you expect me to leave it on your doorstep and drive away as though I am a delivery driver.

Notwithstanding, I will pump because I love Ava and want to do what's in her best interest. However, I will leave the milk on my doorstep at 7pm each evening for you to pick up.

I am quite certain that she will not drink it because she only drinks from the breast, but I will do whatever I can to provide for Ava's needs.

---

8/13/2020

Message sent 8/12/2020 7:09:25 PM

If you wanted to bring the milk and leave it by my front door, I will offer it to Ava.

Message received from Nechole 8/12/2020 7:13:10 PM

I took the time to pump breast milk for Ava and placed it on my front door. Just so it's clear for the record, at 2pm today, I notified you that the breastmilk would be ready for pick up at 7:00 pm. You did not respond until 7:09pm, and are maintaining the same uncompromising and uncooperative position that harms Ava's best interests.

Message sent 8/12/2020 9:36:20 PM

I am willing to alternate. You drop it off tomorrow night and I will pick it up the next night.

Message received from Nechole 8/12/2020 9:36:46 PM

No.

Message sent 8/13/2020 6:49:31 AM

I'll meet with you at the entrance to Smith's on Boulder Highway during your break to pick up the milk.

Message received from Nechole 8/13/2020 7:06:08 AM

Absolutely not. You took Ava under false pretenses and are withholding her from her primary caregiver. You've showed no concern for the harm an extended separation will do to Ava (see attached articles). Further, you continue to treat me with extreme disrespect, expecting me to pump and drive to your home and now to meet you in some public location. Eugene, its not too late to do the right thing for Ava's sake. Please bring her home before she starts really feeling the effects of being forced to abruptly wean and not seeing her primary caregiver for more than a couple of days. Being abruptly pulled away for two weeks or more will do serious harm we may not be able to fix. Ava is too young to understand what is happening. All she knows is the breastfeeding she took comfort in is and her mommy are suddenly gone. This WILL be traumatic for her. This is not about you or your rights. Please think of Ava. If you're not willing to do that and continue to insist on continuing on this harmful path, then the LEAST you can do is pick the breastmilk up from my home each night.

Message received from Nechole 8/13/2020 7:06:59 AM

Child Development and Parents Who Don't Live Together  
<http://www.the3rdjudicialdistrict.com/ddevelopment.htm>

Message received from Nechole 8/13/2020 7:07:15 AM

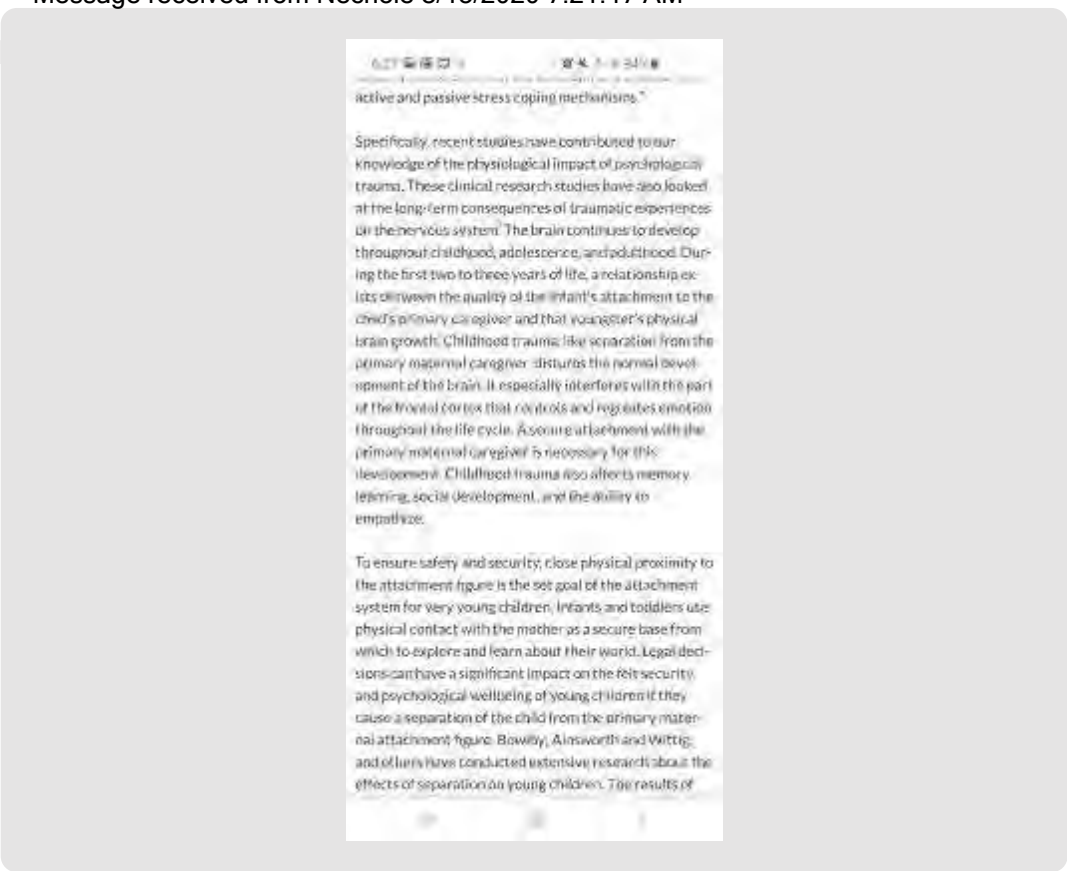
How Long Can a Child Be Safely Separated From Parents? | Psychology Today  
<https://www.psychologytoday.com/us/blog/power-play/201806/how-long-can-child-be-safely-separated-parents>

Message received from Nechole 8/13/2020 7:07:52 AM

Early Mother-Child Separation, Parenting, and Child Well-Being in Early Head Start Families  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3115616/>

Message received from Nechole 8/13/2020 7:08:07 AM

A sudden and lasting separation from a parent can permanently alter brain development  
<https://theconversation.com/a-sudden-and-lasting-separation-from-a-parent-can-permanently-alter-brain-development-98542>



Message received from Nechole 8/13/2020 7:21:54 AM

6:28 94%  
Weaning

Weaning has become controversial in the United States. Over the last century, the time considered proper for weaning has shortened to as little as three months. Public opinion has consistently overlooked the child's needs. Child-led weaning is commonly practiced throughout the world. Children should wean themselves. They do so, on average, at 4.2 years of age. In her book, *Breastfeeding*, Lawrence notes that comfort or nonnutritive sucking is important to young children well beyond the toddler years.

*In her Breastfeeding Rights Article, Evelyn discusses the importance of breastfeeding for child's emotional development. I want to address the issue of child separation in the USA. This is one of the few countries in the world where breastfeeding is not considered fashionable until the child is 18 months old. This is an extremely unusual and completely anomalous belief for a nation that prides itself on psychological principles (p. 292). The child who nurses for one or three years is not more secure and less anxious. The problem of the late weaner does not rest in the mother and baby's relationship but in her own child's perception of the relationship's purpose in which "anything we do to interfere with that relationship in the first four years of life will be disastrous for his emotional development."*

Because infants nurse for felt security, comfort, and a feeling of closeness with their caregiver-mother, as well as for nourishment, weaning can be experienced as traumatic by the child if it is accompanied by less appropriate maternal attentiveness.

Message received from Nechole 8/13/2020 7:22:00 AM

6:28 94%  
Because infants nurse for felt security, comfort, and a feeling of closeness with their caregiver-mother, as well as for nourishment, weaning can be experienced as traumatic by the child if it is accompanied by less appropriate maternal attentiveness.

The issue of weaning has entered the courts. If the child is to spend extended time alone with the father, weaning is considered necessary.

*I remember and remember because I have separate cases in the United States that deal with the mother's refusal where the father has custody on the basis of prolonged breastfeeding where the child's question is complete in about the age four. In two cases, this question is in favor of the mother for good reason. In the first, the father's judgment is in favor of the father when an expert witness, a local psychologist, declared that you have to be very secure (believe it would seem appropriate that judges would then consider and question the father's parents and not refrain from doing that because of personal biases and emotional testimony).*

In cases of separation and divorce, parents must look beyond their own self-interests and consider the wellbeing of their child. An excellent example of this is for young children to be able to nurse when they so desire. To be held and to nurse are behaviors that build a secure attachment bond in the early years of life. Nutritive and non-nutritive nursing are both significant to the ones...

Message received from Nechole 8/13/2020 7:22:06 AM

在分离和离婚的情况下，父母必须超越自己的自利，并考虑孩子的福祉。一个很好的例子是，对于年幼的孩子来说，能够吮吸是他们所渴望的。被拥抱和被吮吸是建立安全依恋的行为。在生命的早期，营养和非营养性吮吸都是非常重要的。对于两岁、三岁和四岁的孩子来说，法院应该回顾孩子的发展历史，以确定他的主要依恋对象。这样做的目的是尊重和保护孩子的安全依恋，与父母建立积极的和充满爱的依恋关系。

### Effects of Infant Attachment Type on Child Behavior

Attachment theory underscores the importance of early intimate relationships and holds that, through primary relationships, children develop expectations about their capability to acquire and maintain secure relationships, as well as beliefs regarding others' trustworthiness in relationships.

Preschoolers, kindergarteners, and first graders who have experienced insecure infant-internal attachments also demonstrate insecure teacher attachments. Teachers are likely to have difficulty building a relationship with students who have had insecure maternal attachments because these children harbor negative views of adults that impede the relationship process. It is difficult

Message received from Nechole 8/13/2020 7:22:12 AM

### Separation alters the brain's structure

The parents' presence is also necessary for a person's harmonious growth and development. That includes the development of our psychological and social functions, such as our ability to respond to stress and self-regulate our emotions or our ability to trust others and function in a group.

Any serious and prolonged disruption of parental care, especially in infants and very young children, alters how the young brain develops. Very young children, younger than five years old, separated from their parents cannot rely on their presence and care anymore, which causes their stress levels to spike. As stress hormones like cortisol, epinephrine and norepinephrine rise, they alter physiological functions of our bodies to better prepare us to cope with threat. However, prolonged increases in the levels of stress hormones disrupt physiological functions and induce inflammation and epigenetic changes – chemical alterations that disrupt the activity of our genes. Turning genes on or off at the wrong time alters the developmental trajectory of the brain, changing how neural networks are formed and how brain regions communicate.

Studies of children who were separated from

Message sent 8/13/2020 7:31:25 AM



Message received from Nechole 8/13/2020 7:32:44 AM

As you can see, we're at critical juncture right now as it pertains to Ava's development. The harm being done can be reversed if you bring her back now, but not if this continues another day. The longer this goes on, the more harm this will cause Ava.

Message sent 8/13/2020 7:36:05 AM

Thank you for the articles.  
Ava is doing great. She slept through the night and is enjoying her stay here. She's eating well, playing, and loves spending time with her dad.

Message received from Nechole 8/13/2020 7:36:36 AM

She looks sad in the first two pictures. Poor Ava.

---

8/14/2020

Message received from Nechole 8/13/2020 6:47:59 PM

I will place breastmilk for Ava on my doorstep. You can come get it at 7pm.

Message sent 8/13/2020 6:50:32 PM

I am putting Ava to bed so I can't come at 7 pm. I can come and get it later tonight if you are willing to bring it tomorrow.

Message received from Nechole 8/13/2020 6:51:50 PM

No. You can still come tonight, for Ava's sake. If you need me set it out a later time, let me know.

Message received from Nechole 8/13/2020 7:08:50 PM

I'll set it out on my doorstep at 8pm tonight.

Message sent 8/13/2020 7:43:53 PM

I will come tonight as a compromise. If you don't want to do it, I will pick it up every other day. You can put it out now.

Message received from Nechole 8/13/2020 7:47:42 PM

You're deceit, poor planning and lack of consideration for Ava's needs caused this entire situation. The very fact that I am pumping again after stopping last year instead being able to breastfeed Ava personally is my forced compromise. I'll put it out at 8pm every night for Ava's sake. If you don't pick it up, it's just a reflection of your priorities.

Message sent 8/13/2020 8:19:34 PM

I picked it up.

Message received from Nechole 8/14/2020 7:55:10 AM

How is Ava doing?

Message sent 8/14/2020 8:18:07 AM



Ava is doing great. She slept through the night, had a good breakfast, and is playing with me. She ate a few bites of potato fries yesterday.

Message received from Nechole 8/14/2020 8:21:50 AM

Something seems off with Ava based on the pictures you're sending me. I'm very concerned for emotional welfare and psychological development.

Message sent 8/14/2020 8:30:55 AM

Ava is doing great. She's happy, singing, playing, and enjoying time with her dad.

Message received from Nechole 8/14/2020 8:33:10 AM

And it appears she's playing in the cramped space between your bed, TV stand and where you placed her crib? And her only other play area is in your living room where your mother sleeps? My heart is breaking for what you are putting Ava through.

Message received from Nechole 8/14/2020 8:39:44 AM

I notice you don't ever address my specific concerns about Ava's welfare. Interesting.

8/15/2020

Message sent 8/14/2020 7:04:01 PM

Will you be dropping off the breastmilk since I picked it up yesterday?

Message received from Nechole 8/14/2020 7:04:55 PM

No. The breastmilk will be on my doorstep at 8pm.

Message sent 8/14/2020 7:06:09 PM

Ok, I will pick it up.

Message received from Nechole 8/14/2020 7:38:51 PM

My supply is starting to dwindle because Ava is not feeding directly from the breast. You have decided to put your rights over Ava's best interests and are forcing her to abruptly wean.

Message sent 8/14/2020 8:50:08 PM

I picked it up.

Message received from Nechole 8/15/2020 7:47:50 AM

How's Ava doing?

Message sent 8/15/2020 8:23:49 AM



Ava is doing excellent. She slept well, she's eating well. She's learning alphabet and what sounds the letters make.

Message received from Nechole 8/15/2020 8:31:33 AM

She doesn't look happy. She's missing her primary caregiver and being forced to abruptly stop breastfeeding. And as you know, she was already learning the alphabet, letters, numbers and words at my home.

Message received from Nechole 8/15/2020 8:32:23 AM

Is she unsecured in the highchair? This is the 2nd picture you've sent where it appears she's not buckled in.

Message sent 8/15/2020 9:45:43 AM

Ava is very happy here. She sings and dances non stop, she's learning how to play the keyboard. We read books, sing songs and play.

Message sent 8/15/2020 9:45:57 AM

She is buckled in her high chair.

Message received from Nechole 8/15/2020 9:55:49 AM

Again, you don't address my specific concerns about the psychological and developmental harm your actions have. And frankly, you have destroyed any trust I have after you blatantly lied to me in order to gain possession of Ava, so I find it difficult to believe anything you now say now about how "happy" she is. I spent every day caring for Ava until you unilaterally decided to withhold her from me. and I can tell from her pictures alone that she's not happy. She looks confused about what's going on, like she misses her primary caregiver, and sad, which is to be expected when you decide to abruptly remove her from the only environment she's known and place her in a new one for an extended period of time.

---

8/16/2020

Message sent 8/15/2020 7:35:50 PM

I will pick up the milk after 8.

Message received from Nechole 8/15/2020 7:41:25 PM

I will put it on my doorstep at 8pm.

Message sent 8/15/2020 8:25:00 PM

I picked it up.

Message received from Nechole 8/16/2020 7:21:28 AM

How's Ava doing?

Message sent 8/16/2020 8:25:21 AM



Ava is doing really well!  
She grew and no longer fits no. 4 diapers, so I'm putting no. 5 diapers on her.

Message received from Nechole 8/16/2020 8:30:14 AM

It looks like you have her on her back and are tickling her to get her to smile. But I can still the sadness in her eyes.  
The weight range for size 4 diapers is 22-37 pounds. Ava weighed 23.6 pounds on Tuesday when I had her. Are you now saying she gained 14 pounds in 6 days?

8/17/2020

Message sent 8/16/2020 7:06:27 PM

Will you bring the milk tonight since I picked it up yesterday?

Message received from Nechole 8/16/2020 7:07:19 PM

No. I'll leave it on my doorstep at 8pm.

Message sent 8/16/2020 7:07:51 PM

Ok. I will pick it up.

Message received from Nechole 8/16/2020 7:13:01 PM

It's the least you can do since you created this situation. As I've said before, my compromise is that I'm pumping because its in Ava's best interest. This could have been planned so as not to be traumatic for Ava, but instead you abruptly and unilaterally decided to withhold her to force her wean, and only agreed to pick up the milk after I repeatedly told you that she still dependent on nursing.

Message sent 8/16/2020 8:30:49 PM

I picked it up.

Message received from Nechole 8/17/2020 7:14:25 AM

How's Ava doing?

Message sent 8/17/2020 8:19:15 AM



Ava is doing great. She slept well and is eating well.

Message received from Nechole 8/17/2020 8:46:18 AM

And missing her primary caregiver and the breastfeeding she took comfort in, especially since she's teething right now. She just doesn't look that happy to me.

---

8/18/2020

Message sent 8/17/2020 7:01:07 PM

Will you drop off the milk tonight since I picked it up 4 days in a row?

Message received from Nechole 8/17/2020 7:03:04 PM

Have you not gotten my previous texts that clearly explain my position? I can resend them if you like.

Message sent 8/17/2020 7:08:41 PM

I take it that's a no?

Message received from Nechole 8/17/2020 7:09:39 PM

It will be on my doorstep at 8pm.

Message sent 8/17/2020 8:57:29 PM

I picked it up.

Message received from Nechole 8/18/2020 8:02:06 AM

How's Ava doing?

Message sent 8/18/2020 8:26:38 AM



Ava is doing really well. She slept well and is having fun exploring my backyard.

Message received from Nechole 8/18/2020 8:29:56 AM

She looks pretty, and I miss her terribly. Its a shame you've chosen this drastic action rather than coparenting.

Message sent 8/18/2020 12:52:39 PM

She is gorgeous, sweet, and very smart! I have bought her an activity table like the one Tracy gave you and she's enjoying it a lot.

I can definitely relate to how it feels to miss Ava terribly. It is in the best interest of Ava to spend equal time with each of her parents. That is what I'm asking for.

Message received from Nechole 8/18/2020 1:05:29 PM

You're not asking. You deceived me into turning Ava over, then unilaterally decided to withhold for an amount of time detrimental to her well-being. You couldn't possibly relate to how I'm feeling. You aren't her primary caregiver, and you don't breastfeed. You also have never gone two weeks without seeing her. You're not acting in Ava's best interest.

8/19/2020

Message sent 8/18/2020 7:03:37 PM

Will you drop off the milk tonight?

Message received from Nechole 8/18/2020 7:05:19 PM

It will be on my doorstep at 8pm.

Message sent 8/18/2020 8:29:03 PM

I picked it up.

Message received from Nechole 8/19/2020 8:29:45 AM

How's Ava doing?

Message sent 8/19/2020 8:55:17 AM



Ava is doing great. She slept well, had a good breakfast, and enjoyed a walk outside. She sings every melody from the activity table's music player.

Message received from Nechole 8/19/2020 9:00:09 AM

Her eyes look puffy, like she's been crying.

8/20/2020

Message sent 8/19/2020 7:03:51 PM

Will you drop the milk off tonight?

Message received from Nechole 8/19/2020 7:06:00 PM

It will be on my doorstep at 8pm.

Message sent 8/19/2020 8:22:21 PM

I picked it up.

Message received from Nechole 8/20/2020 7:36:52 AM

How's Ava doing?

Message sent 8/20/2020 8:37:13 AM



Ava is doing great. She slept well and ate well. We just played outside in my front and backyard, and now she's playing with her activity table. She knows all the numbers on the activity keypad.

Message received from Nechole 8/20/2020 8:43:32 AM

She does not look good. Her skin looks red and patchy on her cheeks and forehead. Besides a concern for her emotional development, I'm now concerned for her physical welfare. Poor Ava. I hope the harm you're doing to her is not permanent.

Message sent 8/20/2020 9:13:44 AM

Ava is doing excellent here. She's happy, she laughing, dancing, singing, learning new things, and enjoying her time with her dad. She gets a bath nightly and the same baby skin products are applied to her skin as they are applied at your house.

Message received from Nechole 8/20/2020 9:19:21 AM

You can give me your canned responses all you like, I can tell from her pictures that she's not doing well in your care. Her eyes are puffy, her skin looks patchy, and its clear you're tickling her and then taking close up photos to make her appear happy. But despite your best efforts, she looks sad. You unilaterally ripped her from the only home she's known and away from her primary caregiver, and refuse to return her. You're treating like property to which you own half, instead of a human being with feelings. I only wish you felt as strongly about Ava's well being as you feel about getting revenge and protecting your rights.

---

8/21/2020

Message sent 8/20/2020 7:07:20 PM

Would you bring the milk since I've been picking it up every night?

Message received from Nechole 8/20/2020 7:08:10 PM

It will be on my doorstep at 8pm.

Message sent 8/20/2020 8:37:22 PM

I picked it up.

Message received from Nechole 8/21/2020 8:07:49 AM

How's Ava doing?

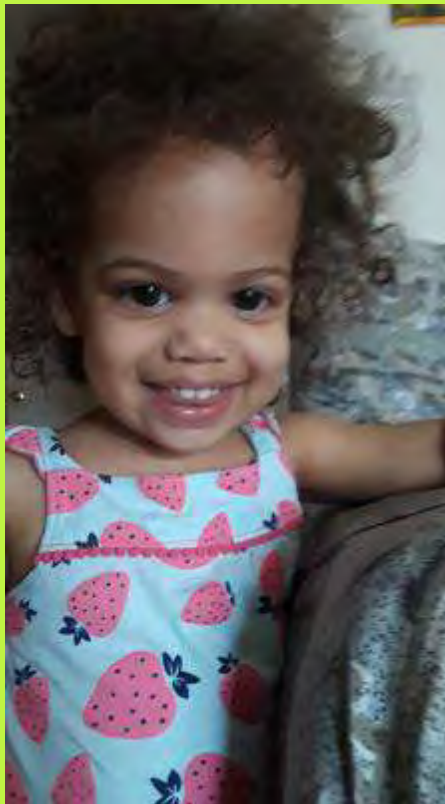
Message sent 8/21/2020 9:56:41 AM

Ava is doing very well. She's enjoying spending time with her brothers. I will bring Ava to you this Monday, August 24th at 7:10 am for a week. I will pick her up from you on Monday, August 31 at 7:10 am for a week.

Message received from Nechole 8/21/2020 10:52:11 AM

I'll see you Monday morning at 7:10am. May I please have a picture of Ava to make sure she's ok?

Message sent 8/21/2020 11:22:20 AM



Message received from Nechole 8/21/2020 11:26:06 AM

Thanks for the picture.

Message sent 8/21/2020 11:27:18 AM

You're welcome.  
She just said "my knee."

Message received from Nechole 8/21/2020 11:28:04 AM

Cute.

Message sent 8/21/2020 1:11:59 PM

I don't need any more milk, I have plenty here and Ava's not interested in it.

Message received from Nechole 8/21/2020 1:17:06 PM

Yes, that's why I asked to breastfeed her instead of pumping. I understand your text to be saying you're not going to come get my milk, but I still have to pump so my supply doesn't dry up in case she wants to breastfeed on Monday.

Message sent 8/21/2020 2:23:57 PM

I have plenty of milk here to offer Ava. She's been eating really well and tried a couple of new things, and also played with some different foods.

8/22/2020

Message received from Nechole 8/22/2020 8:04:53 AM

How's Ava doing?

Message sent 8/22/2020 9:37:00 AM



Ava is doing great. She had a good night sleep and ate good breakfast. She amazed her brothers by showing them how she knows all the numbers.

Message received from Nechole 8/22/2020 9:53:42 AM

I'm glad they're amazed, but she learned her numbers when she was at my home. As you'll remember, I sent you a video back in July of Ava selecting the correct numbers while in her kiddie pool.

8/23/2020

---

Message received from Nechole 8/23/2020 7:17:55 AM



How's Ava doing?

Message sent 8/23/2020 8:41:28 AM



**JA003554**  
Eugene 2683

Message received from Nechole 8/23/2020 8:50:11 AM

Does she have a scratch on her nose in the last picture?

---

8/24/2020

Message received from Nechole 8/24/2020 10:54:35 AM

Ava has a rash on her face, including both eyelids, and the back of her hair is matted. She has a mark on her leg that looks like a bruise that is healing. She's also now acting intolerant of being placed on her back for diaper changes.

After acting confused and disoriented this morning, she's acting extra clingy.

I took this picture of her face this morning while breastfeeding her (you can see the rash). She also definitely did not lose interest in my breastmilk as you claimed.

Message received from Nechole 8/24/2020 10:54:44 AM



Message received from Nechole 8/24/2020 10:54:51 AM



Message received from Nechole 8/24/2020 10:54:56 AM



Message sent 8/24/2020 11:48:56 AM



Here's a picture of Ava from this morning at my house with no rashes on her face. She didn't have any bruises, nor did she have any issues with her hair. She has never had problems with diaper changes while at my house and she had never acted confused, disoriented, or clingy. She loved spending time with her dad, her grandparents, and her brothers. She's been eating very well during the entire stay and didn't show any interest in breastmilk, which was offered to her consistently throughout her stay.

Message received from Nechole 8/24/2020 11:55:48 AM

The pictures I took are from this morning, and clearly show a rash, matted hair, and a bruise on her leg. Where are your pictures of her hair and leg? Even the picture you sent was taken an angle where you can't even see her face clearly, so it doesn't disprove that she had an untreated rash at your house.

I'm seeing clear signs of emotional trauma in Ava due to your actions. Its sad you haven't been willing to act in Ava's best interest.

If you had worked with me instead of acting selfishly and unilaterally, this harm could have been prevented.

Message received from Nechole 8/24/2020 12:27:27 PM

She's acting so clingy that she won't let me lay her down for her nap. She starts crying hard and clinging to me whenever I try. She didn't act like this before you withheld her for 2 weeks. She doesn't understand what happened and is afraid I'll leave her again.

Message sent 8/24/2020 1:01:14 PM

Ava never had problems with her naps here, willingly being laid to bed. On average, her naps were 3 hours each, between 12 and 3 pm. She also slept well through the night, again having no problem being put to bed and falling asleep right away, and sleeping for 12 hours.

Message received from Nechole 8/24/2020 1:21:13 PM

Because you have brazenly lied to me in the past, I can't believe anything you say about Ava now. Further, you aren't Ava's primary caregiver. You aren't the one whose been there morning and night for almost 2 years. Removing her abruptly from the person whose she's known for such a long time was going to cause harm. It was evident this morning when you handed her over to me. She seemed dazed and numb, which you apparently claim is her being "happy." Its the same dazed and numb look that was in most of the pictures you sent me. I continue to be deeply disturbed by your lack of regard for Ava.

Message received from Nechole 8/24/2020 1:24:38 PM

And I told you 2 weeks ago that Ava would not drink my milk unless it was directly from the breast, and begged you to let me feed her. You coldly refused, and demanded I pump and bring it to you. Like I said, disregard for Ava.

---

8/25/2020

---

Message sent 8/25/2020 10:42:29 AM

Good morning. How's Ava doing?

Message received from Nechole 8/25/2020 11:01:35 AM

I got all the tangles out of her hair and am working on the rash she had at your house. I had to rock her in my arms for a long time last night because she'd start crying hysterically whenever I tried to lay her down, because she didn't want me to leave. Today she's starting to return to her happy self. You can tell she's happy to be home and returning to her normal routines.

Message sent 8/25/2020 11:44:56 AM

Ava didn't have any problems falling asleep at my house, which is her home too.  
I have followed all the routines with her.

Message received from Nechole 8/25/2020 11:46:43 AM

Sorry, but I simply don't believe you. Any trust between us is gone. Ava lives here with me and has her entire life. You didn't even have a crib for her until I asked you to get her one 3 weeks ago.

**JA003558**

Eugene 2687

8/26/2020

---

Message sent 8/26/2020 9:56:49 AM

Good morning.  
How's Ava doing?

Message received from Nechole 8/26/2020 10:02:39 AM

Still suffering some trauma from your actions. She is still having sleeping issues and has regressed to breastfeeding frequently, like she did as a newborn.

Message sent 8/26/2020 11:07:05 AM

Ava has not had any issues with sleeping while at my house. She fell asleep within 10-15 minutes of putting her to bed and slept through the night. She also ate well throughout the whole stay. Can I please have her picture?

Message received from Nechole 8/26/2020 1:28:38 PM

I don't believe you. I'm also amazed and saddened that you refuse to understand the impact of ripping away Ava, a 22 month old and withholding her for 2 weeks. I'm at work, so I'll send a photo once I get home.

8/27/2020

---

Message received from Nechole 8/26/2020 5:48:26 PM



Message sent 8/26/2020 5:49:48 PM

Thank you for the picture.

Message sent 8/27/2020 9:57:04 AM

Good morning. How's Ava doing?  
Can I have her picture, please?

Message received from Nechole 8/27/2020 10:08:39 AM

She's still struggling with sleep issues. She needs me to rock her for a while before laying her down, or else she refuses to let me go and cries hysterically. She's also still breastfeeding a lot more than she did before you withheld her for 2 weeks. I'll send a picture in a little while.

Message sent 8/27/2020 11:20:04 AM

She never had any sleep issues here.

Message received from Nechole 8/27/2020 11:20:32 AM

I don't believe you.

Message sent 8/27/2020 11:59:09 AM

Thank you for the picture.

8/28/2020

Message sent 8/28/2020 3:40:50 PM

Good afternoon.  
How's Ava doing? Can you, please text me a picture of her?

8/29/2020

Message received from Nechole 8/28/2020 5:50:27 PM

Still needs me to rock and hold her for a while before going to sleep. Still very clingy. She cried hard when I had to leave her for mediation. Like I warned you, she is too young to understand that I didn't just abandon her for 2 weeks, and is now afraid I'll leave her again.

Message received from Nechole 8/28/2020 5:50:42 PM



Message sent 8/28/2020 6:39:05 PM

Thanks for the picture. Ava has not done that here.

Message received from Nechole 8/28/2020 6:57:14 PM

You know what saddens me? You never show any concern for Ava's well being when I tell you she's having issues. Instead, you just lie about how she was at your house. My heart breaks for Ava.

Message sent 8/29/2020 11:08:21 AM

Good morning. How's Ava doing?

Message received from Nechole 8/29/2020 2:23:24 PM

She's still having issues with sleeping and breastfeeding, but they're slightly better today. She's still very clingy too.

Message sent 8/29/2020 2:32:23 PM

I would like her picture, please.

Message received from Nechole 8/29/2020 2:55:53 PM



Message sent 8/29/2020 2:56:58 PM

Thank you for the picture.

---

8/30/2020

Message sent 8/30/2020 11:26:16 AM

Good morning.  
How's Ava doing?  
Can I, please have her picture?

Message received from Nechole 8/30/2020 12:56:14 PM

She's slowly getting better with going to sleep without me rocking her. She's still very clingy and wants me to pick her up a lot.  
Here's a picture from this morning.

Message received from Nechole 8/30/2020 12:56:31 PM



Message sent 8/30/2020 1:08:29 PM

Thank you for the picture.

8/31/2020

Message sent 8/31/2020 10:04:14 AM

Good morning. How's Ava doing?

Message received from Nechole 8/31/2020 12:30:07 PM

She had a hard time letting me lay her in the crib last night, and she's been clingy today.

Message sent 8/31/2020 1:04:46 PM

Thank you for the video.

---

9/1/2020

Message sent 9/1/2020 11:07:43 AM

Good morning.  
How's Ava doing?

Message received from Nechole 9/1/2020 12:55:48 PM

Breastfeeding alot more the past couple of days and still clingy. She cried when I had to leave her.

Message received from Nechole 9/1/2020 12:56:10 PM



Message sent 9/1/2020 1:01:13 PM

Thank you for the picture.

---

9/2/2020

Message sent 9/2/2020 10:03:05 AM

Good morning.  
How's Ava doing?

Message received from Nechole 9/2/2020 12:25:31 PM

Mild improvement with sleep, still pretty clingy.

Message received from Nechole 9/2/2020 12:25:41 PM



Message sent 9/2/2020 1:04:22 PM

Thank you for the picture.

---

9/3/2020

Message sent 9/3/2020 10:44:51 AM

Good morning.  
How's Ava doing?

Message received from Nechole 9/3/2020 12:33:21 PM

Her sleep continues to improve, but she's still very clingy. She cries whenever I have to leave her.

Message received from Nechole 9/3/2020 12:33:32 PM



Message sent 9/3/2020 12:41:30 PM

Thank you for the picture.

9/4/2020

Message sent 9/4/2020 8:16:04 AM

Good morning. You have not responded to my email. I want to come and pick Ava up today so she can spend 3 days with me.

Message received from Nechole 9/4/2020 9:28:05 AM

You sent it a 11pm last night. I am busy caring for Ava right now, but will answer your email at my earliest opportunity.

Message sent 9/4/2020 9:29:31 AM

I want to pick Ava up today. I'd like to know how she's doing and have her picture. Thank you.

Message received from Nechole 9/4/2020 12:05:50 PM

Her sleep issues continue to improve, but I'm a little worried because the clinginess isn't much better.

Message received from Nechole 9/4/2020 12:06:01 PM



Message sent 9/4/2020 12:23:46 PM

Thank you for the picture.  
Ava never had any sleep issues or clinging issues at my house, nothing like that was ever witnessed here by anyone. You're simply making it up. You also did not answer my request to come and pick Ava up.  
I want to come and pick her up right now. I want to start a 3 day rotation so she stays with me.

Message received from Nechole 9/4/2020 2:35:18 PM

I'm sad to see such a hostile response when I'm just trying to share my concerns as your coparent. I am not lying about Ava's struggles. You, on the other hand, have a proven track record of lying.

As I said previously, I'm caring for Ava right now, but I'll respond to your email at my earliest opportunity.

Message sent 9/4/2020 2:56:43 PM

There is absolutely no hostility on my part, which is not the case for you. I am asking to come and pick my daughter up today. As far as the lies, the record shows you constantly lying, denying me to see my daughter and not agreeing on a reasonable schedule. That is not co-parenting.

---

9/5/2020

Message received from Nechole 9/4/2020 5:28:13 PM

Yes, the record will show you lied to get possession of Ava and withheld her for 2 weeks. You then tried to bully me into agreeing to week on/week off, and you're trying to bully me now. And to add insult to injury, you're also now trying to gaslight me into believing I am the liar.

Ava needs my full attention right now, so I'm not going to be baited into arguing with you instead of focusing on her. For the last time, I'll respond to your email at my earliest opportunity.

Message sent 9/4/2020 6:11:39 PM

That is a lie. The 3 days on, 3 days off schedule I proposed is a fair and reasonable schedule.  
And you keep dismissing my request to come and pick Ava up today so I can spend 3 days with her.

Message sent 9/5/2020 9:01:54 AM

Good morning. I'd like to come and pick up Ava so she can stay with me for 3 days and spend time with her dad and her brothers.

Message received from Nechole 9/5/2020 11:51:47 AM

I responded to your email demanding I turn Ava over immediately. I have been trying to reach an agreement with you on a temporary visitation schedule since August 27th. I have repeatedly explained the damage you've caused our coparenting relationship by lying to my face in order to get Ava, then summarily declaring you are going to keep her for 2 weeks. I have explained that agreeing in writing to return her when I ask would start to heal the breach of trust in our coparenting relationship. During that time you repeatedly rejected my offers to pick up Ava and did not make a single daily demand via text to see Ava until yesterday.  
Then suddenly yesterday, September 4th (which is also my first day off this week) you start accusing me of lying and start sending multiple texts demanding I turn Ava over immediately. But you refuse to agree in writing, or even acknowledge the harm you caused, for that matter.

Message sent 9/5/2020 12:22:47 PM

I have responded to your email and asked to pick up Ava today for a 3 day rotation, which is a fair and reasonable schedule. I will not agree to your ridiculous schedule as it is unfair and unreasonable. I have consistently offered fair schedules that have Ava spend equal time with her parents, which you have refused. That makes co-parenting impossible. By withholding Ava from me you are causing damage to Ava, which you have done since she was born.

I am asking to come and pick Ava up today, so she can spend 3 days with her dad. I also would like to know how she's doing and have her picture.  
Thank you.

Message received from Nechole 9/5/2020 3:29:29 PM

Eugene, its not withholding when I offer that you pick up Ava but you refuse because its not on your terms. You, on the other hand, refused to let me see Ava during the weeks you seized her. You didn't even tell me when/if you were returning her until after my attorneys filed a motion. That is withholding.

Since August 27th, I have consistently offered that you have Ava for 3 days each week until the Judge enters an order. I have explained that, because you lied to my face, I can no longer trust that you won't take Ava and withhold her for as long as you want. I have said it would help rebuild trust as coparents if you returned her when I ask, which is at the end of the 3 days. I have said that because you lied, you will have to agree in writing. I have emphasized that this would just be until September 17th.

Each and every time, you say no.

Since yesterday you've decided that you will start accusing me of the things you've done in the hopes of making me look just as bad. And, that you will begin aggressively demanding I turn Ava over each day.

Message received from Nechole 9/5/2020 3:30:04 PM

Ava wouldn't let me put her down for the first 30 minutes after she woke up this morning. She won't let me put her in the highchair; I have to sit in the chair across from the highchair and have her eat while sitting on my lap. As I've been saying, she's clingier than she used to be.

Message received from Nechole 9/5/2020 3:30:26 PM



Message sent 9/5/2020 3:41:07 PM

That is a lie. Your proposed schedule is ridiculous, unfair and unreasonable. I will not agree to it. I have proposed a fair and reasonable schedule of 3 days on, 3 days off, which you have continuously refused and ignored. This is not co-parenting. This is you using intimidation, bullying and control over when I can see my daughter.

Message sent 9/5/2020 3:42:42 PM

I don't believe that. Ava was absolutely fine at my house, she slept well, ate well, was happy, played with the people who love her, and enjoyed her time here.  
Thank you for the picture.

Message received from Nechole 9/5/2020 4:10:26 PM

So EVERYTHING I just said was a lie? I don't understand why you deny stuff that's easily verifiable with our texts and emails.  
The fact is, since August 27th, I have consistently offered 3 days a week of visitation, and asked that you start repairing the damage from your lies by returning Ava when I ask. You keep saying no.  
And I would saying lying to get Ava, who had never spent a single night at your house (and is too young to protest), keeping her from me for weeks, and then using your possession of the Ava to try and force me to agree to week on/week off, is some serious bullying, intimidation and control.  
Accusing me of that after what you did is pure gaslighting.

As far as Ava's welfare goes, the fact that you refuse to even consider that a 22 month old may have separation or sleep issues after a 2 week separation from her primary caregiver is very concerning.

Message sent 9/5/2020 4:39:13 PM

Yes, it is.  
The schedule you proposed is a ridiculous and unfair schedule which I will not agree to. I have offered a fair and reasonable 3 days on, 3 days off schedule, which you continuously refused. And you are not Ava primary caregiver, that's another lie, very easily provable.  
Just because you keep saying it, it doesn't make it true. That and the other lies you spread is gaslighting.

Ava has not had any issues when she stayed here, which is witnessed by 8 people.

I am respectfully asking to come and pick Ava up today so she can stay with me for a 3 day rotation.

Message received from Nechole 9/5/2020 4:50:10 PM

Ok, at this point you are just doing "I know you are but what am I?" by taking everything I said about you and applying it to me. You're not even changing the words I used. And how could you be Ava's primary caregiver when you never lived with her or had a single overnight before August 11th? It's not even rational.

Anyway, I need to focus on Ava's care, and this conversation is clearly unproductive.

I hope you feel better Eugene.

Message sent 9/5/2020 4:57:55 PM

Again, I respectfully ask to come and pick up Ava today for a 3 day rotation, so she can spend time with her dad and her brothers.

---

9/6/2020

Message sent 9/6/2020 8:06:40 AM

Good morning.

I am asking to come and pick Ava up this morning for a 3 day stay with me, returning her on 9/9 for 3 days with you, following the 3 days on 3 days off schedule I proposed on August 28.

Message received from Nechole 9/6/2020 9:28:36 AM

I responded to your request in my email last night. As I've been explaining since 8/27, you lying to my face to get possession of Ava and then withholding her for weeks caused serious damage to our coparenting relationship. I need to be able to trust that you won't lie to get Ava and then just keep her as long as you want. You can start rebuilding trust by returning her when I ask. Since August 27th, I have offered Tuesday through Thursday each week (until September 17th), but you have to agree in writing since you lied. You keep rejecting my request, but I hope you reconsider.

Eugene, I won't be engaging in a prolonged back and forth argument about this today. Its unproductive and I need to focus on caring for Ava. Please don't continue your daily campaign to try to badger and/or bully me into turning Ava over immediately. I'm offering 3 days each week and simply asking you take steps to rebuild trust after you lied. And it's for less than 2 weeks at this point; its not a permanent schedule.

Message received from Nechole 9/6/2020 9:28:38 AM

Ava's sleep is almost back to normal, but she's still clingy. As you can see in this video, she did not want to let me go this morning so she could sit in her high chair and eat.

Message sent 9/6/2020 9:44:49 AM

The schedule you proposed is a ridiculous, unfair, and unreasonable schedule, which I will not agree to. Ava has two parents and deserves to spend equal time with each of her parents. I have proposed a fair and reasonable schedule of 3 days on, 3 days off that you have consistently ignored and/or rejected. I am respectfully asking to come pick up Ava today, so she can stay with me for 3 days and then go back to you for a 3 day rotation. Today is the only day Eric and Adam can spend time with their sister between August 31 and September 17, which was originally a part of my 3 day rotation schedule, offered to you on August 28.

Message sent 9/6/2020 9:50:50 AM

Your claims of Ava being in distress, not sleeping well, etc. are bogus and nothing but lies to maintain your control over when I can see Ava. Ava have not had any issues while staying with me. Her sleep was solid, she ate well, played, and was happy to spend time with her dad and her family, which she deserves to spend equal amount of, just like she deserves to spend equal time with you and your family. Thank you for the video of Ava. However, your video doesn't prove anything and your claims are ridiculous. Toddlers, which Ava is at this point pretty much at her "terrible 2's" (which I have gone through with both Eric and Adam) have tantrum all the time. That is a natural step of a child development. To claim that this is because of me is not just hurtful, it is a straight lie.

Message received from Nechole 9/6/2020 10:27:21 AM

Its unfortunate you feel that way. I disagree.

Message sent 9/6/2020 10:30:24 AM

That's not how I feel, these are the facts. Again, I'm respectfully asking to come and pick Ava up this morning.

9/7/2020

Message sent 9/7/2020 8:27:41 AM

Good morning Nechole.  
I'm asking to pick up Ava this morning for a 3 day stay with me.

Message received from Nechole 9/7/2020 9:33:50 AM

I have been offering you three days a week since 8/27 but you keep saying no. Eugene, you lied to my face to get possession of Ava and then withheld her for 2 weeks. That destroyed any trust in our coparenting relationship. You can begin to rebuild trust that you won't lie to get Ava and then just keep her as long as you want, by returning Ava when I ask. You can pick up Ava tomorrow, Sept 8th at 7:45am and keep her until Thursday, September 10th at 5:45pm.  
But, because you lied, you have to agree in writing.  
This would not be a permanent schedule; it would only be until the 17th (so only about 10 days).

Message sent 9/7/2020 9:59:14 AM

These are nothing but lies.  
I have offered a fair and reasonable schedule of 3 days on, 3 days off, which you have consistently rejected or/and ignored, which makes co-parenting impossible. I will not agree to your ridiculous schedule as it is unfair and unreasonable. By keeping Ava away from me you destroyed any trust in a fair co-parenting. I am again, respectfully asking to pick up Ava today for a 3 day rotation with me.

Message received from Nechole 9/7/2020 10:08:37 AM

Its too bad you feel that way, but you are incorrect. I'm going to keep reaching out to you because I want you to see Ava.

Message sent 9/7/2020 11:05:11 AM

That is a lie. I have consistently offered fair and reasonable schedules since July 30 that have Ava spend equal time with each of her parents, which you have repeatedly ignored or/and rejected. The schedule you proposed is a one sided, unfair and unreasonable schedule, which I will not agree to. I am asking to pick up Ava today for a 3 day rotation.

Message received from Nechole 9/7/2020 11:22:47 AM

I don't think lying to get Ava and then summarily declaring you are keeping her for weeks as "make up" time was fair or reasonable.

Message sent 9/7/2020 12:05:41 PM

That is a lie. My schedules, which you have continuously rejected as well as my requests to get Ava that you've continuously denied (just like you're doing now) have offered equal time for Ava to spend with each of her parents, on weekdays and on weekends. I am asking to pick Ava up today for a 3 day rotation with me.

Message received from Nechole 9/7/2020 12:10:50 PM

I disagree.

Message sent 9/7/2020 12:19:59 PM

I am respectfully asking to come and pick Ava up today for a 3 day rotation.

Message received from Nechole 9/7/2020 12:23:34 PM

You are welcome to pick her up tomorrow at 7:45 am. But because you lied to get possession of Ava and then withheld her, I'm requesting that you return her when I ask, which is Thursday, September 10th at 5:45 pm. That's 3 days like you're asking for, and returning her when I ask will help rebuild trust.

Message sent 9/7/2020 1:04:11 PM

I will not agree to this schedule as it is ridiculous, unfair and unreasonable schedule. Ava deserves to spend equal time with each of her parents and that is the 3 days on, 3 days off schedule that I proposed that you have rejected. I am asking to pick her up today.

---

9/8/2020

Message received from Nechole 9/8/2020 6:27:26 AM

I'm following up on my email yesterday, because I want you to see Ava. You're welcome to pick her up this morning at 7:10 am. But because you lied to get Ava and then withheld her for weeks, I'm requesting that you return her when I ask, which is Thursday, September 10th at 5:45 pm. That's 3 days with Ava like you're asking for, and returning her when I ask will help rebuild trust. Please let me know.

Message sent 9/8/2020 7:38:01 AM

As I responded twice to your email yesterday, your schedule is a ridiculous, unfair and unreasonable proposal that I will not agree to. It is heavily one sided to suit your desire to withhold Ava from me, to control, bully and intimidate me by offering a ridiculous schedule in which I don't get to have Ava on the weekends at all and you get to have her most of the time.

That is not co-parenting and with all the lies you perpetuated, I have no trust in your ability to co-parent fairly. Your latest lie is that what you proposed is a 3 day rotation schedule, which it is absolutely not. Your proposal has me only doing Tuesday, Wednesday and Thursday, with you doing Monday and the whole weekend EVERY week. Furthermore, your proposal doesn't even let me have Ava on Thursday night. It is a blatant lie to state that this is what I asked for!

I have consistently offered a fair and reasonable schedule of 3 days on, 3 days off that has Ava spend equal time with each of her parents, including weekdays, weeknights, weekends, and weekend nights. This schedule accommodated your request from August 27 to not spend more than 3 days without Ava. You have consistently rejected or/and ignored my requests to start the 3 day rotation. I am again, respectfully offering the 3 days on, 3 days off schedule and asking to pick up Ava tomorrow morning for 3 days with me (9/9, 9/10, 9/11), returning her to you in the morning of 9/12 for 3 days with you (9/12, 9/13, 9/14) and continuing the 3 day rotation. This is the schedule that will rebuild my trust in you as a co-parent.

Message received from Nechole 9/8/2020 8:57:05 AM

I never said it was a 3 day rotation; I said it would be 3 days with Ava. How is it withholding when I'm offering you to have Ava for 3 days starting today?

And I'm not asking you to make this permanent; its for 9 days. But it would help rebuild trust because you lied.

Message sent 9/8/2020 8:59:52 AM

That is a lie.

I will not agree to your schedule, as it is a ridiculous, unfair and unreasonable schedule. I am asking to start a 3 day rotation tomorrow morning, which is a fair and reasonable schedule. Thank you.

Message received from Nechole 9/8/2020 9:01:38 AM

You can come get her this morning and keep her until Thursday at 6pm, as long as you agree in writing because you lied. You don't want to?

Message sent 9/8/2020 9:06:10 AM

I will not agree to the schedule that is not a 3 day rotation, doesn't have Ava spend 3 days and 3 nights with me, and doesn't have Ava spend time with me on the weekends. My schedule is fair and gives Ava equal time to spend with each parent. I have consistently been offering it since August 28 and you have consistently been denying or/and ignoring my requests.

Message received from Nechole 9/8/2020 9:08:16 AM

That sounds like a no. Well, my offer stays open if you change your mind and want to see Ava today through Thursday. I'm hoping you will because I want you to see her.

Message sent 9/8/2020 9:13:15 AM

I will not agree to your schedule because it is a ridiculous, unfair, and unreasonable proposal. I am, again asking for a 3 days on, 3 days off schedule that is fair and reasonable, starting with me doing a 3 day rotation tomorrow morning. Thank you.

Message received from Nechole 9/8/2020 9:15:13 AM

I'm sorry to hear that. The offer stays open if you change your mind.

Message sent 9/8/2020 9:54:43 AM

I will not agree to your ridiculous, unreasonable, and unfair schedule that doesn't let me have Ava for 3 nights, doesn't let me have Ava on weekends, and doesn't let me spend equal time with Ava. I also work Monday through Thursday and Ava deserves to spend equal time with each of her parents. My 3 days on, 3 days off schedule is a fair and reasonable schedule to everyone, Ava, you, and me. I am asking to start a 3 day rotation tomorrow morning.

Message received from Nechole 9/8/2020 10:02:33 AM

Would it help if we changed the days? How about Wednesday morning through Friday evening? I want you to have time with Ava, Eugene. But you will have to agree in writing because you lied. Your actions were incredibly traumatic and damaged my trust in you. Again, I'm not asking for anything permanent, I'm just talking 9 days here.

Message sent 9/8/2020 12:16:30 PM

Let's get something straight. No, you don't want me to see Ava, you want me to see Ava on your terms, which are ridiculous. If you did, you would agree to my 3 days on, 3 days off schedule, which I proposed on August 28 and wanted to start on August 31. And prior to that, I offered a fair schedule of week on, week off on July 30. You have continuously refused and/or ignored my requests. Last week, you've purposely refused the fair and reasonable schedule of 3 days on, 3 days off I proposed so you can spend a 4 day weekend with Ava. That is very well documented. Even though I continuously asked to see Ava and my schedule had it so Eric and Adam could spend one day with her sister on Sunday, you have refused. You know that the judge will not like what you've done and that's why you are trying to create an impression that you are willing to cooperate when in fact, everything you've offered has been absolutely ridiculous and unfair.

With all the lies you told I have no trust in your ability to co-parent.

I will not agree to a schedule that doesn't have Ava spend 3 days and 3 nights with me. Because you just had Ava for 16 days straight, I am proposing me having Ava on 9/9, 9/10, and 9/11, then you on 9/12 and 9/13, then me on 9/14, 9/15, 9/16, and then you again on 9/17.

Message received from Nechole 9/8/2020 12:19:59 PM

I'm really trying here Eugene. You wanted 3 days starting tomorrow and I'm offering 3 days - Wednesday through Friday. Now you're saying no to that too? Please explain.

Message received from Nechole 9/8/2020 12:36:01 PM

Are you saying you've been refusing the 3 days a week I've been offering since 8/27 because you want to argue in court that I've been withholding too, so what you did isn't that bad? I hope not. I really, truly am trying to arrange for you to see Ava, whether you believe it or not. I strongly disagree about the timeshare, but my attorney will make that argument in court. I'm trying not to argue and just agree to something for Ava's sake. But to be clear, it will have to be in writing because you did in fact lie to get Ava. I have not lied.

Message sent 9/8/2020 1:23:19 PM

Again, I will accept a schedule where I have Ava for 3 days and 3 nights. I will have Ava on 9/9, 9/10, 9/11 (all overnight), then you will have her on 9/12 and 9/13 (all overnight), then I will have her on 9/14, 9/15, and 9/16 (all overnight), then you will have her on 9/17, etc. That is not a schedule you are proposing. You have never proposed a fair schedule. Since August 2 you've had Ava for 25 days.

You've been refusing to accept a fair and reasonable schedule of 3 days on, 3 days off and instead have been offering a ridiculous, unfair, and unreasonable schedule that only has Ava with me for less than 3 days and only two nights with no weekends. Even your proposal today, which I'm guessing comes because the hearing is near and you know the judge won't like what you've done, doesn't let me keep Ava on Friday overnight. That is a ridiculous, unfair and unreasonable schedule.

Throughout all this you constantly lied, bullied me, and refused to co-parent in a meaningful and fair way.

Also, you did not propose any schedule on August 27, as the emails show. On August 27 you told me to come up with a schedule and listed your demand to not be without Ava for more than 3 days. On August 28 I emailed such a schedule, which is a 3 days on, 3 days off schedule. On that same day you refused my fair schedule and proposed a ridiculous schedule of me only having Ava on Tuesdays, Wednesdays, and Thursdays, with no overnights until 9/16. I told you I won't accept that schedule. Then, on August 31 you slightly modified your schedule and offered two overnights a week, but still only on Tuesday and Wednesday, which is another ridiculous, unfair, and unreasonable schedule.

Message received from Nechole 9/8/2020 1:43:22 PM

So just so I'm clear, you're not only saying no, you're also saying I should have Ava LESS time than you originally proposed because you did not get to see her over the weekend? It's becoming clear this is not about Ava for you; you're behaving this way because you want to argue that I withheld too, so your behavior wasn't so bad. The problem is that I have been offering visitation over and over again and you keep saying no.

Regardless, I feel comfortable that I have acted in Ava's best interest since 7/30, so I won't be intimidated or bullied by you. I've been trying to work with you since 8/27 to see Ava, and I will continue every single day until the hearing.

If you refuse to agree during this entire time frame because it's not 50/50, at least I know I tried for Ava's sake. And the evidence will reflect that.

I'm not going to argue with you about this anymore. I hope you have a good day, Eugene.

**JA003578**

Eugene 2707

Message sent 9/8/2020 2:28:28 PM

That is a lie. You have not had Ava for less time, you've had Ava for significantly more time. You've had Ava for 25 days since August 2, so this is a lie. I have proposed a 50/50 schedule on August 28, which you have continuously rejected. That schedule had each of us do 9 days between August 31 and September 17 on a 3 day rotation. Since August 31 you've had Ava for 9 days and I have not had her for a single day, because you purposely refused to agree to a fair 3 days on, 3 days off schedule I proposed. With 9 days left until September 17, following the schedule I proposed you will have had Ava for 12 days and I will have had Ava for 6 days.

In fact, every schedule I ever proposed was a 50/50 schedule that was fair and reasonable and had Ava spend equal time with each of her parents, which is what's best for her. You have refused to agree to any schedule I ever proposed and instead kept offering a ridiculous schedule, which has only your own interests at stake in your desire to control me and when I can see Ava. That is not co-parenting.

Message received from Nechole 9/8/2020 2:47:15 PM

You misunderstood my previous text. Regardless, I have said my piece. I hope you have a good day Eugene. I'll try to get you to see Ava again tomorrow.

Message sent 9/8/2020 3:23:31 PM

I am not having a good day, I have not seen Ava for 16 days because of your refusal to co-parent on a fair, reasonable, and equal schedule. I miss her terribly! Your lies and pretenses can not deny the facts that you've been withholding Ava from me by offering a ridiculous, unfair, and unreasonable schedule that only suits you.

I am asking for 3 days and 3 nights with Ava on 9/9, 9/10, and 9/11, followed by 9/12 and 9/13 with you, 9/14, 9/15, 9/16 with me, and 9/17 with you. Even with this schedule, you still get to do two weekend days and I only get one. I am ready to pick Ava up tomorrow morning for a 3 day/3 night stay with me. But that's not what your offer is so pretending that I am not interested in having her is a blatant lie.

Message received from Nechole 9/8/2020 3:26:20 PM

You're welcome to come get her right now. You just have to agree in writing to because you lied.

Message sent 9/8/2020 3:45:28 PM

First of all, I didn't lie. I have consistently proposed 50/50 schedules and joint custody, which you have consistently denied.

Also, are you saying that you will agree to 9/9, 9/10, 9/11 with me, 9/12, 9/13 with you, 9/14, 9/15, 9/16 with me, and 9/17 with you? Also, I want to make it clear again that I am ultimately seeking week on, week off schedule where we get equal weekdays and weekends, and joint custody.

Message received from Nechole 9/8/2020 3:55:38 PM

Wow. Yeah, you did lie.  
I've been consistent and clear. Read my first text from this morning if you're unclear.

Message sent 9/8/2020 3:59:46 PM

No, I didn't. And no, you haven't. And your first text from this morning still refers to a ridiculous, unfair, and unreasonable schedule of 2.5 days and 2 nights PER WEEK on Tuesdays, Wednesdays, and Thursdays, which I will not agree to.

---

9/9/2020

Message received from Nechole 9/9/2020 6:26:27 AM

I'm reaching out again to offer for you to pick up Ava today. I have offered 3 days a week for a couple of weeks now, and you keep saying no, because its not 50/50. Yesterday, I tried to be more flexible and offered Wednesday through Friday, but you again said no.  
I want you to see Ava, so I'm offering again. You're welcome to pick Ava up today and keep her until Friday evening. Again, because you lied, agreeing to this in writing would help start to rebuild trust that you won't lie to get Ava and then just keep her as long as you want.  
As I've repeatedly said, this is not permanent. Its only until the hearing on September 17th.  
Please let me know.

Message sent 9/9/2020 6:47:20 AM

Again, these are outrageous lies. You have offered a ridiculous schedule of 2.5 days/2 nights PER WEEK. That schedule is ridiculous, unfair, and unreasonable and I will not agree to it. I have consistently offered 3 days on, 3 days off schedule since August 28, which you have rejected and ignored. At this point you've had Ava for 26 days since August 2, you've had Ava for 10 straight days since August 31. It is an outrageous lie to say that you've offered 3 days on Wednesday through Friday. It's the same 2.5 days/2 nights PER WEEK, which is a draconian schedule and I will not agree to it. The schedule I proposed is a fair and reasonable schedule which has Ava spend 3 days with each of her parents on a 3 days/3 nights rotation basis. I will not agree to less than that. Moreover, you've already had Ava for 10 out of 18 days between August 31 and August 10 by withholding her from me, blatantly lying, and ignoring my daily requests to come and pick her up, like last week where you had Ava during a 4 day weekend, completely ignoring my requests to come and get her. Here's again a modified schedule I proposed yesterday:  
Eugene: 9/9, 9/10, 9/11 (all overnight)  
Nechole: 9/12, 9/13 (all overnight)  
Eugene: 9/14, 9/15, 9/16 (all overnight)  
Nechole: 9/17 (overnight). If you agree to this schedule, I will come and pick Ava up right now. I also would like to know how she's doing and get her picture.

Message received from Nechole 9/9/2020 6:56:47 AM

I vigorously disagree, but I will not debate this with you today. This is TEMPORARY; it does not reflect what we're asking for in court. I want you to see Ava, so my offer to pick her up today and have her until Friday night stands. Let me know if you change your mind.

Message sent 9/9/2020 7:10:16 AM

You can disagree all you want, but the facts I stated are right there and they will come out in court.

And again, no, you don't want me to see Ava, you want me to see Ava on your terms, which are draconian and are meant to control, bully, and intimidate me. Ava deserves to spend equal time with each of her parents. I stand by my offer and I will not agree to a schedule where I have Ava for less than 3 days/3 nights on a rotation basis, which I proposed on August 28. The schedule I proposed is fair and reasonable and had us alternate 3 days/3 nights each with Ava. You've continuously rejected and/or ignored this schedule, which would have given us 9 days each to spend with Ava between 8/31 and 9/17.

Message received from Nechole 9/9/2020 11:49:18 AM

Ava sleep is better, but she's still been very clingy since her time at your house. She hates having me out of her sight.

Message received from Nechole 9/9/2020 11:49:42 AM



Message sent 9/9/2020 12:10:10 PM

Thank you for the picture.  
Ava has never been clingy at my house.

Message received from Nechole 9/9/2020 12:42:33 PM

I have to say, your behavior has been outrageous. First, you lie to my face to get Ava and then unilaterally declared you were keeping her for 2 weeks. You wouldn't even tell me when you're returning her until my attorneys filed a motion. Then you try to use your possession of Ava to bully me into a harmful custody agreement. You've shown no desire to rebuild trust after your traumatic actions. Now, you've taken to calling me a liar just about every single time you communicate with me, and you're still trying to bully me into doing what you want. That is not constructive coparenting.

Message sent 9/9/2020 1:24:00 PM

These are all lies. You were told on August 11 that I will return Ava on August 24, which is all documented. Moreover, fair schedules have been proposed to you by me since July 30, which you have either ignored or/and rejected. Unlike what you are falsely claiming, Ava has done wonderfully at my house, she was happy, played well, ate well, slept well, and enjoyed spending her time with her dad and his family.

What's traumatic for Ava is you withholding her from me since August 31, you refusing to accept a fair and reasonable schedule I proposed on August 28 of 3 days on, 3 days off, and blatantly lying to maintain control of Ava. That is not a constructive co-parenting.

Message received from Nechole 9/9/2020 1:31:58 PM

There you go again, accusing me of being a liar. Just going to continue the outrageous and unconstructive behavior, I see. I am not a liar, nor have I lied. You seem to think just repeating that every time I speak truth will make what I say untrue. It doesn't work that way Eugene.

Message sent 9/9/2020 2:20:34 PM

The facts speak for themselves.

Message received from Nechole 9/9/2020 2:22:41 PM

They sure do.

---

9/10/2020

Message received from Nechole 9/10/2020 6:06:05 AM

Its day 15 since I first reached out to you to arrange visitation, and 9 days of me making offers for you to pick up Ava. I'm trying again today because I want you to see her. But because you blatantly lied to get me to turn Ava over and then withheld her for 2 weeks, I'm requesting that you return Ava when I ask. This will help begin to restore trust that you won't lie to get Ava and then keep her as long as you like.

For the past 2 days, I offered that you pick up Ava on Wednesday and keep her until Friday night; you said no. Its now Thursday. I'm now offering you to pick up Ava this morning and keep her until Friday night. You're also welcome to pick up Ava Monday morning and keep her to Tuesday night. Because you lied, any agreement we make must be in writing. Again, this is temporary. Let me know.

Message sent 9/10/2020 6:17:58 AM

That is a lie. I have never lied about anything and it is well documented since August 11. I have been asking to come and pick Ava up every day since August 31 utilizing 3 days on, 3 days off schedule that I proposed on August 28, which is a fair and reasonable schedule. You have refused to follow that schedule EVER DAY since August 31 as the record shows. Instead, you offered a ridiculous, unfair and unreasonable schedule that has you keep Ava most of the time. I will not agree to your schedule. I will absolutely come and pick Ava up right now for a 3 days/3 nights stay with me, returning her to you on Sunday at 7:10 am for a 3 day stay with you. Do you agree to that?

Message received from Nechole 9/10/2020 6:24:42 AM

I am not lying, and its appalling that you keep replying to my texts with that accusation. You're clearly trying to fabricate new "facts" about your behavior during the past few weeks by reciting them in your current text messages. That is shockingly dishonest and won't work. More importantly, you're continuing to behave in a manner that is toxic to coparenting. Are you rejecting my offer to pick up Ava and spend time with her for the 10th time?

Message sent 9/10/2020 6:42:34 AM

Again, that is a lie. You've had Ava since August 24. You contacted me on August 27 stated that you won't do the week, on week off schedule that you agreed to prior to me bringing Ava (and still kept Ava for a week until August 31) to you on August 24 and asked me to propose a different schedule that has you spend no more than 3 days without Ava. I have proposed such a schedule on August 31, which is a fair and reasonable schedule of 3 days on, 3 days off. You have refused this schedule EVERY DAY since August 31, keeping Ava now for over 18 days!

Instead you offered a ridiculous schedule that is unfair, unreasonable and is meant to control, bully, and intimidate me. With 7 days left until September 17, where you already had Ava for 10 days since August 31 (18 days since August 24) you keep offering an outrageous schedule of now 1.5 days/1 nights where you still get to keep Ava most of the time, including on the weekend. That is appalling! I will not agree to this schedule. I am asking to follow the 3 days rotation schedule I initially proposed on August 28. I will have Ava for 3 days/3 nights until Sunday, followed by a 3 day/3 night stay with you. Will you agree to this schedule?

Message received from Nechole 9/10/2020 6:46:20 AM

Again, its abhorrent that you keep responding by accusing me of lying. I am NOT lying, and you are not constructively coparenting. You didn't answer me, so I'm taking your non-response as another no. That's 10 times now I've literally offered for you to come get Ava and you said no. I'll keep trying, but I can only do so much. I won't beg you to see Ava, Eugene.

Message sent 9/10/2020 6:53:27 AM

It is abhorrent that you are stating you are trying to do constructive co-parenting and offering Ava to me. Both are blatant lies. Keeping Ava for 18 days is not constructive co-parenting. Offering me 1.5 days/1 night is not constructive co-parenting, it is control, bullying, and intimidation. You have not answered my question. I am ready to come and pick Ava up right now for a 3 day rotation, returning her on Sunday morning. Will you agree to this schedule? I want to come and pick her up right now.

Message received from Nechole 9/10/2020 6:58:41 AM

Now you're just repeating my words back to me. I made an offer to pick up Ava at around 6am this morning (for the 10th time), and you just keep accusing me of lying instead of answering yes or no. I'll only ask once more today. Are you rejecting my offer to pick up Ava again today?

Message sent 9/10/2020 7:02:27 AM

I am ready to pick up Ava for a 3 day/3 night stay with me, returning her on Sunday morning at 7:10. Can I come and pick her up right now?

Message received from Nechole 9/10/2020 7:04:43 AM

I'm taking your refusal to answer my original question as a no. That's too bad, I was hoping you would agree to see Ava and start trying to rebuild trust after you lied and withheld Ava. Let me know if you change your mind.

Message sent 9/10/2020 7:14:31 AM

I take it as a no. Again, you have refused a fair and reasonable schedule of 3 days on, 3 days off EVERY DAY since August 31. Even though you withheld Ava from me for 10 days since August 31, I am still offering a 3 days on, 3 days off schedule, which you are refusing yet again! That is not co-parenting and I don't have any trust in your co-parenting abilities. You are the one who's been lying and withholding Ava from me, offering a draconian, unreasonable, and unfair schedule.

Message received from Nechole 9/10/2020 7:22:34 AM

I have literally offered that you pick up Ava and keep her for several days at least 10 times now. And you said no every time. That's not withholding; that's you refusing time with our daughter because it's not 50/50. You've done this even though I've explained every time how it would help rebuild trust and that it's only a temporary schedule. Please let me know if you change your mind.

Message sent 9/10/2020 7:41:01 AM

Your offers have been outrageous, unfair, unreasonable, and heavily one sided to suit you. You've had Ava for 18 straight days now. The schedule I proposed on August 28 is a fair and reasonable schedule that has Ava spend equal time with each of her parents, which is in her best interests. Your offers had me do 2.5 days/2 nights PER WEEK with no weekends. That is outrageous. You kept Ava for a 4-day weekend last week, while ignoring and refusing my daily requests for a 3 day on, 3 days off schedule that accommodated your requests and also had one day where Eric and Adam could see her sister. That is shameful. Your current proposal is a 1.5 days/1 night PER WEEK, which is worse than your previous one. That's not offering or co-parenting, that's controlling, intimidating, and bullying. I will not agree to such a one sided proposal. I am again, as I have every day since August 31, respectfully asking for a 3 days on, 3 days off schedule.

Message received from Nechole 9/10/2020 7:45:01 AM

You have refused time with Ava for over 2 weeks because it's not 50/50. You'd rather not see her than agree to a TEMPORARY schedule that would rebuild trust after your deceitful and traumatic actions.

Message sent 9/10/2020 8:01:20 AM

I have offered fair schedules since July 30 that you have consistently refused. You've withheld Ava from me from August 3 to August 10, and again from August 24 ongoing. That is 26 days and counting. I have no trust in your co-parenting abilities. You've clearly demonstrated that you are only interested in what's best for you. Again, you are ignoring my daily requests for a fair and reasonable schedule of 3 days on, 3 days off.

Message received from Nechole 9/10/2020 8:01:54 AM

What breaks my heart is that Ava gets harmed in all this - first by you taking her and keeping her from me for 2 weeks, and now because you refuse to see her for 2 weeks.

Message sent 9/10/2020 8:02:06 AM

You're are also traumatizing Ava by refusing to have her share equal time with her mom and dad.

Message sent 9/10/2020 8:04:43 AM

That is a blatant lie. Both you and your attorneys ignored the offer of week on, week off. That is on the record. Ava did great at my house, witnessed by 7 other people, plus myself. To suggest otherwise is not just hurtful, it is a blatant lie.

Message received from Nechole 9/10/2020 8:24:51 AM

I'm not lying.  
I'm not debating our attorneys actions; I just want to focus on our coparenting relationship and Ava's best interest. They're perfectly capable of making their own arguments in court.  
Lying to get possession of Ava and then withholding her for 2 weeks was traumatic. She was only 22 months old and didn't understand that I didn't abandon her. And so now, she clings to me and gets very upset if I have to leave.  
For the life of me, I can't see why you refuse to understand that you can't do the same type of timeshare with a toddler that you can do with older kids.

Message sent 9/10/2020 8:36:00 AM

That is a lie. I have, since July 30 offered fair and reasonable schedules that you have **CONSISTENTLY** refused. That is not co-parenting, that is demagoguery. You have refused **EVERY** schedule I proposed, instead offering a mockery of a schedule where you get most time with Ava. That is outrageous. You have withheld Ava from me for 26 days and counting at this point. Ava deserves to spend equal time with each of her parents.

Message received from Nechole 9/10/2020 8:43:07 AM

It's not productive to keep debating this, so I'm going to stop. The last thing I'll say is that after you lied and withheld Ava for 2 weeks, I have consistently offered that you have her several days a week. I've simply asked that you agree and put it in writing to rebuild trust. You consistently refuse.

Message sent 9/10/2020 8:45:43 AM

Again, since August 29 I have offered a fair and reasonable schedule of 3 days on, 3 days off. I stand by that schedule and am requesting to pick up Ava today for a 3 day/3 night stay, returning her on Sunday.

Message received from Nechole 9/10/2020 8:56:15 AM

I have offered that you pick up Ava today, but you refused because its not schedule. You're welcome to come get her if you change your mind and agree in writing because you lied.  
I won't be bullied into doing otherwise, Eugene.

Message sent 9/10/2020 8:58:36 AM

No, you haven't. You offered 1.5 day/1 night which is ridiculous. That is bullying. I will not agree to a schedule that is not fair and reasonable. The schedule that I proposed is fair and reasonable and I am again, respectfully asking you to follow it.

Message received from Nechole 9/10/2020 8:59:28 AM

I'm not arguing with you anymore, and I won't be bullied. If you change your mind, let me know.

Message sent 9/10/2020 9:00:56 AM

What you're doing here is bullying and it is clearly on the record. I am standing by the 3 days on, 3 days off schedule.

Message received from Nechole 9/10/2020 9:02:27 AM

I disagree. As you said yesterday, the facts will speak for themselves. Please let me know if you change your mind.

Message sent 9/10/2020 9:05:01 AM

I have offered a reasonable and fair schedule of 3 days on, 3 days off since August 28 that you have consistently rejected or/and ignored, just like you're doing now. I am again, respectfully asking you to follow it.

Message received from Nechole 9/10/2020 9:27:38 AM

I won't be bullied, Eugene. Please let me know if you change your mind.

Message sent 9/10/2020 10:04:40 AM

I won't be bullied into an outrageous, draconian schedule. I'm ready to pick up every day for 3 day/3 night rotation I've been offering since August 28.

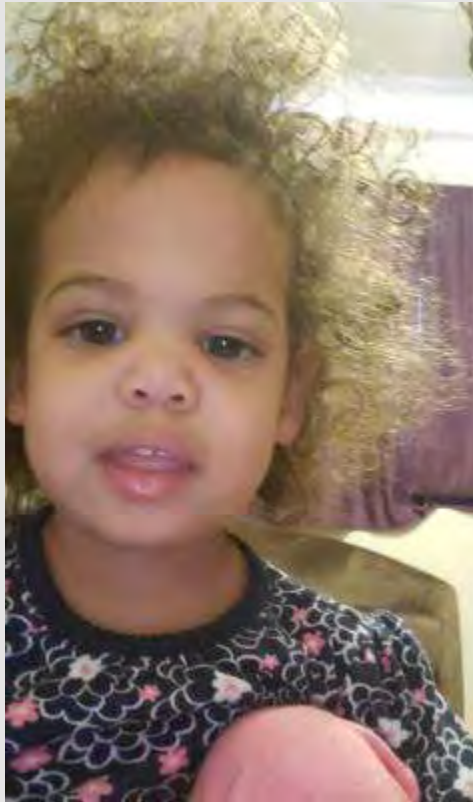
Message sent 9/10/2020 11:55:38 AM

I'd like a picture Ava, please so I know she's ok.

---

9/11/2020

Message received from Nechole 9/10/2020 5:49:40 PM



Message sent 9/10/2020 8:04:50 PM

Thank you for the picture.  
I want to come and pick Ava up tomorrow morning for a 3 day rotation with me, returning her to you on Monday morning. I am again, as I have every day since August 31 respectfully asking you to agree to the fair and reasonable schedule of 3 days on, 3 days off that I proposed back on August 28.

Message received from Nechole 9/10/2020 8:11:28 PM

As I've said repeatedly, you did serious damage when you lied and then withheld Ava for 2 weeks. It was very traumatic for me and Ava. I had plans with Ava during that time that I couldn't complete because of your actions. And it destroyed any trust I had for you as a coparent. You can rebuild that trust by returning Ava when I ask.

I have offered at least 10 times for you to pick up Ava. I offered Tuesday through Thursday numerous times. You said no. I offered Wednesday through Friday. You said no. I offered Thursday to Friday and Monday to Tuesday. You said no. I'm now offering Monday morning through Wednesday night. Agreeing to this schedule in writing and then following through would start to restore trust.

Message sent 9/10/2020 8:27:56 PM

These are outrageous lies that you have perpetuated and I am not going to stand by and let you do character assassination of me. I have never lied. I told you in my text on August 8 that I will never agree to two days a week. That is on the record. Furthermore, you withheld Ava from me between August 3 and 10 and have refused every opportunity to co-parent fairly since July 30. You have been withholding Ava from me for 26 (!) days and counting. You have refused and/or ignored EVERY schedule I proposed since July 30. Again, it's on the record. You are blatantly lying about Ava in order to control, bully, and manipulate me. Ava had a wonderful stay at my house, which was well documented and witnessed by 8 people, including myself.

I have no trust in your co-parenting abilities. You have refused a fair and reasonable schedule of 3 days on, 3 days off since August 28 and have proposed a draconian, ridiculous, unfair and unreasonable schedule that I will not agree to.

I am respectfully asking to pick up Ava tomorrow morning for a 3 day/3 night stay with me until Monday morning.

Message received from Nechole 9/10/2020 8:33:23 PM

You realize you're just repeating my words back to me again, right?

I am not lying. I am telling the truth.

And I won't be bullied or pressured, no matter how many times you text me on my days off.

I'm not debating this further.

I'll try to get you to see Ava again tomorrow.

Message sent 9/10/2020 8:50:34 PM

The facts speak for themselves.

I am asking to pick up Ava tomorrow morning for a 3 day/3 night stay with me until Monday morning. Do you agree?

Message sent 9/10/2020 9:22:39 PM

I take your silence as a no.

Message received from Nechole 9/11/2020 6:31:14 AM

I'm reaching out again because I want you to see Ava. As you know, you lied and then withheld Ava for 2 weeks. It was very traumatic for me and Ava, and it destroyed any trust I had for you as a coparent. You can rebuild that trust by returning Ava when I ask.

I have offered at least 11 times for you to pick up Ava. I offered Tuesday through Thursday several times. You said no. I offered Wednesday through Friday. You said no. I offered Thursday to Friday and Monday to Tuesday. You said no. I'm now offering Monday morning through Wednesday night. But we would have to agree in writing because you lied.

Please let me know.

Message sent 9/11/2020 7:04:38 AM

Nechole, I am asking you, please to stop with the character assassination. You have perpetuated outrageous lies about me and it needs to stop.

I have, since August 28 offered a fair and reasonable schedule of 3 days on, 3 days off that you have consistently rejected or/and ignored EVERY DAY, including last night. Instead, you've offered a ridiculous, draconian, unfair, and unreasonable schedule that I will not agree to.

I am asking to come and pick up Ava this morning for a 3 day/3 night stay with me, returning her on Monday morning. Can I come and pick up Ava right now, yes or no?

Message received from Nechole 9/11/2020 7:17:24 AM

I am telling the truth Eugene, and I won't be gaslighted into believing otherwise. If the truth offends you, then you should have considered the harm you would cause before you lied and withheld Ava for 2 weeks. And now you continue the destructive behavior of repeatedly responding to every one of my texts by accusing you of lying.

Its sounds like you are rejecting my offer to see Ava for 12th time. That's unfortunate. I will try again tomorrow.

Message sent 9/11/2020 7:55:31 AM

You are lying. I am asking you, please to stop the character assassination, it is outrageous.

Please answer my question, can I pick up Ava right now for 3 days/3 nights, returning her on Monday morning, yes or no?

Message received from Nechole 9/11/2020 8:49:07 AM

I am telling the truth. You repeatedly accuse me of lying, but then say I'm assassinating your character. It's back to the "I know you are, but what am I?" approach, I see.

I made my issues with your proposed schedule clear way back on 8/28. And I've repeatedly explained how you can start to rebuild trust after lying to get Ava and withholding her for 2 weeks by agreeing to return her when I ask. I keep offering you to have visitation several days each week, but you keep saying no. I won't be repeating myself anymore today.

You consistently try ramp up the pressure to see Ava on my days off work by texting demands throughout the day. I won't be bullied into doing what you want, nor will I be baited into spending the day arguing.

Let me know if you change your mind about seeing Ava on Monday.

Message sent 9/11/2020 10:04:14 AM

I am respectfully asking you to stop lying. You have not answered my request from this morning, which is what you've done EVERY day since August 28. I'm taking it as a no. You have rejected or/and ignored EVERY request I made daily for a reasonable and fair schedule and instead offered an obnoxious, draconian, unreasonable, ridiculous, and unfair schedule that has you withholding Ava from me since August 24 (and prior to that between August 3 and August 10), which is 27 (!) days and counting. I will not agree to a schedule meant to control when I can see Ava, bully, intimidate me, and have you keep Ava most of the time.

Message sent 9/11/2020 4:05:05 PM

I'd like Ava's picture, please so I know she's okay.

---

9/12/2020

Message received from Nechole 9/11/2020 5:44:53 PM



Message sent 9/11/2020 5:57:06 PM

Thank you for the picture.

Message sent 9/12/2020 5:51:54 AM

Good morning Nechole,

I want to come and pick up Ava this morning for a 3 day/3 night stay with me, returning her on Tuesday morning for a 3 day/3 night stay with you, following the 3 days on, 3 days off schedule I proposed on August 28.

Message received from Nechole 9/12/2020 6:28:31 AM

Don't you work today?

Message sent 9/12/2020 6:31:29 AM

Please respond to my request. I want to come and pick Ava up right now for a 3 day/3 night stay with me, returning her on Tuesday morning.

Message received from Nechole 9/12/2020 6:32:07 AM

Why can't you answer my question? Its relevant to your request.

Message sent 9/12/2020 6:34:21 AM

I will be there at 7:10 am this morning to pick Ava up.

Message sent 9/12/2020 6:36:32 AM

Please confirm yes or no.

Message received from Nechole 9/12/2020 6:37:25 AM

Is this how you think coparenting works? You ignore my questions about your work schedule and then TELL me you're going to pick up Ava? I haven't agreed to anything, so if you show up here at 7:10 you'll be turned away. You insisted you couldn't have Ava during the week because you worked. But you work this morning, correct?

Message sent 9/12/2020 6:44:00 AM

That is a lie. All my schedules proposed the same number of weekdays and weekends for Ava to spend with each of her parents. I do not work today, but that is irrelevant to my request. I want to come and pick Ava this morning for a 3 day stay with me. Please respond yes or no?

Message received from Nechole 9/12/2020 6:48:17 AM

So you no longer teach class on Saturdays at CSN? Thats surprising. You've been teaching Saturdays for as long as I've known you. What happened?  
Also, what part of my previous statement is a lie?

Message sent 9/12/2020 6:49:10 AM

Please confirm yes or no on picking Ava up this morning.

Message received from Nechole 9/12/2020 6:57:05 AM

It's too bad you refuse to communicate with me on basic relevant issues, like your work schedule. And if you're going to call me a liar, you should be willing to explain what I lied about. Your refusal to do so and your pushing me to pick up Ava early marks me think you're lying about working today.

Message sent 9/12/2020 6:57:45 AM

Please confirm yes or no on picking Ava up this morning.

Message received from Nechole 9/12/2020 7:19:18 AM

I've made my issues with your proposed schedule clear back in my 8/28 email. I won't repeat myself.

You're welcome to pick up Ava on Monday morning. However, because you lied to get possession of Ava and then withheld her for 2 weeks, you can begin to restore trust by agreeing to return her when I ask. I'm asking that you return her Wednesday evening. But we would have to agree in writing because you lied.

Please let me know.

Message sent 9/12/2020 7:27:09 AM

I take it as a no.

I will not agree to your schedule as it is a ridiculous, unfair and unreasonable schedule.

Also, I have not lied and I am respectfully asking you again to stop defaming my character.

Message received from Nechole 9/12/2020 7:30:55 AM

There's no defamation here. I am telling the truth, and I will not stop. You've refused my offers to see Ava at least 13 times now. Please let me know if you change your mind.

Message sent 9/12/2020 7:50:19 AM

That is an outrageous lie. You have refused the 3 days on, 3 days off schedule I proposed EVERY DAY since August 28, lied and defamed my character every day, including this morning. I am respectfully asking you to stop.

Message received from Nechole 9/12/2020 8:16:37 AM

I am not lying. You refused every one of my offers, claiming my schedule is "ridiculous, unfair, one sided" etc and that you won't agree to it. You can keep up the toxic behavior by claiming everything I say is a lie, but it doesn't change the fact that I'm telling the truth.

I won't be arguing about this with you today. Please let me know if you change your mind about Monday.

Message sent 9/12/2020 8:51:26 AM

Yes, you have.

Your offers are absolutely one sided, ridiculous, unfair, and unreasonable. They give me 2.5 days/2 nights PER WEEK. I will not agree to such offers and again, respectfully asking you to follow the 3 days on, 3 days off schedule that proposed on August 28, which is fair and reasonable.

Message sent 9/12/2020 8:51:52 AM

\*|

Message sent 9/12/2020 3:01:18 PM

Can you, please text me a picture of Ava so I know she's okay?

Message received from Nechole 9/12/2020 4:17:15 PM



Message sent 9/12/2020 4:32:24 PM

Thank you for the picture.

9/13/2020

Message sent 9/13/2020 5:45:17 AM

Good morning,

I am asking again to come and pick Ava up this morning for a 3 day/3 night stay with me, returning her on Wednesday morning.

Message received from Nechole 9/13/2020 7:33:48 AM

You're welcome to pick Ava up tomorrow morning. As you know, you lied to get Ava and then unilaterally declared you were keeping her for 2 weeks. That was a serious breach of trust.

You can begin to rebuild that trust by agreeing in writing to return Ava when I ask, and then following through. I'm asking that you return Ava on Wednesday evening. I can pick her up at 5:45pm that day. But again, we would have to agree in writing because you lied.

Please let me know.

Message sent 9/13/2020 7:45:01 AM

I asked to pick up Ava this morning. Please confirm yes or no for the pick up today.

Also, I have not lied and I am asking to stop lying and defaming me.

I will not accept your ridiculous, unfair and unreasonable schedule and am respectfully asking you again to follow the 3 days/3 nights rotation schedule I proposed on August 28.

Message received from Nechole 9/13/2020 8:23:35 AM

I am telling you that you're welcome to pick up Ava tomorrow, September 14th. I've made these offers to have Ava at least 14 times now, and even varied the days to try and be flexible, but you keep saying no. Are you saying no again today?

I'm telling the truth and won't stop doing so. Responding to each of my texts by calling me a liar and baselessly accusing me of defamation is outrageous behavior and is destructive to our coparenting relationship.

I want you to see Ava, but I won't be bullied into turning Ava over immediately, Eugene. I've been offering for you to have Ava Monday through Wednesday for the past several days. I'm hoping you reconsider your refusal so you can pick up Ava tomorrow.

Please let me know if you change your mind.

Message sent 9/13/2020 8:44:12 AM

I take it as a no.

You have rejected my 3 days on, 3 days off schedule EVERY DAY since August 28. You have withheld Ava from me for 29 days and counting.

Offering a ridiculous, unfair and unreasonable schedule of 2.5 days/2 nights PER WEEK is not co-parenting, it's control, bullying and intimidation.

You have absolutely lied and used character assassination and defamation to withhold Ava from me, which is outrageous. Again, I am respectfully asking you to stop.

Every schedule I proposed since July 30 has been a fair and reasonable schedule that had Ava spend equal time with each of her parents on weekdays and on weekends, which is in Ava's best interests. You have rejected ALL of the schedules and instead offered a one sided, unfair, and unreasonable schedule that has you spend most of the time with Ava, and controlling when I can see my daughter. I will not agree to such a schedule. Again, I am respectfully asking you to start a 3 days/3 nights rotation that I proposed on August 28.

Message received from Nechole 9/13/2020 9:14:03 AM

I'm offering pickup tomorrow as an alternative to today. That's not a refusal, its an attempt at compromise.

Eugene, whether you want to accept it or not, you lied to get Ava and then withheld her for weeks. You refused my requests to see her during that time. You didn't even tell me when I would get her back until after my attorneys filed a motion. Then you dictated when you would return her, and tried to force me into a harmful week on/week off schedule. I'm sorry if this truth is hard for you to hear, but it is the truth. I won't be cowed into silence.

You have also refused all my offers to pick up Ava because anything less than 50/50 is "ridiculous" to you. Even though I have explained how you can rebuild trust by returning Ava when I ask, and that its temporary, you say no.

I won't be arguing about this anymore because its unproductive, but my offer to pick up Ava tomorrow stands. Please let me know if you change your mind.

Message sent 9/13/2020 9:28:53 AM

No, it is not. You are offering this schedule so you can control when I can see Ava and so you can have Ava on all the weekends and most of the time during the week. That is unfair, ridiculous, and unreasonable. Again, I have offered a 3 day/3 night rotation, which is a fair schedule that you have refused EVERY DAY.

I have not lied. I have told you that I will never agree to two days a week and no weekends. That is on the record. To say otherwise is an outrageous lie.

You have refused and ignored EVERY schedule I proposed EVERY DAY and offered a mockery of a schedule so you can state that "you made an effort." Your lies are clear for anyone to see.

Another continuous lie is about Ava. That is really hurtful and is a complete defamation. Ava has not suffered any harm. As witnessed by 8 people, she had a great stay at my house, she ate well, slept well, played, was very happy, and enjoyed spending time with her dad and his family.

I have no trust in your co-parenting abilities and it is you who needs to rebuild this trust. By offering a ridiculous, unfair, unreasonable, draconian schedule you are not co-parenting, but controlling, bullying, and intimidating.

Again, I respectfully ask you to stop defaming me. I am also asking for a 3 days/3 nights rotation.

Message sent 9/13/2020 3:08:18 PM

Can you, please text me Ava's picture so I know she's okay.

Message received from Nechole 9/13/2020 4:08:29 PM



Message sent 9/13/2020 4:22:19 PM

Thank you for the picture.

9/14/2020

Message sent 9/14/2020 5:40:20 AM

Good morning.

I am asking again to pick up Ava this Monday morning for a 3 days/3 nights stay with me, bringing her to you on Thursday morning. I will need your confirmation in writing.

Message received from Nechole 9/14/2020 5:56:20 AM

You're welcome to pick up Ava this morning. However, because you blatantly lied to get possession of her and then kept her for weeks, I am asking that you return her when I ask to start to restore trust.

I am asking that you return Ava on Wednesday evening at 5:45 pm. Doing this will help show you won't just keep Ava for as long as you want. But you have to agree in writing because you lied.

Again, this is just temporary. Let me know.

Message sent 9/14/2020 5:57:46 AM

Please confirm yes or no for the 3 days/3 nights pick up this morning.

Message received from Nechole 9/14/2020 6:01:51 AM

Did you even read my response? You can get her this morning, but because you lied, I'm asking that you return her Wednesday evening. But you have to agree in writing. Are you willing to return Ava on Wednesday evening? It would help start to restore trust that you won't lie to get Ava and then keep her as long as you want.

Message received from Nechole 9/14/2020 6:17:12 AM

Are you willing to agree in writing that I will pick up Ava Wednesday, September 16th at 5:45 pm? I need you to agree in writing because you lied.

Message sent 9/14/2020 6:18:15 AM

I take it as a no.

Now, let me address your responses.

I will not agree to a ridiculous, unfair, and unreasonable schedule that is meant to control, bully, and manipulate me.

You have had Ava for 30 (!) days now and counting. You have refused EVERY schedule that I proposed since JULY 30! Every one of these schedules had Ava spend equal time with each of her parents on both weekdays and on weekends. You have refused and/or ignored these proposals EVERY DAY, including the 3 days/3 nights rotation schedule since AUGUST 28. That is on the record.

I have not lied. These are outrageous lies, character assassination and defamation. You have lied on your motion and are lying daily to withhold Ava from me by proposing a draconian schedule of 2.5 days/2 nights PER WEEK. I will not agree to such an outrageous, unfair and unreasonable schedule.

I am also respectfully asking you again, to stop defaming me. I am on the record again and again saying that I will never agree to your one sided schedules.

Message sent 9/14/2020 11:20:03 AM

I'd like Ava's picture, please so I know she's okay.

Message received from Nechole 9/14/2020 1:14:02 PM



Message sent 9/14/2020 1:15:29 PM

Thank you for the picture.

9/15/2020

Message sent 9/15/2020 5:40:11 AM

Good morning.

I am asking again to pick up Ava this Tuesday morning for a 3 days/3 nights stay with me, bringing her to you on Friday morning. I will need your confirmation in writing.

Message received from Nechole 9/15/2020 6:07:53 AM

You're welcome to pick up Ava this morning, but because you lied and withheld Ava, I'm requesting that you return her when I ask, which is Wednesday evening. Returning her when I ask would go a long way to rebuild trust. But we would have to agree in writing because you lied.

I have previously offered Tuesday through Thursday, which you rejected. I'm offering Tuesday through Wednesday (instead of Tuesday through Thursday) because Thursday is when the Judge will enter a temporary custody order. As of Thursday, we will abide by whatever the Judge orders.

You have rejected each of my offers to pick up Ava over the past couple of weeks. I hope you don't reject this offer too. Please let me know.

Message sent 9/15/2020 6:23:52 AM

Okay, thanks

Message sent 9/15/2020 6:24:00 AM

This is not what I asked for so I take it as a no.

What you have consistently offered is a ridiculous, unfair, and unreasonable schedule meant to control when I can see Ava, bully and manipulate me.

I have consistently offered fair and reasonable schedules since July 30 that have Ava spend equal time with each of her parents, which is in her best interest. You have denied my proposals EVERY DAY and withheld Ava from me for 31 (!) days now and counting.

Furthermore, you've used character assassination and defamation and outrageous lies to justify why you are withholding Ava, which is abhorrent. I have not lied. I have consistently asked for equal time with Ava, which you have consistently rejected. I am again, respectfully asking you to stop defaming me.

Message received from Nechole 9/15/2020 6:24:38 AM

What does the "okay, thanks" text mean?

Message sent 9/15/2020 6:25:19 AM

That is a typo. I didn't mean to send it. Please disregard. My response is the next text.

Message sent 9/15/2020 6:25:51 AM

Here it is again:

This is not what I asked for so I take it as a no.

What you have consistently offered is a ridiculous, unfair, and unreasonable schedule meant to control when I can see Ava, bully and manipulate me.

I have consistently offered fair and reasonable schedules since July 30 that have Ava spend equal time with each of her parents, which is in her best interest. You have denied my proposals EVERY DAY and withheld Ava from me for 31 (!) days now and counting.

Furthermore, you've used character assassination and defamation and outrageous lies to justify why you are withholding Ava, which is abhorrent. I have not lied. I have consistently asked for equal time with Ava, which you have consistently rejected. I am again, respectfully asking you to stop defaming me.

Message received from Nechole 9/15/2020 6:34:57 AM

I am telling the truth, Eugene. Repeatedly responding to every text by accusing me of lying doesn't erase the truth of what you did or the trauma and distrust you caused. Telling the truth is not character assassination or defamation.

The fact is that you lied to get possession of Ava. Then you unilaterally told me you were keeping her for 2 weeks. Then you only told me when you were returning her after my attorneys filed their motion. Then you tried to bully me into a week on/week off schedule. Those are the facts, not lies

Since you returned Ava, I have offered that you pick her up at least 15 or 16 times now and keep her for 3 days, but you have refused every time. I hope you charge your mind.

Message sent 9/15/2020 6:51:34 AM

No, you are not.

Just now, you have repeated another lie. To claim that Ava suffered a trauma is an outrageous and hurtful lie. As witnessed by 8 people, Ava had a great stay at my house, she ate well, slept well, played, was happy, and enjoyed time with her dad and his family.

The outrageous schedule of 2.5 days/2 nights PER WEEK you have offered is not called co-parenting or building trust. It is pure control, bullying, and intimidation.

I have consistently offered fair and reasonable schedules that you have denied EVERY DAY since July 30. That is on the record. It is also on the record that I said I will never agree to such schedules.

Again, I am respectfully asking you to stop defaming me.

Message sent 9/15/2020 6:53:54 AM

It is also on the record that I said I will never agree to such schedules as 2.5 days/2 nights a week.

Message received from Nechole 9/15/2020 7:25:17 AM

To keep is going back and forth is unproductive and juvenile, so I won't. For the last time, I am telling the truth and won't be gaslighted into believing otherwise.

I'm sorry if the truth offends you, but your actions caused Ava harm. Again, I'm baffled by your refusal to understand the impact of such a long separation on a young child. That's why I've been trying so hard to get you to see her these past few weeks, because it isn't good for her to go so long without seeing you too. But you refuse.

Yes, your refusals to my proposals to a temporary schedule that would help rebuild coparenting trust are very clear.

Message sent 9/15/2020 7:39:38 AM

These are outrageous lies and defamation that are very clear and on the record.

Your outrageous, one sided schedules are meant to control when I can see Ava, bully and intimidate me. That is not co-parenting.

I have said consistently that I will not agree to two days a week and I have consistently offered fair and reasonable schedules since July 30, which had Ava spend equal time with each of her parents, that you have consistently denied EVERY DAY. You withheld Ava from me for 31 days and counting by lying, using intimidation, bullying, and control.

I am respectfully asking you again to stop defaming me.

Message sent 9/15/2020 12:00:50 PM

Can you, please text me Ava's picture so I know she's okay.

---

9/16/2020

Message received from Nechole 9/15/2020 5:48:27 PM



Message sent 9/15/2020 6:28:51 PM

Thank you for the picture.

Message sent 9/16/2020 5:41:21 AM

Good morning.

I am asking again to pick up Ava this Wednesday morning for a 3 days/3 nights stay with me, bringing her to you on Saturday morning. I will need your confirmation in writing.

Message received from Nechole 9/16/2020 5:51:48 AM

You're welcome to pick up Ava for the day. I would normally offer several days and overnights (as I have for the past couple of weeks), but tomorrow is the hearing where the Judge will issue a temporary order. I intend on following the schedule he orders.

Many times now I have offered different days for you to pick up Ava and keep her, but you have refused. I hope you change your mind today. But we would have to agree in writing because you lied to get possession of Ava and withheld her for 2 weeks.

Please let me know.

Message sent 9/16/2020 6:15:46 AM

I take that as a no.

All of your proposed schedules have been ridiculous, unfair and unreasonable schedules meant to control, bully, and intimidate me by offering to have Ava for no more than 2.5 days/2 nights PER WEEK. You have withheld Ava from me for 32 (!) days and counting at this point.

Again, I have not lied and I am respectfully asking you to stop defaming me.

I have offered fair and reasonable schedules since July 30, which had Ava spend equal time with each of her parents that you have refused EVERY DAY, including the 3 days on, 3 days off schedule since August 28.

You have lied daily to withhold Ava and offered a mockery of a schedule to give an impression of co-parenting where in truth it is nothing but controlling when I can see Ava, intimidating and bullying me into a schedule where you keep Ava most of the time. That is not co-parenting and I will not agree to such a ridiculous proposal.

Message received from Nechole 9/16/2020 6:35:31 AM

I don't understand your texts the past couple of days pushing for me to agree to time periods beyond the hearing. You're intending to follow whatever schedule the Judge orders tomorrow, right?

I've offered for you to pick up Ava at least 15 times now and keep her for several days and overnights. You keep saying no. I would normally offer something like Wednesday through Friday again but I've been clear that any schedule I offered would just be until the hearing date, which is tomorrow.

Again, I'm not arguing with you today, Eugene. However, I will repeat that I'm telling the truth. There's no defamation or character assassination here.

Please let me know if you change your mind about my offer to pick up Ava this morning.

Message sent 9/16/2020 8:49:56 AM

Again, I have consistently asked to start the 3 days/3 nights rotation since August 28, which you have refused EVERY DAY since August 28.

Again, I will not agree to your ridiculous, unfair, and unreasonable proposals that are one sided toward you, have you keep Ava most of the time, and dictate when I can see her.

And again, I am respectfully asking you to stop defaming me. The truth is on the record and your lies will be exposed.

Message received from Nechole 9/16/2020 9:06:34 AM

Are you going to answer my question?

Message sent 9/16/2020 11:20:19 AM

Can you, please text me Ava's picture so I know she's okay.

Message received from Nechole 9/16/2020 1:00:20 PM



Message sent 9/16/2020 1:04:33 PM

Thank you for the picture.

# EXHIBIT 26





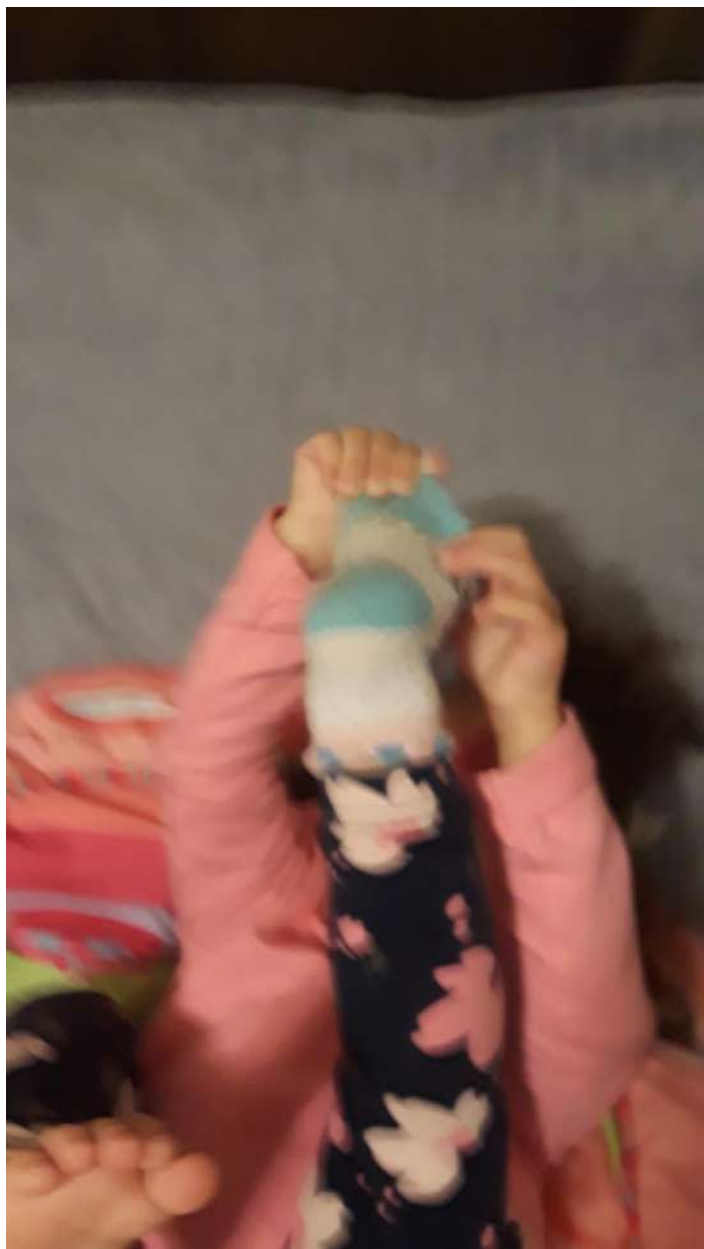






























# Exhibit G



Government Employees Health Association, Inc.

PO Box 21542  
Eagan, MN 55121-9930  
800.821.6136  
geha.com

## Explanation of Benefits

(This is NOT a bill. Retain for your records )

2 OF 2 B

Claim received: 10/08/2018  
Claim processed: 10/08/2018

Claim number: 181265739200  
Patient name: Ava Garcia-Shapiro  
Patient ID: 30449175-1

Provider: Quest Diagnostics Inc  
Provider ID: 1100002118  
Patient account: 6266819113R

Member name: Nechole M Garcia  
Member ID: 30449175

### CLAIM SUMMARY

Amount billed.....	\$131.61
Amount allowed.....	\$0.00
Claim disallow.....	\$131.61
Other coverage payment .....	\$0.00
GEHA total paid.....	\$0.00
<b>Member responsibility</b>	<b>\$131.61</b>

ENV 11058

### Claim detail

Service		Charges			Plan payments		Member responsibility			
Date(s)	Proc code*	Amount billed	Amount allowed	Disallow	GEHA	HRA	Copay	Deduct.	Co-Ins.	Note**
10/01/18	OTHO	\$40.50	\$0.00	\$40.50	\$0.00		\$0.00	\$0.00	\$0.00	SC
10/01/18	LABO	\$29.25	\$0.00	\$29.25	\$0.00		\$0.00	\$0.00	\$0.00	SC
10/01/18	LABO	\$29.24	\$0.00	\$29.24	\$0.00		\$0.00	\$0.00	\$0.00	SC
10/01/18	OTHO	\$32.62	\$0.00	\$32.62	\$0.00		\$0.00	\$0.00	\$0.00	SC
Total claim		\$131.61	\$0.00	\$131.61	\$0.00		\$0.00	\$0.00	\$0.00	

### Explanations

\*Procedure code      LABO      Laboratory Services  
                                  OTHO      Other Services and Supplies  
 \*\*Note                    SC      The patient is not a covered member under the plan

### Healthy message from GEHA

The most effective prevention for colorectal cancer is early detection. Choosing a colon cancer screening test may not be an easy decision, but it's a potentially lifesaving one. For most adults, it is recommended that colorectal cancer screening should begin at age 50. Talk to your health care provider about when screenings should begin and which screening options are appropriate for you.

Para obtener asistencia en Español, llame al 800-208-5144



Government Employees Health Association, Inc.

PO Box 21542  
Eagan, MN 55121-9930  
800.821.6136  
geha.com

## Explanation of Benefits

(This is NOT a bill. Retain for your records.)

3 OF 3 B

Claim received: 10/22/2018  
Claim processed: 10/23/2018

Claim number: 181252820101  
Patient name: Ava Garcia-Shapiro  
Patient ID: 30449175-1

Provider: Canete, Catherine B.  
Provider ID: 1103407386  
Patient account: 355072.11011

Member name: Nechole M Garcia  
Member ID: 30449175

### CLAIM SUMMARY

Amount billed.....	\$398.00
Amount allowed.....	\$91.32
Claim disallow.....	\$314.88
Other coverage payment .....	\$0.00
GEHA total paid.....	\$76.66
<b>Member responsibility</b>	<b>\$117.46</b>

ENV 9333

Claim detail										
Service		Charges			Plan payments		Member responsibility			
Date(s)	Proc code*	Amount billed	Amount allowed	Disallow	GEHA	HRA	Copay	Deduct.	Co-ins.	Note**
10/01/18	WCCO	\$255.00	\$76.66	\$178.34	\$76.66		\$0.00	\$0.00	\$0.00	F1
10/01/18	OTHO	\$79.00	\$5.19	\$79.00	\$0.00		\$0.00	\$0.00	\$0.00	t25
10/01/18	SUVO	\$32.00	\$3.01	\$32.00	\$0.00		\$0.00	\$0.00	\$0.00	t25
10/01/18	OTHO	\$32.00	\$6.46	\$25.54	\$0.00		\$0.00	\$6.46	\$0.00	F1
Total claim		\$398.00	\$91.32	\$314.88	\$76.66		\$0.00	\$6.46	\$0.00	

Explanations		
*Procedure code	OTHO	Other Services and Supplies
	SUVO	Laboratory Services
	WCCO	Medical Services
**Note	A69	Adjustment Due To Eligibility
	F1	The allowable amount is the negotiated amount. The disallow amount is the discount and is not patient responsibility.
	t25	This procedure code has an incidental relationship with another procedure code
	1AT	Priced using Aetna contract. Absent of that: MagnaCare(NY), PHCN(NV), PHCS (CA,OR,KY,MA), ProvPref (OR), CenterCar(KY), FHN(VT), Lehigh(PA)

### Your GEHA balances to date

Individual Deductible Satisfied	Family Deductible Satisfied	Family In Network Out of Pocket Satisfied
\$12.92	\$94.46	\$187.04

### Healthy message from GEHA

The most effective prevention for colorectal cancer is early detection. Choosing a colon cancer screening test may not be an easy decision, but it's a potentially lifesaving one. For most adults, it is recommended that colorectal cancer screening should begin at age 50. Talk to your health care provider about when screenings should begin and which screening options are appropriate for you.

Para obtener asistencia en Espanol, llame al 800-208-5144



Government Employees Health Association, Inc.

PO Box 21542  
Eagan, MN 55121-9930  
800.821.6136  
geha.com

## Explanation of Benefits

(This is NOT a bill. Retain for your records.)

1 OF 2 B

Claim received: 10/05/2018  
Claim processed: 10/08/2018

Claim number: 181252820100  
Patient name: Ava Garcia-Shapiro  
Patient ID: 30449175-1

Provider: Canete, Catherine B.  
Provider ID: 1103407386  
Patient account: 355072 11011

Member name: Nechole M Garcia  
Member ID: 30449175

### CLAIM SUMMARY

Amount billed.....	\$398.00
Amount allowed.....	\$91.32
Claim disallow.....	\$398.00
Other coverage payment .....	\$0.00
GEHA total paid.....	\$0.00
<b>Member responsibility</b>	<b>\$398.00</b>

ENV 11058

### Claim detail

Service		Charges			Plan payments		Member responsibility			Note**
Date(s)	Proc code*	Amount billed	Amount allowed	Disallow	GEHA	HRA	Copay	Deduct.	Co-Ins.	
10/01/18	DOCO	\$255.00	\$76.66	\$255.00	\$0.00		\$0.00	\$0.00	\$0.00	SC
10/01/18	OTHO	\$79.00	\$5.19	\$79.00	\$0.00		\$0.00	\$0.00	\$0.00	SC
10/01/18	SUVO	\$32.00	\$3.01	\$32.00	\$0.00		\$0.00	\$0.00	\$0.00	SC
10/01/18	OTHO	\$32.00	\$6.46	\$32.00	\$0.00		\$0.00	\$0.00	\$0.00	SC
<b>Total claim</b>		<b>\$398.00</b>	<b>\$91.32</b>	<b>\$398.00</b>	<b>\$0.00</b>		<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	

### Explanations

\*Procedure code      DOCO      Medical Services  
                                  OTHO      Other Services and Supplies  
                                  SUVO      Laboratory Services  
 \*\*Note                    SC      The patient is not a covered member under the plan

### Healthy message from GEHA

The most effective prevention for colorectal cancer is early detection. Choosing a colon cancer screening test may not be an easy decision, but it's a potentially lifesaving one. For most adults, it is recommended that colorectal cancer screening should begin at age 50. Talk to your health care provider about when screenings should begin and which screening options are appropriate for you.

**Para obtener asistencia en Espanol, llame al 800-208-5144**



Government Employees Health Association, Inc

PO Box 21542  
Eagan, MN 55121-9930  
800.821.6136  
geha.com

## Explanation of Benefits

(This is NOT a bill. Retain for your records.)

1 OF 1 B

Claim received: 10/16/2018  
Claim processed: 10/16/2018

Claim number: 181300637800  
Patient name: Ava Garcia-Shapiro  
Patient ID: 30449175-1

Provider: Miller, Lisa R.  
Provider ID: 1103559290  
Patient account: 356031.11011

Member name: Nechole M Garcia  
Member ID: 30449175

### CLAIM SUMMARY

Amount billed.....	\$319.00
Amount allowed.....	\$88.03
Claim disallow.....	\$230.97
Other coverage payment.....	\$0.00
GEHA total paid.....	\$81.57
<b>Member responsibility</b>	<b>\$6.46</b>

ENV 23154

### Claim detail

Service		Charges		Disallow	Plan payments		Member responsibility			Note**
Date(s)	Proc code*	Amount billed	Amount allowed		GEHA	HRA	Copay	Deduct.	Co-ins.	
10/08/18	WCCO	\$255.00	\$76.66	\$178.34	\$76.66		\$0.00	\$0.00	\$0.00	F1
10/08/18	WCLO	\$32.00	\$4.91	\$27.09	\$4.91		\$0.00	\$0.00	\$0.00	F1
10/08/18	OTHO	\$32.00	\$6.46	\$25.54	\$0.00		\$0.00	\$6.46	\$0.00	F1
Total claim		\$319.00	\$88.03	\$230.97	\$81.57		\$0.00	\$6.46	\$0.00	

### Explanations

\*Procedure code OTHO Other Services and Supplies  
WCCO Medical Services  
WCLO Laboratory Services

\*\*Note F1 The allowable amount is the negotiated amount. The disallow amount is the discount and is not patient responsibility.  
1AT Priced using Aetna contract. Absent of that: MagnaCare(NY), PHCN(NV), PHCS (CA,OR,KY,MA), ProvPref (OR), CenterCar(KY), FHN(VT), Lehigh(PA)

### Your GEHA balances to date

Individual Deductible Satisfied	Family Deductible Satisfied	Family In Network Out of Pocket Satisfied
\$6.46	\$88.00	\$180.58

### Healthy message from GEHA

The most effective prevention for colorectal cancer is early detection. Choosing a colon cancer screening test may not be an easy decision, but it's a potentially lifesaving one. For most adults, it is recommended that colorectal cancer screening should begin at age 50. Talk to your health care provider about when screenings should begin and which screening options are appropriate for you.

Para obtener asistencia en Espanol, llame al 800-208-5144

JA003630



Government Employees Health Association, Inc.

PO Box 21542  
Eagan, MN 55121-9930  
800.821.6136  
geha.com

## Explanation of Benefits

(This is NOT a bill. Retain for your records.)

1 OF 1 B  
ENV 23893

Claim received: 11/07/2018  
Claim processed: 11/07/2018

**Claim number:** 181409469900  
**Patient name:** Ava N Garcia-Shapiro  
**Patient ID:** 30449175-1

**Provider:** Miller, Lisa R.  
**Provider ID:** 1103559290  
**Patient account:** 359527 11011

**Member name:** Nechole M Garcia  
**Member ID:** 30449175

### CLAIM SUMMARY

Amount billed.....	\$319.00
Amount allowed.....	\$86.13
Claim disallow.....	\$235.88
Other coverage payment .....	\$0.00
GEHA total paid.....	\$76.66
<b>Member responsibility</b>	<b>\$38.46</b>

### Claim detail

Service		Charges			Plan payments		Member responsibility			Note**
Date(s)	Proc code*	Amount billed	Amount allowed	Disallow	GEHA	HRA	Copay	Deduct.	Co-ins.	
10/30/18	WCCO	\$255.00	\$76.66	\$178.34	\$76.66		\$0.00	\$0.00	\$0.00	F1
10/30/18	SUVO	\$32.00	\$3.01	\$32.00	\$0.00		\$0.00	\$0.00	\$0.00	I25
10/30/18	OTHO	\$32.00	\$6.46	\$25.54	\$0.00		\$0.00	\$6.46	\$0.00	F1
<b>Total claim</b>		<b>\$319.00</b>	<b>\$86.13</b>	<b>\$235.88</b>	<b>\$76.66</b>		<b>\$0.00</b>	<b>\$6.46</b>	<b>\$0.00</b>	

### Explanations

*Procedure code	OTHO	Other Services and Supplies
	SUVO	Laboratory Services
	WCCO	Medical Services
**Note	F1	The allowable amount is the negotiated amount. The disallow amount is the discount and is not patient responsibility.
	I25	This procedure code has an incidental relationship with another procedure code.
	1AT	Priced using Aetna contract. Absent of that: MagnaCare(NY), PHCN(NV), PHCS (CA,OR,KY,MA), ProvPref (OR), CenterCar(KY), FHN(VT), Lehigh(PA).

### Your GEHA balances to date

Individual Deductible Satisfied	Family Deductible Satisfied	Family In Network Out of Pocket Satisfied
\$19.38	\$100.92	\$193.50

### Healthy message from GEHA

More than 20 percent of people with high blood pressure are unaware of their condition. Living with untreated high blood pressure can lead to other health problems. If you're a GEHA medical plan member, you can schedule a free biometric health screening to test your blood pressure and other vital health indicators. Visit [geha.com/screenings](http://geha.com/screenings) to learn more.

Para obtener asistencia en Espanol, llame al 800-208-5144

**Steinberg Diagnostic Medical Imaging**

Po Box 36900  
Las Vegas, NV 89133-6900  
(702) 732-6000

Page 1

**Account Receipt**

To:  
Ava Garcia-Shapiro

Receipt Date  
11/05/18

Account Number  
632761

Date	Description of Transaction	Amount	Ins Resp
Studies 11/05/2018			
11/05/2018	Ultrasound Fetal Hips	**pending**	
Payments			
11/05/2018	Precollected payment	-97.67	

Account
Previous Balance
Current Activity
Ending Balance
Total Guarantor Due 0.00

Current Activity  
Due From Guarantor For  
11/05/18 0.00

*Payment received today is an estimate of your out of pocket costs. The final balance is determined after your claim is fully processed by your insurance company.*

Signature\_\_\_\_\_

Cash Amount:

Received:\_\_\_\_\_

Paid:\_\_\_\_\_

Change:\_\_\_\_\_

To 'View Reports' and 'Pay Bills' visit [www.sdmi-lv.com/patientportal](http://www.sdmi-lv.com/patientportal)

**JA003632**



Government Employees Health Association, Inc.

PO Box 21542  
Eagan, MN 55121-9930  
800.821.6136  
geha.com

## Explanation of Benefits

(This is NOT a bill. Retain for your records.)

1 OF 1 B

Claim received: 11/20/2018  
Claim processed: 11/20/2018

Claim number: 181474057100  
Patient name: Ava N Garcia-Shapiro  
Patient ID: 30449175-1

Provider: Chang, Henry  
Provider ID: 1101412321  
Patient account: C8B00E9A

Member name: Nechole M Garcia  
Member ID: 30449175

### CLAIM SUMMARY

Amount billed.....	\$215.00
Amount allowed.....	\$97.67
Claim disallow.....	\$117.33
Other coverage payment .....	\$0.00
GEHA total paid.....	\$0.00
<b>Member responsibility</b>	<b>\$97.67</b>

ENV 15174

Claim detail										
Service		Charges			Plan payments		Member responsibility			
Date(s)	Proc code*	Amount billed	Amount allowed	Disallow	GEHA	HRA	Copay	Deduct.	Co-ins.	Note**
11/05/18	XRYO	\$215.00	\$97.67	\$117.33	\$0.00		\$0.00	\$97.67	\$0.00	F1
Total claim		\$215.00	\$97.67	\$117.33	\$0.00		\$0.00	\$97.67	\$0.00	

Explanations		
*Procedure code	XRYO	Radiology Services
**Note	F1	The allowable amount is the negotiated amount. The disallow amount is the discount and is not patient responsibility.
	1AT	Priced using Aetna contract. Absent of that: MagnaCare(NY), PHCN(NV), PHCS (CA,OR,KY,MA), ProvPref (OR), CenterCar(KY), FHN(VT), Lehigh(PA)

Your GEHA balances to date		
Individual Deductible Satisfied	Family Deductible Satisfied	Family In Network Out of Pocket Satisfied
\$117.05	\$198.59	\$291.17

### Healthy message from GEHA

More than 20 percent of people with high blood pressure are unaware of their condition. Living with untreated high blood pressure can lead to other health problems. If you're a GEHA medical plan member, you can schedule a free biometric health screening to test your blood pressure and other vital health indicators. Visit [geha.com/screenings](http://geha.com/screenings) to learn more.

**Para obtener asistencia en Español, llame al 800-208-5144**



Government Employers Health Association, Inc

PO Box 21542  
Eagan, MN 55121-9930  
800.821.6136  
geha.com

## Explanation of Benefits

(This is NOT a bill. Retain for your records.)

1 OF 2 B

ENV 4397

Claim received: 12/26/2018  
Claim processed: 12/26/2018

Claim number: 181638878600  
Patient name: Ava N Garcia-Shapiro  
Patient ID: 30449175-1

Provider: Miller, Lisa R.  
Provider ID: 1103559290  
Patient account: 366368.11011

Member name: Nechole M Garcia  
Member ID: 30449175

### CLAIM SUMMARY

Amount billed.....	\$465.00
Amount allowed.....	\$95.17
Claim disallow.....	\$369.83
Other coverage payment.....	\$0.00
GEHA total paid.....	\$80.17
<b>Member responsibility</b>	<b>\$15.00</b>

### Claim detail

Service		Charges			Plan payments		Member responsibility			
Date(s)	Proc code*	Amount billed	Amount allowed	Disallow	GEHA	HRA	Copay	Deduct.	Co-ins.	Note**
12/14/18	DOCC	\$465.00	\$95.17	\$369.83	\$80.17		\$15.00	\$0.00	\$0.00	F1
Total claim		\$465.00	\$95.17	\$369.83	\$80.17		\$15.00	\$0.00	\$0.00	

### Explanations

\*Procedure code DOCC Medical Services  
 \*\*Note F1 The allowable amount is the negotiated amount. The disallow amount is the discount and is not patient responsibility.  
 1AT Priced using Aetna contract. Absent of that: MagnaCare(NY), PHCN(NV), PHCS (CA,OR,KY,MA), ProvPref (OR), CenterCar(KY), FHN(VT), Lehigh(PA)

### Your GEHA balances to date

Individual Deductible Satisfied	Family Deductible Satisfied	Family In Network Out of Pocket Satisfied
\$117.05	\$198.59	\$317.29

### Healthy message from GEHA

More than 20 percent of people with high blood pressure are unaware of their condition. Living with untreated high blood pressure can lead to other health problems. If you're a GEHA medical plan member, you can schedule a free biometric health screening to test your blood pressure and other vital health indicators. Visit [geha.com/screenings](http://geha.com/screenings) to learn more.

**Para obtener asistencia en Espanol, llame al 800-208-5144**

The Loomis Company / Benefits Division  
850 N. PARK ROAD  
PO BOX 7011  
WYOMISSING PA 19610-6011



### Forwarding Service Requested

\*\*\*\*\*SCH 5-DIGIT 89015  
17898 1 AV 0.383  
NECHOLE M. GARCIA  
1282 EL SOLINDO LN  
HENDERSON NV 89002-8602

### Customer Service

Did you know that you can get all of this information on line? Go to [www.loomisco.com](http://www.loomisco.com) and click on the MyLoomis Login to register now. Questions, please call our Benefits Division at (800) 498-6237 8:00 AM - 8:00 PM EST

Date: 10/28/2019  
Group Number: 0000000918  
Group Name: CITY OF HENDERSON

## Explanation of Benefits

RETAIN FOR TAX PURPOSES  
THIS IS NOT A BILL

For the Period: **10/04/2019 thru 10/11/2019**

Dear NECHOLE M GARCIA,

The information below is a summary of the healthcare claims you incurred for the period 10/04/2019 through 10/11/2019. This information is commonly referred to as an **"Explanation of Benefits" (EOB)**. This is not a bill. It is a summary, followed by the claim details, of how your recent claims were processed. It includes any co-pay, deductible, coinsurance (%) or non-covered amounts that you may owe to the provider(s) of service. Use this EOB to verify the accuracy of any bill you may receive from the provider(s) listed below. If you did not receive service from the provider(s) listed below or suspect fraudulent charges please contact the customer service department at the number listed above.

### Total Amount Billed

**\$2,212.01**

This is the total amount billed for the dates of service of 10/04/2019 thru 10/11/2019.

### Total Amount Paid By Plan

**\$821.55**

This is the amount the plan paid in total for services rendered from 10/04/2019 thru 10/11/2019. Please see the "Claim Detail" section of this document for more information.

### Your Financial Responsibility

**\$15.00**

This is the amount the provider(s) of service *may* bill you after your health plan benefits were paid. Typically a plan participant may be billed by the provider of service because they may have a deductible, co-pay, coinsurance (%), or the service is not covered by the health plan. Amounts shown here do not reflect any payments made at the point of service. A breakdown of your total financial responsibility is shown in the claim detail for each member.

### Claim Summary

Claim Number	Patient Name	Amount Billed	Excluded Amount	Discount Amount	Co-Pay Amount	Deductible Amount	Amount Allowed	Balance Paid by Plan
192902602-E	AVA GARCIA-SHAPIRO	\$1,719.00	\$0.00	\$982.63	\$0.00	\$0.00	\$736.37	\$736.37
192962779-E	AVA GARCIA-SHAPIRO	\$493.01	\$0.00	\$392.83	\$15.00	\$0.00	\$85.18	\$85.18
<b>Totals</b>		<b>\$2,212.01</b>	<b>\$0.00</b>	<b>\$1,375.46</b>	<b>\$15.00</b>	<b>\$0.00</b>	<b>\$821.55</b>	<b>\$821.55</b>

**JA003635**

Claim#: 192902602-E  
Patient: AVA GARCIA-SHAPIO

Patient#: 408763 11011  
Subscriber: NECHOLE M GARCIA  
Network: SIERRA HEALTHCARE OPTIONS  
Processor: RT2

Line No.	Provider	Date(s) of Service	Benefit Description	Proc Code	Amount Billed	Excluded Amount	Discount Amount	Co-Pay Amount	Deductible Amount	Amount Allowed	Paid At	Balance Paid by Plan
01	ANTHEM HILLS PEDI	10/04-10/04/19	PREV EXAM	99392	218.00	0.00	165.58	0.00	0.00	52.42	100%	52.42
02	ANTHEM HILLS PEDI	10/04-10/04/19	IMMUNIZATION	90670	624.00	0.00	307.71	0.00	0.00	316.29	100%	316.29
03	ANTHEM HILLS PEDI	10/04-10/04/19	IMMUNIZATION	90716	459.00	0.00	231.19	0.00	0.00	227.81	100%	227.81
04	ANTHEM HILLS PEDI	10/04-10/04/19	IMMUNIZATION	90633	140.00	0.00	84.95	0.00	0.00	55.05	100%	55.05
05	ANTHEM HILLS PEDI	10/04-10/04/19	IMMUNIZATION	90460	246.00	0.00	165.78	0.00	0.00	80.22	100%	80.22
06	ANTHEM HILLS PEDI	10/04-10/04/19	PREV TESTING	85018	32.00	0.00	27.42	0.00	0.00	4.58	100%	4.58
Column Totals					1,719.00	0.00	982.63	0.00	0.00	736.37		736.37
Patient's Responsibility:					0.00	FSA Fund Balance						0.00
					Provider Payment Amount					736.37		
					Amount Payable					736.37		

Claim#: 192962779-E  
Patient: AVA GARCIA-SHAPIO

Patient#: 409914 11011  
Subscriber: NECHOLE M GARCIA  
Network: SIERRA HEALTHCARE OPTIONS  
Processor: RT2

Line No.	Provider	Date(s) of Service	Benefit Description	Proc Code	Amount Billed	Excluded Amount	Discount Amount	Co-Pay Amount	Deductible Amount	Amount Allowed	Paid At	Balance Paid by Plan
01	ANTHEM HILLS PEDI	10/11-10/11/19	OFFICE VISIT	99213	348.00	0.00	302.61	15.00	0.00	30.39	100%	30.39
02	ANTHEM HILLS PEDI	10/11-10/11/19	IMMUNIZATION	90686	63.00	0.00	34.96	0.00	0.00	28.04	100%	28.04
03	ANTHEM HILLS PEDI	10/11-10/11/19	IMMUNIZATION	90460	82.00	0.00	55.26	0.00	0.00	26.74	100%	26.74
04	ANTHEM HILLS PEDI	10/11-10/11/19	IMMUNIZATION	G8482	0.01	0.00	0.00	0.00	0.00	0.01	100%	0.01
Column Totals					493.01	0.00	392.83	15.00	0.00	85.18		85.18
Patient's Responsibility:					15.00	FSA Fund Balance						0.00
					Provider Payment Amount					85.18		
					Amount Payable					85.18		

#### Payment Details

Paid To	Amount
ANTHEM HILLS PEDIATRICS	\$85.18
ANTHEM HILLS PEDIATRICS	\$736.37

#### Foreign Language Assistance

English: Translation services are available upon request.  
Spanish: Servicios de traducción están disponibles bajo petición  
Chinese: 可根據要求提供翻譯服務

#### Claim Remarks

192962779-E	1,2,3	ANY CHARGES THAT MAY BE LISTED IN THE "DISCOUNT" COLUMN REPRESENT AMOUNTS OVER THE PPO'S CONTRACTED FEE ALLOWANCE FOR THESE SERVICES. THE PROVIDER IS A PPO PARTICIPANT AND THE CLAIMANT SHOULD NOT BE BILLED FOR THIS AMOUNT.
192902602-E	1,2,3,4,5,6	ANY CHARGES THAT MAY BE LISTED IN THE "DISCOUNT" COLUMN REPRESENT AMOUNTS OVER THE PPO'S CONTRACTED FEE ALLOWANCE FOR THESE SERVICES. THE PROVIDER IS A PPO PARTICIPANT AND THE CLAIMANT SHOULD NOT BE BILLED FOR THIS AMOUNT.

#### Appeal Language

You have 180 days to appeal an adverse benefit determination. A full and fair claim review is made within 60 days of receipt of appeal with no deference to the initial determination. Appeal filing provisions are described in the SPD. If an appeal is denied, in whole or part, you have the right to bring civil action under Section 502(a) of ERISA. For questions about your rights, this notice, or for assistance you may contact the Employee Benefits Security Administration at 1-866-444-EBSA (3272).\*\*You may request, in writing, the specific diagnosis and procedure code(s) and their definition for the above claim. If your condition meets the definition of urgent under the law, you may request an expedited review. Expedited reviews are generally conducted within 72 hours. An urgent condition is one in which your health may be in serious jeopardy or, in the opinion of your physician you may experience pain that cannot be adequately controlled while you wait for a decision on your appeal. Did you know you can access claim status, payment information and EOB copies through The Loomis Company web site? Visit our website at [www.loomisco.com](http://www.loomisco.com) and click on MyLoomis Login to register or call our Benefits Division at the number listed above for enrollment instructions.

JA003636

The Loomis Company / Benefits Division  
850 N. PARK ROAD  
PO BOX 7011  
WYOMISSING PA 19610-6011

**Forwarding Service Requested**

\*\*\*\*\*ALL FOR AADC 870  
PB-OMA-502-ENV 4600 14  
NECHOLE M. GARCIA  
1282 EL SOLINDO LN  
HENDERSON NV 89002-8602

**Customer Service**

Did you know that you can get all of this information on line? Go to [www.loomisco.com](http://www.loomisco.com) and click on the MyLoomis Login to register now. Questions, please call our Benefits Division at (800) 498-6237 8:00 AM - 8:00 PM EST

Date: 1/6/2020  
Group Number: 0000000918  
Group Name: CITY OF HENDERSON

**Explanation of Benefits**

RETAIN FOR TAX PURPOSES  
THIS IS NOT A BILL

For the Period: **11/15/2019 thru 11/22/2019**

Dear NECHOLE M GARCIA,

The information below is a summary of the healthcare claims you incurred for the period 11/15/2019 through 11/22/2019. This information is commonly referred to as an **"Explanation of Benefits" (EOB)**. This is not a bill. It is a summary, followed by the claim details, of how your recent claims were processed. It includes any co-pay, deductible, coinsurance (%) or non-covered amounts that you may owe to the provider(s) of service. Use this EOB to verify the accuracy of any bill you may receive from the provider(s) listed below. If you did not receive service from the provider(s) listed below or suspect fraudulent charges please contact the customer service department at the number listed above.

**Total Amount Billed**

**\$2,346.18**

This is the total amount billed for the dates of service of 11/15/2019 thru 11/22/2019.

**Total Amount Paid By Plan**

**\$1,265.73**

This is the amount the plan paid in total for services rendered from 11/15/2019 thru 11/22/2019. Please see the "Claim Detail" section of this document for more information.

**Your Financial Responsibility**

**\$45.00**

This is the amount the provider(s) of service *may* bill you after your health plan benefits were paid. Typically a plan participant may be billed by the provider of service because they may have a deductible, co-pay, coinsurance (%), or the service is not covered by the health plan. Amounts shown here do not reflect any payments made at the point of service. A breakdown of your total financial responsibility is shown in the claim detail for each member.

**Claim Summary**

Claim Number	Patient Name	Amount Billed	Excluded Amount	Discount Amount	Co-Pay Amount	Deductible Amount	Amount Allowed	Balance Paid by Plan
193433157-E	AVA GARCIA-SHAPIO	\$493.01	\$0.01	\$392.83	\$15.00	\$0.00	\$85.17	\$85.17
193443193-E	AVA GARCIA-SHAPIO	\$423.00	\$0.00	\$377.61	\$15.00	\$0.00	\$30.39	\$30.39
193393163-E	AVA GARCIA-SHAPIO	\$1,430.17	\$0.00	\$265.00	\$15.00	\$0.00	\$1,150.17	\$1,150.17
<b>Totals</b>		<b>\$2,346.18</b>	<b>\$0.01</b>	<b>\$1,035.44</b>	<b>\$45.00</b>	<b>\$0.00</b>	<b>\$1,265.73</b>	<b>\$1,265.73</b>

**JA003637**

Claim#: 193433157-E  
 Patient: AVA GARCIA-SHAPIO

Patient#: 415115.11011  
 Subscriber: NECHOLE M GARCIA  
 Network: SIERRA HEALTHCARE OPTIONS  
 Processor: KGH

Line No.	Provider	Date(s) of Service	Benefit Description	Proc Code	Amount Billed	Excluded Amount	Discount Amount	Co-Pay Amount	Deductible Amount	Amount Allowed	Paid At	Balance Paid by Plan
01	ANTHEM HILLS PEDI	11/15-11/15/19	OFFICE VISIT	99213	348.00	0.00	302.61	15.00	0.00	30.39	100%	30.39
02	ANTHEM HILLS PEDI	11/15-11/15/19	IMMUNIZATION	90686	63.00	0.00	34.96	0.00	0.00	28.04	100%	28.04
03	ANTHEM HILLS PEDI	11/15-11/15/19	IMMUNIZATION	90460	82.00	0.00	55.26	0.00	0.00	26.74	100%	26.74
04	ANTHEM HILLS PEDI	11/15-11/15/19	IMMUNIZATION	G8482	0.01	0.01	0.00	0.00	0.00	0.00	0%	0.00
Column Totals					493.01	0.01	392.83	15.00	0.00	85.17		85.17
Patient's Responsibility:					15.00	FSA Fund Balance						0.00
Provider Payment Amount												85.17
Amount Payable												85.17

Claim#: 193443193-E  
 Patient: AVA GARCIA-SHAPIO

Patient#: 415302.11011  
 Subscriber: NECHOLE M GARCIA  
 Network: SIERRA HEALTHCARE OPTIONS  
 Processor: GTL

Line No.	Provider	Date(s) of Service	Benefit Description	Proc Code	Amount Billed	Excluded Amount	Discount Amount	Co-Pay Amount	Deductible Amount	Amount Allowed	Paid At	Balance Paid by Plan
01	ANTHEM HILLS PEDI	11/16-11/16/19	OFFICE VISIT	99213	348.00	0.00	302.61	15.00	0.00	30.39	100%	30.39
02	ANTHEM HILLS PEDI	11/16-11/16/19	OFFICE VISIT	99051	75.00	0.00	75.00	0.00	0.00	0.00	0%	0.00
Column Totals					423.00	0.00	377.61	15.00	0.00	30.39		30.39
Patient's Responsibility:					15.00	FSA Fund Balance						0.00
Provider Payment Amount												30.39
Amount Payable												30.39

Claim#: 193393163-E  
 Patient: AVA GARCIA-SHAPIO

Patient#: 7416110240R  
 Subscriber: NECHOLE M GARCIA  
 Network: SIERRA HEALTHCARE OPTIONS  
 Processor: A16

Line No.	Provider	Date(s) of Service	Benefit Description	Proc Code	Amount Billed	Excluded Amount	Discount Amount	Co-Pay Amount	Deductible Amount	Amount Allowed	Paid At	Balance Paid by Plan
01	QUEST DIAGNOSTICS	11/22-11/22/19	LABORATORY	36415	22.50	0.00	19.50	3.00	0.00	0.00	0%	0.00
02	QUEST DIAGNOSTICS	11/22-11/22/19	LABORATORY	85025	45.50	0.00	39.13	6.37	0.00	0.00	0%	0.00
03	QUEST DIAGNOSTICS	11/22-11/22/19	LABORATORY	82785	101.42	0.00	60.63	5.63	0.00	35.16	100%	35.16
04	QUEST DIAGNOSTICS	11/22-11/22/19	LABORATORY	85003	1,260.75	0.00	145.74	0.00	0.00	1,115.01	100%	1,115.01
Column Totals					1,430.17	0.00	265.00	15.00	0.00	1,150.17		1,150.17
Patient's Responsibility:					15.00	FSA Fund Balance						0.00
Provider Payment Amount												1,150.17
Amount Payable												1,150.17

#### Payment Details

Paid To	Amount
ANTHEM HILLS PEDIATRICS	\$30.39
ANTHEM HILLS PEDIATRICS	\$85.17
QUEST DIAGNOSTICS W	\$1,150.17

#### Foreign Language Assistance

English: Translation services are available upon request.  
 Spanish: Servicios de traducción están disponibles bajo petición  
 Chinese: 可根據要求提供翻譯服務

#### Claim Remarks

193443193-E	1,2	ANY CHARGES THAT MAY BE LISTED IN THE "DISCOUNT" COLUMN REPRESENT AMOUNTS OVER THE PPO'S CONTRACTED FEE ALLOWANCE FOR THESE SERVICES. THE PROVIDER IS A PPO PARTICIPANT AND THE CLAIMANT SHOULD NOT BE BILLED FOR THIS AMOUNT.
193433157-E	1,2,3	ANY CHARGES THAT MAY BE LISTED IN THE "DISCOUNT" COLUMN REPRESENT AMOUNTS OVER THE PPO'S CONTRACTED FEE ALLOWANCE FOR THESE SERVICES. THE PROVIDER IS A PPO PARTICIPANT AND THE CLAIMANT SHOULD NOT BE BILLED FOR THIS AMOUNT.
193433157-E	4	(Line 4-\$0.01)PROCEDURE IS INCIDENTAL OR GLOBAL TO THE PRIMARY PROCEDURE. IF THE PROVIDER IS PARTICIPATING, THE PATIENT CAN NOT BE BILLED FOR THIS AMOUNT.

JA003638



## Reference Info

Date: 1/6/2020  
Group Number: 0000000918  
Group Name: CITY OF HENDERSON

## Claim Remarks

193393163-E 1,2,3,4 ANY CHARGES THAT MAY BE LISTED IN THE "DISCOUNT" COLUMN REPRESENT AMOUNTS OVER THE PPO'S CONTRACTED FEE ALLOWANCE FOR THESE SERVICES. THE PROVIDER IS A PPO PARTICIPANT AND THE CLAIMANT SHOULD NOT BE BILLED FOR THIS AMOUNT.

## Appeal Language

You have 180 days to appeal an adverse benefit determination. A full and fair claim review is made within 60 days of receipt of appeal with no deference to the initial determination. Appeal filing provisions are described in the SPD. If an appeal is denied, in whole or part, you have the right to bring civil action under Section 502(a) of ERISA. For questions about your rights, this notice, or for assistance you may contact the Employee Benefits Security Administration at 1-866-444-EBSA (3272).\*\*You may request, in writing, the specific diagnosis and procedure code(s) and their definition for the above claim. If your condition meets the definition of urgent under the law, you may request an expedited review. Expedited reviews are generally conducted within 72 hours. An urgent condition is one in which your health may be in serious jeopardy or, in the opinion of your physician you may experience pain that cannot be adequately controlled while you wait for a decision on your appeal. Did you know you can access claim status, payment information and EOB copies through The Loomis Company web site? Visit our website at [www.loomisco.com](http://www.loomisco.com) and click on MyLoomis Login to register or call our Benefits Division at the number listed above for enrollment instructions.

THIS PAGE INTENTIONALLY LEFT BLANK



**Quest**  
Diagnostics

Do not use address below:

P.O. Box 7306  
Hollister, MO 65073-7306

AB 01 002572 78243 B 7 A

|||||0011818 7416110240 R

NEV 8804481 0011818 7416110240 R

NECHOLE GARCIA

1282 EL SOLINDO LN

HENDERSON, NV 89002-8602

## Laboratory Invoice

For services not included in your physician's bill

Invoice Date: **Mar. 05, 2020** Amount Due: **\$15.00** Due Date: **UPON RECEIPT**

Invoice Number **7416110240** Lab Code **NEV**

Patient Name: **AVA GARCIA-SHAPIRO**  
Responsible Party: **NECHOLE GARCIA**  
Date of Service: **November 22, 2019**

**Lab Results and Diagnosis Questions Must Be Answered By Your Physician.**

### Customer Service

LOG ON NOW at [www.QuestDiagnostics.com/bill](http://www.QuestDiagnostics.com/bill) to conveniently pay your invoice, provide updated insurance information, or take a patient survey.

Phone: **1-855-619-4056**  
MON-TH 8:30AM-5PM; FRI 9-4PM 08:30 AM - 05:00 PM PST  
Se Habla Espanol

### Laboratory Tests Were Requested By:

Referring Physician: **IMASA, HANNAH**  
Physician Address: **871 CORONADO CENTER DR  
HENDERSON, NV 89052**

### Most Recent Insurance Claim Filed To:

Insurance Name: **LOOMIS HENDERSON**  
Insurance ID: **000022659**  
Group Number: **918**

Please have your invoice available for reference.

This invoice is for laboratory tests performed at the request of the referring physician. These charges are separate from the physician's fees. LOOMIS HENDERSON indicated the balance is your co-payment, co-insurance, or deductible and is your financial responsibility. Prompt payment is appreciated. Thank you for using our laboratory.

Date	CPT Code*	Test Description	Charge	Adjustment	Insurance Paid	Patient Paid	Patient Responsibility	Reason
11/22/19	38415	VENIPUNCTURE	\$22.50					
11/22/19	85025	CBC, PLT, DIFF	\$45.50					
11/22/19	82785	IGE	\$101.42					
11/22/19	88003	ALLERGY TEST(S)	\$1,280.75					
01/27/20		PAID BY INSURANCE			(\$1,150.17)			
01/28/20		ADJUSTMENT		(\$265.00)				
Tax ID: 45-0099333 ICD Codes: T78.40XA			\$1,430.17	(\$265.00)	(\$1,150.17)	\$0.00	\$15.00	

Services Performed by: QUEST DIAGNOSTICS HENDERSON MOUNTAIN VISTA HENDERSON, NV  
Services Performed by: QUEST DIAGNOSTICS LAS VEGAS - 4230 BURKH LAS VEGAS, NV

\* The CPT codes provided are for information purposes only, and are based on AMA guidelines without regard to specific payer requirements

JA003641

The Loomis Company / Benefits Division  
850 N. PARK ROAD  
PO BOX 7011  
WYOMISSING PA 19610-6011

**Forwarding Service Requested**

\*\*\*\*\*ALL FOR AADC 890 11  
PB-OMA-502-ENV 3321  
NECHOLE M. GARCIA  
1282 EL SOLINDO LN  
HENDERSON NV 89002-8602

**Customer Service**

Did you know that you can get all of this information on line? Go to [www.loomisco.com](http://www.loomisco.com) and click on the MyLoomis Login to register now. Questions, please call our Benefits Division at (800) 498-6237 8:00 AM - 8:00 PM EST

Date: 1/27/2020  
Group Number: 0000000918  
Group Name: CITY OF HENDERSON

**Explanation of Benefits**

RETAIN FOR TAX PURPOSES  
THIS IS NOT A BILL

**For the Period: 12/06/2019 thru 12/06/2019**

Dear NECHOLE M GARCIA,

The information below is a summary of the healthcare claims you incurred for the period 12/06/2019 through 12/06/2019. This information is commonly referred to as an *"Explanation of Benefits" (EOB)*. **This is not a bill.** It is a summary, followed by the claim details, of how your recent claims were processed. It includes any co-pay, deductible, coinsurance (%) or non-covered amounts that you may owe to the provider(s) of service. Use this EOB to verify the accuracy of any bill you may receive from the provider(s) listed below. If you did not receive service from the provider(s) listed below or suspect fraudulent charges please contact the customer service department at the number listed above.

**Total Amount Billed**

\$465.00

This is the total amount billed for the dates of service of 12/06/2019 thru 12/06/2019.

**Total Amount Paid By Plan**

\$52.35

This is the amount the plan paid in total for services rendered from 12/06/2019 thru 12/06/2019. Please see the "Claim Detail" section of this document for more information.

**Your Financial Responsibility**

\$15.00

This is the amount the provider(s) of service *may* bill you after your health plan benefits were paid. Typically a plan participant may be billed by the provider of service because they may have a deductible, co-pay, coinsurance (%), or the service is not covered by the health plan. Amounts shown here do not reflect any payments made at the point of service. A breakdown of your total financial responsibility is shown in the claim detail for each member.

**Claim Summary**

Claim Number	Patient Name	Amount Billed	Excluded Amount	Discount Amount	Co-Pay Amount	Deductible Amount	Amount Allowed	Balance Paid by Plan
193583059-E	AVA GARCIA-SHAPIO	\$465.00	\$0.00	\$397.65	\$15.00	\$0.00	\$52.35	\$52.35
<b>Totals</b>		\$465.00	\$0.00	\$397.65	\$15.00	\$0.00	\$52.35	\$52.35

**JA003642**

Claim#: 193583059-E  
Patient: AVA GARCIA-SHAPIO

Patient#: 418129.11011 Processor: BB2  
Subscriber: NECHOLE M GARCIA  
Network: SIERRA HEALTHCARE OPTIONS

Line No.	Provider	Date(s) of Service	Benefit Description	Proc Code	Amount Billed	Excluded Amount	Discount Amount	Co-Pay Amount	Deductible Amount	Amount Allowed	Paid At	Balance Paid by Plan
01	ANTHEM HILLS PEDI	12/06-12/06/19	OFFICE VISIT	99214	465.00	0.00	397.65	15.00	0.00	52.35	100%	52.35
Column Totals					465.00	0.00	397.65	15.00	0.00	52.35		52.35

Patient's Responsibility: 15.00

FSA Fund Balance 0.00

Provider Payment Amount 52.35

Amount Payable 52.35

#### Payment Details

Paid To	Amount
ANTHEM HILLS PEDIATRICS	\$52.35

#### Foreign Language Assistance

English: Translation services are available upon request.  
Spanish: Servicios de traducción están disponibles bajo petición  
Chinese: 可根據要求提供翻譯服務

#### Claim Remarks

193583059-E 1 ANY CHARGES THAT MAY BE LISTED IN THE "DISCOUNT" COLUMN REPRESENT AMOUNTS OVER THE PPO'S CONTRACTED FEE ALLOWANCE FOR THESE SERVICES. THE PROVIDER IS A PPO PARTICIPANT AND THE CLAIMANT SHOULD NOT BE BILLED FOR THIS AMOUNT.

#### Appeal Language

You have 180 days to appeal an adverse benefit determination. A full and fair claim review is made within 60 days of receipt of appeal with no deference to the initial determination. Appeal filing provisions are described in the SPD. If an appeal is denied, in whole or part, you have the right to bring civil action under Section 502(a) of ERISA. For questions about your rights, this notice, or for assistance you may contact the Employee Benefits Security Administration at 1-866-444-EBSA (3272).\*\*You may request, in writing, the specific diagnosis and procedure code(s) and their definition for the above claim. If your condition meets the definition of urgent under the law, you may request an expedited review. Expedited reviews are generally conducted within 72 hours. An urgent condition is one in which your health may be in serious jeopardy or, in the opinion of your physician you may experience pain that cannot be adequately controlled while you wait for a decision on your appeal. Did you know you can access claim status, payment information and EOB copies through The Loomis Company web site? Visit our website at [www.loomisco.com](http://www.loomisco.com) and click on MyLoomis Login to register or call our Benefits Division at the number listed above for enrollment instructions.

JA003643

HealthSCOPE Benefits  
27 Corporate Hill Drive  
Little Rock AR 72205

2020031REB01  
JE41  
1290 16182

JE41 [3.837] 1 of 1



## Explanation of Benefits

**THIS IS NOT A BILL**

### Forwarding Service Requested



\*\*\*\*\*ALL FOR AADC 890 11  
PB-0MA-502-ENV 3837  
NECHOLE M GARCIA  
1282 LIL SOLINDO LN  
HENDERSON NV 89002-8602

### Your Member Information

Name: NECHOLE M GARCIA  
EOB Date: 03/17/2020  
ID No: A01473084  
Group ID: CHNEV  
Group Name: CITY OF HENDERSON

### Contact Us

Phone: 1-800-884-0793  
Web Address: www.healthscopebenefits.com  
Hours: 8AM - 5PM MST  
Email: customerservice.ar@healthscopebenefits.com

### Recent Claim Activity

The information below is a summary of your health care claims, including any out-of-pocket expenses or non-covered amounts that you may owe the provider(s). Please review the detailed claim breakdown carefully. Some claims may require more information from you or your provider before they can be processed. You also should compare this summary to any health care bills you may receive.

<b>Total Charge</b>	<b>\$1,684.00</b>	This is the amount billed by the provider for health care services.
<b>Reduction Amount</b>	<b>\$818.02</b>	This is the amount saved using available pricing programs and network arrangements. These dollars are not your responsibility.
<b>Plan Pay Amount</b>	<b>\$722.49</b>	This is the amount the Plan paid for billed services.
<b>Patient Responsibility</b>	<b>\$143.49</b>	This is the amount you may be billed by the provider after reductions or discounts, and after Plan benefits have been applied.

Your next statement, if any claims are processed, may arrive no later than the week of: April 12, 2020

Patient: AVA GARCIA-SHAPIO  
Claim #: CHP13248093

Provider: ALLERGY PARTNERS PAIMIYAKE, BOB K MD

Dates of Service	Service Description	Rmk Code*	Total Charge	Reduction Amount	Amount Excluded	Co-Pay	Deductible	Co-insurance	Other Plan Payment	Paid At %	Plan Pay Amount
03/05-03/05/2020	Professional Service	P1251	\$156.00	\$103.44	\$0.00	\$15.00	\$0.00	\$0.00	\$0.00	100%	\$37.56
03/05-03/05/2020	Professional Service	P1251	\$290.00	\$121.52	\$0.00	\$25.00	\$0.00	\$0.00	\$0.00	100%	\$143.48
<b>Patient Responsibility:</b>			<b>\$40.00</b>								
<b>Totals:</b>			<b>\$446.00</b>	<b>\$224.96</b>	<b>\$0.00</b>	<b>\$40.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>		<b>\$181.04</b>

Patient: AVA GARCIA-SHAPIO  
Claim #: CHP13266347

Provider: ST ROSE DOMINICAN SIENA

Dates of Service	Service Description	Rmk Code*	Total Charge	Reduction Amount	Amount Excluded	Co-Pay	Deductible	Co-insurance	Other Plan Payment	Paid At %	Plan Pay Amount
02/03-02/03/2020	Professional Service	P1876	\$26.00	\$12.46	\$0.00	\$1.04	\$0.00	\$0.62	\$0.00	95%	\$11.88
02/03-02/03/2020	Professional Service	P1876	\$1,212.00	\$580.60	\$0.00	\$73.96	\$0.00	\$27.87	\$0.00	95%	\$529.57
<b>Patient Responsibility:</b>			<b>\$103.49</b>								
<b>Totals:</b>			<b>\$1,238.00</b>	<b>\$593.06</b>	<b>\$0.00</b>	<b>\$75.00</b>	<b>\$0.00</b>	<b>\$28.49</b>	<b>\$0.00</b>		<b>\$541.45</b>

### Reason Code Description

Code	Description
P1251	Contracted discount was applied in accordance with your agreement with Sierra Health-Care Options, Inc.
P1876	Contracted discount was applied in accordance with the Health Services Coalition agreement.

**JA003644**



# Dignity Health

St. Rose Dominican  
Siena Campus

04/22/20

Nechole M Garcia  
1282 El Solindo Ln  
Henderson NV 89002-8602

Patient Name	Shapiro Garcia
Guarantor Name	Nechole M Garcia
Guarantor Acct #	66882879
Current Balance	\$103.49

Account Number	Patient Name	Date of Service	Services Provided	Charges	Payments/Adjustments	Balance Due
66882879	SHAPIRO GARCIA	02/03/20		\$1,238.00	\$1,134.51	\$103.49
						<b>Total Current Balance: \$103.49</b>

Thank you for choosing St. Rose Dominican Hospital Siena Campus for your healthcare needs. Your recent services resulted in an outstanding balance. If you have additional insurance information to provide, call our office directly at 833-752-8174.

You may make payments by mail, online or in-person. Our phone hours are 7:30 am-7:00 pm PST Monday-Friday and 9:00 am-1:00 pm PST Saturday. Please include your account number on your check or money order. If you have a current payment arrangement and would like to add this balance to your payment agreement, please call us at 833-752-8174. If you need help paying your bill, you may qualify for financial assistance, including free care, a discount or a payment plan under Dignity Health's Financial Assistance Policy.

This balance is for St. Rose Dominican Hospital Siena Campus charges. Other medical providers you may have seen will bill separately. A representative from the business office may be contacting you to discuss your account.

We understand that as a result of COVID-19 crisis your financial situation may have changed. We are here to help you during this challenging time. Please contact us if you have difficulty paying your outstanding balance and we will discuss the options that are available to you. Thank you for trusting Dignity Health with your healthcare needs.



Online Payment Manager:

<http://www.patientportal.me/DignityHealth>



Phone: 833-752-8174

Phone Hours: 7:30 am — 7:00 pm PST M-F  
9:00 am — 1:00 pm PST Sat

Walk in: 3001 St. Rose Pkwy  
Henderson, NV 89052

Walk in Hours: 8:00 AM — 4:30 PM PST M-F

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION

PLEASE DETACH HERE AND RETURN BOTTOM PORTION WITH YOUR PAYMENT

527363748\_808TTTOGW0303DOP31\_110795012\_E3011031

St. Rose Dominican Hospital Siena Campus

TTTOGW03

PO Box 1280

Oaks PA 19456-1280

ADDRESS SERVICE REQUESTED

Patient Name	Shapiro Garcia
Statement Date	04/22/20
Current Balance	\$103.49
Amount Paid	

Acct #: 66882879

☐ Please check if address below is incorrect  
and indicate change on reverse side

PLEASE MAKE CHECKS PAYABLE AND REMIT TO:



0068 011193



Nechole M Garcia  
1282 El Solindo Ln  
Henderson NV 89002-8602

ST. ROSE DOMINICAN HOSPITAL SIENA CAMPUS  
PO BOX 57125  
LOS ANGELES, CA 90074-7125



JA003645



07832

### Accounts Not on Payment Plans:

- **Account Number: 31560872 - charges associated with account:**

Note: This account is current and is due on 4/05/2020.

<b>Date of Srv:</b>	2/03/2020	<b>Orig Balance:</b>	485.00
<b>Patient:</b>	AVA GARCIA SHAPIRO	<b>Pmts/Adj/Fees:</b>	-228.37
<b>Procedure:</b>	99283: E/R INITIAL CONSULT 90	<b>Charge Payoff:</b>	256.63
<b>Location:</b>	ST ROSE DOMINICAN HOSPITAL SIENA CAMPUS: ROBERT A KILPATRICK		
<b>Insurance 1:</b>	HEALTHSCOPE - *****3084		

History Detail	Date	Description	Pmts/Adj/Fees
	2/25/2020	MANAGED CARE	-228.37

<b>Total Account Payoff:</b>	256.63
<b>Min Amt Due:</b>	256.63
unless a payment plan is established	

HealthSCOPE Benefits  
27 Corporate Hill Drive  
Little Rock AR 72205

20200224B05  
JD74  
129016182

JD74 [29,026] 1 of 1



## Explanation of Benefits

THIS IS NOT A BILL

### Forwarding Service Requested

\*\*\*\*\*SCH 5-DIGIT 89015  
29026 1 AV 0.389 123  
NECHOLE M GARCIA  
1282 EL SOLINDO LN  
HENDERSON NV 89002-8602

### Your Member Information

Name: NECHOLE M GARCIA  
EOB Date: 02/21/2020  
ID No: A01473084  
Group ID: CHNEV  
Group Name: CITY OF HENDERSON

### Contact Us

Phone: 1-800-884-0793  
Web Address: [www.healthscopebenefits.com](http://www.healthscopebenefits.com)  
Hours: 8AM - 5PM MST  
Email: [customerservice.ar@healthscopebenefits.com](mailto:customerservice.ar@healthscopebenefits.com)

### Recent Claim Activity

The information below is a summary of your health care claims, including any out-of-pocket expenses or non-covered amounts that you may owe the provider(s). Please review the detailed claim breakdown carefully. Some claims may require more information from you or your provider before they can be processed. You also should compare this summary to any health care bills you may receive.

Total Charge	\$485.00	This is the amount billed by the provider for health care services.
Reduction Amount	\$228.37	This is the amount saved using available pricing programs and network arrangements. These dollars are not your responsibility.
Plan Pay Amount	\$0.00	This is the amount the Plan paid for billed services.
Patient Responsibility	\$256.63	This is the amount you may be billed by the provider after reductions or discounts, and after Plan benefits have been applied.

Your next statement, if any claims are processed, may arrive no later than the week of: March 15, 2020

Patient: AVA GARCIA-SHAPIO  
Claim #: CHP13119868

Provider: POKROY MEDICAL GROUP OF NEVADA LTD/KILPATRICK, ROBERT A MD

Dates of Service	Service Description	Rmk Code*	Total Charge	Reduction Amount	Amount Excluded	Co-Pay	Deductible	Co-Insurance	Other Plan Payment	Paid At %	Plan Pay Amount
02/03-02/03/2020	Professional Service	P1251	\$485.00	\$228.37	\$0.00	\$0.00	\$256.63	\$0.00	\$0.00		\$0.00
Patient Responsibility:			\$256.63								
Totals:			\$485.00	\$228.37	\$0.00	\$0.00	\$256.63	\$0.00	\$0.00		\$0.00

### Reason Code Description

Code	Description
P1251	Contracted discount was applied in accordance with your agreement with Sierra Health-Care Options, Inc.

### Medical Year to Date Totals

Individual In Network DEDUCTIBLE	Member: Ava	Claim Year: 2020	Used: \$256.63
Family In Network DEDUCTIBLE		Claim Year: 2020	Used: \$256.63

JA003647

**Siena Pediatrics**

2441 W HORIZON RIDGE PKWY  
HENDERSON, NV-89052-5788  
Tel: 702-248-7337 Fax: 702-478-5465

---

**RECEIPT OF PAYMENT**

Date: 03/30/2020  
Transaction No: 1706359588  
Card Holder: Garcia Shapiro, Ava  
Patient: Garcia Shapiro, Ava

Amount:	Payment Type:	Payment ID:	Card No:	Card Brand:	Date:	Auth Code:
\$ 15.00	Credit Card	254728	x1721	VI	Mon 2020-03-30 at 08:27:23 PM GMT	070370

---

**Signature**

I agree to pay above total amount  
according to card issuer agreement.

**APPOINTMENT CARD**

**Patient Name:** Garcia Shapiro, Ava

---

**Appointment:** Tuesday, April 7, 2020 at 10:00 AM

**Provider:** Carrie G Wijesinghe, MD  
Siena Pediatrics  
2441 W HORIZON RIDGE PKWY  
HENDERSON, NV-89052-5788  
Tel: 702-248-7337 Fax: 702-478-5465

---

HealthSCOPE Benefits  
27 Corporate Hill Drive  
Little Rock AR 72205



## Explanation of Benefits

**THIS IS NOT A BILL**

### Forwarding Service Requested

\*\*\*\*\*SCH 5-DIGIT 89015 85  
16068 1 AV 0.389  
NECHOLE M GARCIA  
1282 EL SOLINDO LN  
HENDERSON NV 89002-8602

### Your Member Information

**Name:** NECHOLE M GARCIA  
**EOB Date:** 04/24/2020  
**ID No:** A01473084  
**Group ID:** CHNEV  
**Group Name:** CITY OF HENDERSON

### Contact Us

**Phone:** 1-800-884-0793  
**Web Address:** www.healthscopebenefits.com  
**Hours:** 8AM - 5PM MST  
**Email:** customerservice.ar@healthscopebenefits.com

### Recent Claim Activity

The information below is a summary of your health care claims, including any out-of-pocket expenses or non-covered amounts that you may owe the provider(s). Please review the detailed claim breakdown carefully. Some claims may require more information from you or your provider before they can be processed. You also should compare this summary to any health care bills you may receive.

<b>Total Charge</b>	<b>\$346.00</b>	This is the amount billed by the provider for health care services.
<b>Reduction Amount</b>	<b>\$257.96</b>	This is the amount saved using available pricing programs and network arrangements. These dollars are not your responsibility.
<b>Plan Pay Amount</b>	<b>\$58.04</b>	This is the amount the Plan paid for billed services.
<b>Patient Responsibility</b>	<b>\$30.00</b>	This is the amount you may be billed by the provider after reductions or discounts, and after Plan benefits have been applied.

Your next statement, if any claims are processed, may arrive no later than the week of: May 17, 2020

**Patient:** AVA GARCIA-SHAPIO

**Provider:** SIENA PEDIATRICSIWIJESINGHE, CARRIE MD

**Claim #:** CHP13419496

Dates of Service	Service Description	Rmk Code*	Total Charge	Reduction Amount	Amount Excluded	Co-Pay	Deductible	Co-insurance	Other Plan Payment	Paid At %	Plan Pay Amount
03/30-03/30/2020	Professional Service	P1251	\$131.00	\$91.07	\$0.00	\$15.00	\$0.00	\$0.00	\$0.00	100%	\$24.93
03/30-03/30/2020	Professional Service	P1251	\$215.00	\$166.89	\$0.00	\$15.00	\$0.00	\$0.00	\$0.00	100%	\$33.11
<b>Patient Responsibility:</b>			<b>\$30.00</b>								
<b>Totals:</b>			<b>\$346.00</b>	<b>\$257.96</b>	<b>\$0.00</b>	<b>\$30.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>		<b>\$58.04</b>

### Reason Code Description

Code	Description
P1251	Contracted discount was applied in accordance with your agreement with Sierra Health-Care Options, Inc.

### Medical Year to Date Totals

Individual In Network COPAY	<b>Member:</b> Ava	<b>Claim Year:</b> 2020	<b>Used:</b> \$145.00
Individual In Network DEDUCTIBLE	<b>Member:</b> Ava	<b>Claim Year:</b> 2020	<b>Used:</b> \$256.63
Family In Network DEDUCTIBLE		<b>Claim Year:</b> 2020	<b>Used:</b> \$256.63
Individual In Network COINSURANCE	<b>Member:</b> Ava	<b>Claim Year:</b> 2020	<b>Used:</b> \$28.49
Family In Network COINSURANCE		<b>Claim Year:</b> 2020	<b>Used:</b> \$28.49
Family In Network COPAY		<b>Claim Year:</b> 2020	<b>Used:</b> \$145.00

**Siena Pediatrics**  
2441 W HORIZON RIDGE PKWY  
HENDERSON, NV-89052-5788  
Tel: 702-248-7337 Fax: 702-478-5465

---

## RECEIPT OF PAYMENT

Date: 06/08/2020  
Transaction No: 1730265854  
Card Holder: Garcia Shapiro, Ava  
Patient: Garcia Shapiro, Ava

Amount:	Payment Type:	Payment ID:	Card No:	Card Brand:	Date:	Auth Code:
\$ 15.00	Credit Card	258168	x1721	VI	Mon 2020-06-08 at 09:32:05 PM GMT	495457

---

**Signature**

I agree to pay above total amount  
according to card issuer agreement.

## APPOINTMENT CARD

**Patient Name:** Garcia Shapiro, Ava

---

**Siena Pediatrics**

2441 W HORIZON RIDGE PKWY  
HENDERSON, NV-89052-5788  
Tel: 702-248-7337 Fax: 702-478-5465

**RECEIPT OF PAYMENT**

Date: 01/15/2021  
Transaction No: 1829738316  
Card Holder: NECHOLE M, GARCIA  
Patient: Garcia Shapiro, Ava

<b>Amount:</b>	<b>Payment</b>	<b>Payment</b>	<b>Card</b>	<b>Card</b>	<b>Date:</b>	<b>Auth</b>
\$ 15.00	<b>Type:</b>	<b>ID:</b>	<b>No:</b>	<b>Brand:</b>		<b>Code:</b>
	Credit Card	265994	x1721	VI	Fri 2021-01-15 at 03:58:48 PM GMT	252996

---

**Signature**

I agree to pay above total amount  
according to card issuer agreement.

**APPOINTMENT CARD**

**Patient Name:** Garcia Shapiro, Ava

---

**ENT Consultants Of Nevada  
Green Valley**

**Payment Receipt**

*3195 St. Rose Parkway, Ste. 210  
Henderson, NV 89052  
(702) 792-6700*

**SALE - APPROVED**

---

<b>Patient Name</b>	Garcia Shapiro, Ava
<b>Date</b>	02/05/2021
<b>Time</b>	09:45:34 PST
<b>Card</b>	*****1721
<b>Card Type</b>	visastandarddebit
<b>Cardholder Name</b>	GARCIA/NECHOLE M
<b>Payment Method</b>	visa
<b>Entry mode</b>	Chip
<b>Auth. code</b>	091193
<b>AID</b>	A0000000031010
<b>MID</b>	420429000233176
<b>TID</b>	P400Plus-803621027
<b>PTID</b>	03621027
<b>PAN seq.</b>	00
<b>Pref. name</b>	VISA DEBIT
<b>Payment variant</b>	visastandarddebit
<b>Tender</b>	FBzf001612547129004
<b>Reference</b>	73477859-8cdd-4735-bc4d-ad421d7bf440

**Total \$20.00**

---

**Cardholder Copy**

**IMPORTANT - Please retain for your records**

**JA003652**

**Siena Pediatrics**  
2441 W HORIZON RIDGE PKWY  
HENDERSON, NV-89052-5788  
Tel: 702-248-7337 Fax: 702-478-5465

---

## RECEIPT OF PAYMENT

Date: 02/01/2021

Received From: Garcia Shapiro, Ava

**Amount:** 15.00    **Payment Type:** Credit Card    **Payment Id:** 266702

### Charges Detail

Date	Code Description	Units	Fee	Payment
02/01/2021	Patient Payment			15.00
	<b>Totals</b>		<b>0.00</b>	<b>15.00</b>

### Account Balance Summary

Total Balance:	165.00
Patient Balance:	0.00
Insurance Balance:	165.00

## APPOINTMENT CARD

**Patient Name:** Garcia Shapiro, Ava

---

HealthSCOPE Benefits  
27 Corporate Hill Drive  
Little Rock AR 72205



## Explanation of Benefits

**THIS IS NOT A BILL**

### Forwarding Service Requested



\*\*\*\*\*SCH 5-DIGIT 89015

582 1 AV D.389  
NECHOLE M GARCIA  
1282 EL SOLINDO LN  
HENDERSON NV 89002-8602

### Your Member Information

Name: NECHOLE M GARCIA  
EOB Date: 06/26/2020  
ID No: A01473084  
Group ID: CHNEV  
Group Name: CITY OF HENDERSON

### Contact Us

Phone: 1-800-884-0793  
Web Address: www.healthscopebenefits.com  
Hours: 8AM - 5PM MST  
Email: customerservice.ar@healthscopebenefits.com

### Recent Claim Activity

The information below is a summary of your health care claims, including any out-of-pocket expenses or non-covered amounts that you may owe the provider(s). Please review the detailed claim breakdown carefully. Some claims may require more information from you or your provider before they can be processed. You also should compare this summary to any health care bills you may receive.

<b>Total Charge</b>	<b>\$247.00</b>	This is the amount billed by the provider for health care services.
<b>Reduction Amount</b>	<b>\$185.15</b>	This is the amount saved using available pricing programs and network arrangements. These dollars are not your responsibility.
<b>Plan Pay Amount</b>	<b>\$31.85</b>	This is the amount the Plan paid for billed services.
<b>Patient Responsibility</b>	<b>\$30.00</b>	This is the amount you may be billed by the provider after reductions or discounts, and after Plan benefits have been applied.

Your next statement, if any claims are processed, may arrive no later than the week of: July 19, 2020

Patient: AVA GARCIA-SHAPIO

Provider: SDMI LIMITED PARTNERSHIP/KYM, SARAH E MD

Claim #: CHP13673284

Dates of Service	Service Description	Rmk Code*	Total Charge	Reduction Amount	Amount Excluded	Co-Pay Deductible	Co-insurance	Other Plan Payment	Paid At %	Plan Pay Amount
06/08-06/08/2020	Professional Service	P1251	\$67.00	\$37.57	\$0.00	\$15.00	\$0.00	\$0.00	100%	\$14.43
<b>Patient Responsibility:</b>			<b>\$15.00</b>							
<b>Totals:</b>			<b>\$67.00</b>	<b>\$37.57</b>	<b>\$0.00</b>	<b>\$15.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$14.43</b>

Patient: AVA GARCIA-SHAPIO

Provider: SIENA PEDIATRICS/WIJESINGHE, CARRIE MD

Claim #: CHP13693959

Dates of Service	Service Description	Rmk Code*	Total Charge	Reduction Amount	Amount Excluded	Co-Pay Deductible	Co-insurance	Other Plan Payment	Paid At %	Plan Pay Amount
06/08-06/08/2020	Professional Service	P1251	\$180.00	\$147.58	\$0.00	\$15.00	\$0.00	\$0.00	100%	\$17.42
<b>Patient Responsibility:</b>			<b>\$15.00</b>							
<b>Totals:</b>			<b>\$180.00</b>	<b>\$147.58</b>	<b>\$0.00</b>	<b>\$15.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$17.42</b>

### Reason Code Description

Code	Description
P1251	Contracted discount was applied in accordance with your agreement with Sierra Health-Care Options, Inc.

### Medical Year to Date Totals

Individual In Network COINSURANCE	Member: Ava	Claim Year: 2020	Used: \$28.49
Individual In Network COPAY	Member: Ava	Claim Year: 2020	Used: \$175.00
Individual In Network DEDUCTIBLE	Member: Ava	Claim Year: 2020	Used: \$256.63
Family In Network COPAY		Claim Year: 2020	Used: \$175.00
Family In Network DEDUCTIBLE		Claim Year: 2020	Used: \$256.63
Family In Network COINSURANCE		Claim Year: 2020	Used: \$28.49



## PEDIATRIX MEDICAL GROUP



Phone: 877-511-2296  
 Fax: 616-954-2800  
 Website: www.mymedicalme.com  
 Hours: Mon - Fri | 8:00am - 10:00pm Eastern  
 Sat | 9:00am - 2:00pm Eastern

## PLEASE SEE PAGE 2 FOR IMPORTANT INFORMATION

Please review the charge detail listed on the following page(s) of this statement. If you have insurance that is not listed or is incorrect, please contact us so that we can update our records.

ID Number 16174151  
 Name NECHOLE GARCIA  
 Statement Date 3/06/2020  
 Statement Number 1

This statement contains services rendered by PEDIATRIX MEDICAL GROUP.

## Statement Summary

	Total Payoff	Min Due
Accounts on Payment Plans (0)	\$0.00	\$0.00
Accounts Not on Payment Plans (1)	\$256.63	\$256.63
<b>TOTAL MIN AMOUNT DUE*</b>		<b>\$256.63</b>
4/05/2020		



PLEASE SEE FOLLOWING PAGE(S) FOR ACCOUNT DETAIL

## Payment Options

We gladly accept checks and the following major credit cards:



Pay Online

www.mymedicalme.com

Pay by Mail

- Include your "ID Number" on your check
- Make checks payable to:  
PEDIATRIX MEDICAL GROUP
- Include payment stub below in envelope provided

Pay by Phone

Call toll free: 877-511-2296

**Fee Disclosures:** Please note payment is due in full by the due date listed. Your account is not currently in default. Monthly service fees may be assessed after the due date for your balance that is not paid in full. Service fees are waived for auto-debit payment plans. Late fees may apply. Please see the detailed account information on subsequent pages and the "Payment Assistance" section below for more information. If payment is returned for any reason, a \$25.00 fee will be added to your account. Fees are subject to change without notice.

**\*Payment Assistance:** If you are unable to pay accounts not on payment plans in full, you must contact us toll free at 877-511-2296 to establish terms of a payment plan. Minimal fees may apply. Service fees are waived for auto-debit payment plans. Reasonable monthly payment plans can be arranged, but we must receive communication from you to establish terms. A servicing agent may contact you directly if full payment or payment plan arrangements are not made within the 30 day grace period.

# Anthem Hills Pediatrics

Date	Code	Description		Charges	Payment
11/16/2019	Ticket #415302	Hannah Imasa PA-C	\$423.0		
12/05/2019		Loomis Company originally billed			
11/16/2019	99213	Office/Physician Services		\$348.00	\$30.39
01/29/2020		Loomis EFT MC-1178			
01/29/2020		CO-45 Loomis			
01/29/2020		\$15.00 PR-2 Loomis			
11/16/2019	99051	Office/Physician Services		\$75.00	
01/29/2020		CO-45 Loomis			
			Balance due by patient: \$15.00		

Current	30 days	60 days	90 days	120+ days	Total Charges	Total Payments
\$15.00	\$0.00	\$0.00	\$0.00	\$0.00	\$423.00	\$30.39

## MESSAGES

Total Balance due by patient: \$15.00  
Your account is current.

Patient	Statement Date	Account #
Garcia-Shapiro, Ava	3/2/2020	80453

724-200302-UJA

JA003656

STATEMENT

DATE OF SERVICE	DESCRIPTION OF SERVICE	CHARGES	CREDITS	BALANCE
03/30/20	Claim:343750, Provider: Cynthia A Chase, MD			
03/30/20	87807 RSV ASSAY W/OPTIC	35.00		
03/30/20	87804 INFLUENZA TEST	48.00		
03/30/20	99214 OFFICE VISIT, EST	215.00		
03/30/20	87804 INFLUENZA TEST	48.00		
03/30/20	Patient Payment		15.00	
03/30/20	HealthSCOPE Benefits Payment		58.04	
03/30/20	HealthSCOPE Benefits Adjustment		257.96	
03/30/20	Balance due to co-pay/Patient Liability			
03/30/20	<b>Your Balance Due On These Services ...</b>			15.00

ACCOUNT TOTAL	CURRENT	30 DAYS	60 DAYS	90 DAYS	OVER 120 DAYS
15.00					

DATE	PATIENT NAME	ACCOUNT NO.	PAY THIS AMOUNT
05/08/2020	Ava Garcia Shapiro	124780	15.00

PHONE #: 702-248-7337

MAKE CHECK PAYABLE TO: Wijesinghe Pediatrics PC

MESSAGE:

000003276-A

JA003657

38095\*TRH0VVU9Z000214



DETACH AND PLACE TOP PORTION IN RETURN ENVELOPE SO THAT THE ADDRESS SHOWS IN WINDOW

STATEMENT TYPE	GUARANTOR NAME	STATEMENT DATE	DUE DATE
FIRST STATEMENT	Nechole Garcia	07/07/20	07/22/2020

DATE	DESCRIPTION OF ACTIVITY	CHARGES	CREDITS	INSURANCE PENDING	PATIENT BALANCE
06/08/20	Patient Name: Garcia-Shapiro, Ava Wrist Xray, Complete Min of 3 Views Payment - HealthScope Benefits Contractual Adjustment	\$67.00	\$-14.43 \$-37.57		
	CURRENT BALANCE DUE				\$15.00
	TOTAL STATEMENT BALANCE DUE				\$15.00

IMPORTANT MESSAGE REGARDING YOUR ACCOUNT:

**If you are on a payment plan, please disregard this notice.**

Full payment is due upon receipt of this statement. Thank you.

Billing Questions:

Call (702) 732-6000 Option 3, then Option 3 again, Monday - Thursday, 8:00am - 4:00pm. Closed for calls on Fridays.

**For FAQ's please review details on the back.**

STEINBERG DIAGNOSTIC MEDICAL IMAGING | PO BOX 208215 | DALLAS, TX 75320-8215

PLEASE PAY THIS AMOUNT

**\$15.00**

 Pay Online: [www.sdmi-lv.com/patientportal](http://www.sdmi-lv.com/patientportal)

 Pay by Phone: (702) 732-6000 Option 3, then Option 3 again.

JA003658

Patient Name: Ava Garcia Shapiro

Date	Provider	Description of Service	Charge	Payment	Adjustment	Patient Balance
02/05/2021	Schroeder, Walt St. Rose Parkw	92587 - EVOKED AUDITORY TEST LIMITED Health Scope Benefits Patient	170.00	0.00 -5.00	-92.24	72.76
02/05/2021	Schroeder, Walt St. Rose Parkw	92567 - TYMPANOMETRY Health Scope Benefits	60.00	0.00	-39.34	20.66

Total Due From Patient \$93.42

0-30 Days	31-60 Days	61-90 Days	90-120 Days	+120 Days
\$93.42	\$0.00	\$0.00	\$0.00	\$0.00

Office Announcements:  
For assistance call ext 1013, 1014, 1015 or 1036



SEE REVERSE SIDE FOR IMPORTANT BILLING INFORMATION

STATEMENT

4800 ALLERGY PARTNERS  
2485 W HORIZON RIDGE PK  
HENDERSON, NV 89052

03/12/2021

09:46:16

DEBIT CARD

DEBIT SALE

Card #	XXXXXXXXXXXX1721
Network:	STAR
Chip Card:	US DEBIT
AID:	A0000000980840
SEQ #:	1
Batch #:	1424
INVOICE	1
Approval Code:	002574
Entry Method:	Chip Read
Mode:	Issuer - PIN Verified

SALE AMOUNT \$25.00

CUSTOMER COPY

**JA003660**



# Dignity Health

St. Rose Dominican

Nechole

## Lactation Consultation Services

NAME: <u>Nechole Garcia</u>		DATE: <u>10-11-18</u>
<b>RECEIPT</b>		
<input checked="" type="checkbox"/> Lactation Consultation	St. Rose Patients: \$50	
	Other Clients: \$75	
<input type="checkbox"/> Follow-up Visit	\$20	
<input type="checkbox"/> WIC	NC	

### RECOMMENDED PLAN OF CARE

#### Feeding

- ☒ Breastfeed on demand, at least every 2-3 hours or 8-12 times in every 24 hours.
- ☒ Watch for feeding cues: rapid eye movement, hand to mouth, etc.
- ☒ Use breast compression to increase milk flow to baby.
- ☐ Supplement \_\_\_\_\_ ounces \_\_\_\_\_ feeds
- ☒ Be aware of baby's output: 6-8 wet and 2-3 or more poopy diapers ("scoop of poop") every 24 hours by day 6-7.

#### Pump

- ☒ Use breast pump 2x's a day to start storing for when she's 1 month.
- Breast pump pieces should be washed in warm soapy water after every feed (don't wash tubing)

#### Latch & Positioning

- ☒ Position baby so his/her nose is across from nipple. Touch nipple to area above baby's upper lip. When baby opens wide, aim nipple towards baby's palate.
- ☒ Make sure baby's chin is into breast well and neck extended.

#### Sore Nipple Care

- ☒ Express 2-3 drops of breast milk and rub into nipple area.
- ☐ Use Medela Tender Care or Lansinoh after feeds for sore nipples
- ☐ Wash cracked nipples 2 to 3 times/day (after feeds) with mild, non-antibacterial soap and apply thin layer of polysporin ointment.

#### Nipple Shield

- ☒ Kellymom.com salt water rinse after feeds
- ☐ Wash shield after use with non-antibacterial soap, rinse well and keep in ziplock or other container.
- ☐ Sterilize once per day (boil for 15-20 minutes or steam sterilizer)

#### Other

- ☒ Feed on demand.

#### Follow Up Care

- ☒ Phone Call – Breastfeeding Helpline: 702-616-4908
- ☐ New Mommy Mixer: Henderson – Fridays, 11 a.m., West – Wednesdays, 11 a.m.
- ☐ Weight Check \_\_\_\_\_
- ☐ Follow-up appointment with Lactation Specialist Call if needed  
(If you need to reschedule appointment, please call 24 hours in advance)

Seen By:

Marisol Olivariz R C/C

Date: 10-11-18

White – Patient

Yellow – Chart

Pink – Billing

XR-552 (0514)

JA003661

00000000000000000000  
00000000000000000000  
00000000000000000000  
00000000000000000000  
00000000000000000000  
00000000000000000000

Term 100.000 Ret 0.000

# Sale

XXXXXXXXXXXX1721

VISA Entry Method: Chip

10/11/18 13:32:15

Inv #: 000003 Appr Code: 257996

Batch#: 284001

Total: \$ 50.00

VISA 00000000000000000000  
ATM 00000000000000000000  
FST 00000000000000000000  
LVR 00000000000000000000

Cardholder: 00000000000000000000  
Name: 00000000000000000000

Saturday, 04/17/2021  
#FL50XH



**CITY OF HENDERSON (CHP - CHNEV)**



**User Details**

**Garcia, Nechole**  
(garcian2)

HealthSCOPE Benefits

Primary Insured

[Sign Out](#)

**Member Info**

**NECHOLE M GARCIA**  
INSURED

**Alternate ID:**  
A01473084

**Group Name:**  
CITY OF HENDERSON  
**Group ID:**  
CHNEV

**Subgroup Name:**  
CHNEV ACT PPO NON  
POLICE/FIRE  
**Subgroup ID:**  
CHN.AINPF

Copyright ©  
Healthaxis 2002-2021

**Claim Details**

**Claim Information Detail - [Health]**

<b>Patient:</b>	AVA GARCIA-SHAPIRO											
<b>Status:</b>	Processed											
<b>Service Dates:</b>	03/12/2021 - 03/12/2021						<b>Process Date:</b>	03/26/2021				
<b>Trans #:</b>	14952953						<b>Provider:</b>	Allergy Partners PA				
<b>Account #:</b>	48NV123300						<b>Practitioner</b>	Bob K Miyake MD				
Service Date	Service Description	Proc Code	# Units	Billed Amount	Less Discount	Less Excluded	Less Adjust	Less Copay	Less Deduct	Equals (X) Amount %	(=) Benefit	
03/12/2021	Professional Service	99214	1	\$190.00	\$56.75			\$25.00		\$108.25	\$108.25	
<b>TOTALS:</b>				<b>\$190.00</b>	<b>\$56.75</b>			<b>\$25.00</b>		<b>\$108.25</b>	<b>\$108.25</b>	
<b>PAID PROVIDER:</b> Check #: 0000042326-4764    Check Date: 03/26/2021											<b>\$108.25</b>	
<b>PAYEE:</b> ALLERGY PARTNERS PA 2485 W HORIZON RIDGE PKWY STE 100 HENDERSON, NV 89052-5949												
<b>PATIENT LIABILITY:</b>											<b>\$25.00</b>	
<b>COMMENTS:</b> - Contracted discount was applied in accordance with your agreement with Sierra Health-Care Options, Inc. - TO MEMBER: We need to know if any member of your family has or has had other group insurance in the last 12 months, Please mail the information, update us at <a href="http://www.healthscopebenefits.com">www.healthscopebenefits.com</a> or contact us at the number on your ID card.												

[Back to Member Dashboard](#)

**Quick Links**

[Order/Print ID Card](#)  
[Change Other Insurance Information](#)  
[Electronic Transactions Setup](#)  
[View Personal Information](#)

**Announcements**

No Announcements

**Documents**

[Teladoc Member Flyer](#)  
[COB Update Form](#)  
[Delta Dental Flyer](#)  
[Dispatch Health Flyer](#)  
[Summary of Benefits and Coverage - ...](#)  
[...More](#)

**Links**

[UnitedHealthcare Choice Plus](#)  
[Delta Dental](#)  
[Sierra Health Options](#)  
[VSP Vision](#)  
[Health Care Cost Estimator](#)

Saturday, 04/17/2021  
#FL50XH



**CITY OF HENDERSON (CHP - CHNEV)**



**User Details**

**Garcia, Nechole**  
(garcian2)

HealthSCOPE Benefits

Primary Insured

[Sign Out](#)

**Member Info**

**NECHOLE M GARCIA**  
INSURED

**Alternate ID:**  
A01473084

**Group Name:**  
CITY OF HENDERSON  
**Group ID:**  
CHNEV

**Subgroup Name:**  
CHNEV ACT PPO NON  
POLICE/FIRE  
**Subgroup ID:**  
CHN.AINPF

Copyright ©  
Healthaxis 2002-2021

**Claim Details**

Claim Information Detail - [Health]

**Patient:** AVA GARCIA-SHAPIRO  
**Status:** Processed  
**Service Dates:** 02/05/2021 - 02/05/2021  
**Trans #:** 14772607  
**Account #:** CB000HDX6C017  
**Process Date:** 02/26/2021  
**Provider:** Ear Nose & Throat Consultants Of Nevada Llp  
**Practitioner:** Walter Schroeder MD

Service Date	Service Description Code	Proc	#	Billed Amount	Less Discount	Less Excluded	Less Adjust	Less Copay	Less Deduct	Equals (X) Amount	(=) Benefit
02/05/2021	Professional Service	92567	1	\$60.00	\$39.34				\$20.66	\$0.00	\$0.00
02/05/2021	Professional Service	92587	1	\$170.00	\$92.24				\$77.76	\$0.00	\$0.00
02/05/2021	Professional Service	99202	1	\$150.00	\$97.69			\$15.00		\$37.31	\$37.31
<b>TOTALS:</b>				<b>\$380.00</b>	<b>\$229.27</b>			<b>\$15.00</b>	<b>\$98.42</b>	<b>\$37.31</b>	<b>\$37.31</b>

**PAID PROVIDER:** Check #: 0000039351-4764 Check Date: 02/26/2021

**PAYEE:** EAR NOSE & THROAT CONSULTANTS OF NEVADA LLP  
3195 SAINT ROSE PKWY  
STE 210  
HENDERSON, NV 89052-3504

**\$37.31**

**PATIENT LIABILITY:**

**\$113.42**

**COMMENTS:** - Contracted discount was applied in accordance with your agreement with Sierra Health-Care Options, Inc.  
- TO MEMBER: We need to know if any member of your family has or has had other group insurance in the last 12 months. Please mail the information, update us at [www.healthscopebenefits.com](http://www.healthscopebenefits.com) or contact us at the number on your ID card.

[Return to Claim Information Summary](#)

**Quick Links**

[Order/Print ID Card](#)  
[Change Other Insurance Information](#)  
[Electronic Transactions Setup](#)  
[View Personal Information](#)

**Announcements**

No Announcements

**Documents**

[Teladoc Member Flyer](#)  
[COB Update Form](#)  
[Delta Dental Flyer](#)  
[Dispatch Health Flyer](#)  
[Summary of Benefits and Coverage - ...](#)  
[...More](#)

**Links**

[UnitedHealthcare Choice Plus](#)  
[Delta Dental](#)  
[Sierra Health Options](#)  
[VSP Vision](#)  
[Health Care Cost Estimator](#)

Saturday, 04/17/2021  
#FL50XH



**CITY OF HENDERSON (CHP - CHNEV)**



**User Details**

**Garcia, Nechole**  
**(garcian2)**

HealthSCOPE Benefits

Primary Insured

[Sign Out](#)

**Member Info**

**NECHOLE M GARCIA**  
INSURED

**Alternate ID:**  
A01473084

**Group Name:**  
CITY OF HENDERSON  
**Group ID:**  
CHNEV

**Subgroup Name:**  
CHNEV ACT PPO NON  
POLICE/FIRE  
**Subgroup ID:**  
CHN.AINPF

Copyright ©  
Healthaxis 2002-2021

**Claim Details**

**Claim Information Detail - [Health]**

**Patient:** AVA GARCIA-SHAPIO  
**Status:** Processed  
**Service Dates:** 01/15/2021 - 01/15/2021  
**Trans #:** 14696327  
**Account #:** 364404  
**Process Date:** 02/05/2021  
**Provider:** Siena Pediatrics  
**Practitioner:** Carrie Wijesinghe MD

Service Date	Service Description	Proc Code	# Units	Billed Amount	Less Discount	Less Excluded	Less Adjust	Less Copay	Less Deduct	Equals (X) Amount	(=) % Benefit
01/15/2021	Professional Service	99213	1	\$180.00	\$147.58			\$15.00		\$17.42	\$17.42
<b>TOTALS:</b>				<b>\$180.00</b>	<b>\$147.58</b>			<b>\$15.00</b>		<b>\$17.42</b>	<b>\$17.42</b>

**PAID PROVIDER:** Check #: 0000036416-4764 Check Date: 02/05/2021 **\$17.42**

**PAYEE:** SIENA PEDIATRICS  
2441 W HORIZON RIDGE PKWY  
HENDERSON, NV 89052

**PATIENT LIABILITY:** **\$15.00**

**COMMENTS:** - Contracted discount was applied in accordance with your agreement with Sierra Health-Care Options, Inc.  
- TO MEMBER: We need to know if any member of your family has or has had other group insurance in the last 12 months. Please mail the information, update us at [www.healthscopebenefits.com](http://www.healthscopebenefits.com) or contact us at the number on your ID card.

[Return to Claim Information Summary](#)

**Quick Links**

[Order/Print ID Card](#)  
[Change Other Insurance Information](#)  
[Electronic Transactions Setup](#)  
[View Personal Information](#)

**Announcements**

No Announcements

**Documents**

[Teladoc Member Flyer](#)  
[COB Update Form](#)  
[Delta Dental Flyer](#)  
[Dispatch Health Flyer](#)  
[Summary of Benefits and Coverage - ...](#)  
[...More](#)

**Links**

[UnitedHealthcare Choice Plus](#)  
[Delta Dental](#)  
[Sierra Health Options](#)  
[VSP Vision](#)  
[Health Care Cost Estimator](#)



Your payment has been successfully processed.

Provider	St Rose Dominican Hospital Siena
Date	09/27/2018
Result	Success
Transaction ID	01Z6GLR59U00P737KTJJ5HUV3BIFN8SI
Payment Type	Visa - 6768
Merchant ID	686295218560
Card Holder Name	NECHOLE GARCIA
Patient Name	GARCIA, NECHOLE
Department	Financial Counseling
Patient Account Number	65334799
Amount	\$2,634.79
Total	\$2,634.79

I agree to pay the above total amount according to the card issuer agreement.

Signature:

If you would like to send feedback, please email us at [support@salucro.com](mailto:support@salucro.com)

Powered By:  
**SALUCRO**

*Thank you!  
Congratulations!*

WHASN SV West  
6285 W. 4th Ave #280  
Las Vegas, NV 89113  
702-802-0062

08/31/2018 08:38:11

Merchant ID:

\*\*\*\*\*395

Device ID: 1550

Terminal ID: 14X1

Credit Sale:

Transaction #: 6

Card Type: Visa

Account: \*\*\*\*\*6768

Entry: Chip

Amount:

\$25.00

STAN: 006

Auth. Code: 05310A

Response: AUTH/TKT

ACI Code: E

TRANS ID: 588241603108554

Mode: Issuer

AID: A0000000031010

TVR: 0000000000

IAD: 06010A03602002

TSI: F000

ARC: 00

APPH: CHASE VISA

CUSTOMER COPY

Thank You !!!

JA003667



P.O. Box 4665  
Independence, MO 64051-4665  
800.821.6136  
geha.com

## Explanation of Benefits

(This is NOT a bill. Retain for your records.)

ENV 1792 2 OF 3 B

Claim received: 03/14/2018  
Claim processed: 03/14/2018

Claim number: 180321178300  
Patient name: Nechole M Garcia  
Patient ID: 30449175-0

Provider: Garg, Amit  
Provider ID: 1105134801  
Patient account: 823843P122168

Member name: Nechole M Garcia  
Member ID: 30449175

### CLAIM SUMMARY

Amount billed.....	\$392.00
Amount allowed.....	\$176.71
Claim disallow.....	\$215.29
Other coverage payment .....	\$0.00
GEHA total paid.....	\$80.17
<b>Member responsibility.....</b>	<b>\$98.54</b>

### Claim detail

Service		Charges		Plan payments			Member responsibility				
Date(s)	Procedure code*	Amount billed	Amount allowed	Disallow	GEHA	HRA	Copay	Deductible	Coinsurance	Total	Note**
03/07/18	DOCC	\$190.00	\$95.17	\$94.83	\$80.17		\$15.00	\$0.00	\$0.00	\$15.00	F1
03/07/18	XRYO	\$200.00	\$81.54	\$118.46	\$0.00		\$0.00	\$81.54	\$0.00	\$81.54	F1
03/07/18	MENO	\$1.00	\$0.00	\$1.00	\$0.00		\$0.00	\$0.00	\$0.00	\$1.00	PS0
03/07/18	MENO	\$1.00	\$0.00	\$1.00	\$0.00		\$0.00	\$0.00	\$0.00	\$1.00	PS0
Total claim		\$392.00	\$176.71	\$215.29	\$80.17		\$15.00	\$81.54	\$0.00	\$98.54	

### Explanations

*Procedure code	DOCC	Medical Services
	MENO	Other Services and Supplies
	XRYO	Radiology Services
**Note	F1	The allowable amount is the negotiated amount. The disallow amount is the discount and is not patient responsibility.
	PS0	This Service Is Not Covered Under Your Plan, Please Refer To Your Brochure
	1AT	Priced using Aetna contract. Absent of that: MagnaCare(NY), PHCN(NV), PHCS (CA,OR,KY,MA) ProvPref (OR), CenterCar(KY), FHN(VT), Lehigh(PA)

### Your GEHA balances to date

Individual Deductible Satisfied	Family Deductible Satisfied	Family In Network Out of Pocket Satisfied
\$81.54	\$81.54	\$126.54

### Healthy message from GEHA

Two GEHA health plan members per household, age 18 or over, can earn a \$75 prepaid MasterCard and up to \$175 in Health Rewards points by participating in the GEHA Health Rewards program. Go to [geha.com/rewards](http://geha.com/rewards) for more information.

Para obtener asistencia en Espanol, llame al 800-208-5144



Government Employees Health Association, Inc.

P.O. Box 4665  
Independence, MO 64051-4665  
800.821.6136  
geha.com

## Explanation of Benefits

(This is NOT a bill. Retain for your records.)

1 OF 1 B

ENV 19758

Claim received: 04/10/2018  
Claim processed: 04/19/2018

Claim number: 180444964900  
Patient name: Nechole M Garcia  
Patient ID: 30449175-0

Provider: Gorski, Laura A  
Provider ID: 1101413123  
Patient account: 524854

Member name: Nechole M Garcia  
Member ID: 30449175

### CLAIM SUMMARY

Amount billed.....	\$1,001.00
Amount allowed.....	\$444.60
Claim disallow.....	\$556.40
Other coverage payment.....	\$0.00
GEHA total paid.....	\$444.60
<b>Member responsibility</b>	<b>\$97.50</b>

### Claim detail

Service		Charges			Plan payments		Member responsibility			
Date(s)	Proc code*	Amount billed	Amount allowed	Disallow	GEHA	HRA	Copay	Deduct.	Co-ins.	Note**
03/30/18	DOMO	\$160.00	\$0.00	\$160.00	\$0.00		\$0.00	\$0.00	\$0.00	M05
03/30/18	XRMO	\$430.00	\$204.00	\$226.00	\$204.00		\$0.00	\$0.00	\$0.00	F1
03/30/18	XRMO	\$411.00	\$240.60	\$170.40	\$240.60		\$0.00	\$0.00	\$0.00	F1
<b>Total claim</b>		<b>\$1,001.00</b>	<b>\$444.60</b>	<b>\$556.40</b>	<b>\$444.60</b>		<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	

### Explanations

\*Procedure code  
DOMO Medical Services  
XRMO Radiology Services

\*\*Note  
F1 The allowable amount is the negotiated amount. The disallow amount is the discount and is not patient responsibility.  
M05 Prenatal visits are not payable prior to the delivery date. Resubmit prenatal care after the delivery date.  
1AT Priced using Aetna contract. Absent of that: MagnaCare(NY), PHCN(NV), PHCS (CA,OR,KY,MA), ProvPref (OR), CenterCar(KY), FHN(VT), Lehigh(PA)

### Your GEHA balances to date

Individual Deductible Satisfied	Family Deductible Satisfied	Family In Network Out of Pocket Satisfied
\$81.54	\$81.54	\$141.54

### Healthy message from GEHA

Two GEHA health plan members per household, age 18 or over, can earn a \$75 prepaid MasterCard and up to \$175 in Health Rewards points by participating in the GEHA Health Rewards program. Go to [geha.com/rewards](http://geha.com/rewards) for more information.

Para obtener asistencia en Espanol, llame al 800-208-5144

JA003669

# Exhibit U

**Daniel B. Pickar, Ph.D., ABPP**  
**Clinical and Forensic Psychology**

1212 College Ave., Suite A  
Santa Rosa, CA 95404

Telephone (707) 566-0296  
Email : [dpickar@sbcglobal.net](mailto:dpickar@sbcglobal.net)  
Website: [danielpickarphd.com](http://danielpickarphd.com)

September 10, 2021

Molly Rosenblum, Esq.  
Rosenblum Allen Law Firm  
376 E. Warm Springs Road, Suite 140  
Las Vegas, Nevada 89119

**RE: Work Product Review – Child Custody Evaluation Report of Kathleen Bergquist, LCSW, Ph.D.**

**In the Matter of Evegeny Shapiro vs. Nechole Garcia**  
**Case No. D-20-612006-C, Family Division, Clark County Superior Court, Nevada**

Dear Ms. Rosenblum:

At your request, enclosed is a “work product review” of Dr. Kathleen Bergquist’s Child Custody Evaluation report of February 19, 2021.

My qualifications for providing this review are as follows. I am a licensed child psychologist in California (license #PSY9317) who is board certified in clinical psychology by the American Board of Professional Psychology. I have conducted over 450 child custody evaluations in Northern California over the last 30 years. I have published over 30 journal articles and book chapters, with over half of these being in the area of various aspects of child custody evaluations and family law. As a child psychologist, I regularly conduct psychoeducational evaluations of children. Additionally, for 12 years, I served as the Chief of Child and Family Psychiatry Services at Kaiser Permanente Medical Center in Santa Rosa. I have served as an expert witness in numerous counties in the state of California, as well as in other states. I also served on the Editorial Board of the Journal of Child Custody for 7 years, and am currently serving on the Board of Directors of the Association of Family Conciliation Courts (AFCC). In 2019, I was awarded the Judge Rex Sater Award

for “excellence in family law” by the Sonoma County Bar Association (California).

A particular area of expertise is evaluating special needs children in the context of separation and divorce. I have authored several scholarly publications and book chapters in this area and conducted numerous workshops and webinars for the Association of Family and Conciliation Courts (AFCC) and the American Academy of Matrimonial Lawyers (AAML) on the topic of special needs children in situations of divorce. Referenced below are two recent journal publications in this area (Pickar & Kaufman<sup>1</sup>, 2015; Kaufman and Pickar<sup>2</sup>, 2017) as well as a book chapter on intervention planning with special needs children following divorce (Pickar & Kaufman<sup>3</sup>, 2019).

A work product review does not provide additional child custody recommendations, as I have not been appointed by the court for this purpose nor interviewed the parties myself. Rather, a work product review attempts to provide an objective analysis of the methodology and data analysis of a child custody evaluation report. Such a procedure also addresses whether the “best interests” opinions and recommendations are supported by the data presented in the report, the records which were available to the evaluator, as well supported by the research literature regarding any special issues involved in the family (i.e., allegations of domestic violence, substance abuse, relocation requests, or children with special needs). Also, a key aspect of a work product review is examining whether an evaluator is conducting their role in an impartial manner, or, whether any source of bias appears to exist, which might compromise an evaluators objectivity and the court’s confidence in the integrity of the evaluators’ recommendations.

A work product review is also guided by an examination of whether the evaluator’s methodology, analysis, and recommendations are consistent with currently established professional guidelines for conducting child custody evaluations. The most widely accepted standards of practice for child custody

---

<sup>1</sup> Pickar, D.B., & Kaufman, R.L. (2015). Parenting plans for special needs children: Applying a risk-assessment model. *Family Court Review*, 53(1), 113-133.

<sup>2</sup> Kaufman, R. L., & Pickar, D.B. (2017). Understanding parental gatekeeping in families with a special need’s child. *Family Court Review*, 55(2), 195-212.

<sup>3</sup> Pickar, D.B., & Kaufman, R.L. (2019). The special needs child after separation or divorce: Involving both parents in treatment and intervention planning (book chapter). In L. Greenberg, M. Saini, & B. Fidler (Eds.). *Evidence-Informed Interventions for Court-Involved Families: Promoting Healthy Coping and Development*. Oxford University Press.

evaluations are contained in the “Model Standards of Practice for Child Custody Evaluation” published by the Association of Family and Conciliation Courts (AFCC) in 2006<sup>4</sup>, as well as the “Guidelines for Child Custody Evaluations in Family Law Proceedings published by the American Psychological Association (APA) in 2010.<sup>5</sup> These are documents in which every child custody evaluator should be familiar.

While I am a retained consultant, I nonetheless strive to be objective and balanced in my analysis of data and issues. Ultimately, even as a retained expert by one party, I view my role as that of *trying to be helpful to the court* by providing relevant information that could have a bearing on the courts “best interests” determination regarding a parenting plan for a child.

In conducting this work this product review, Molly Rosenblum provided this psychologist with the same documents that were provided to Dr. Bergquist, which included the psychological test reports completed with each parent by Sunshine Collins, Psy.D.. I also received additional documents which were generated after the completion of Dr. Bergquist’s report of February 21, 2021. These included:

1. Therapy Management Group Early Intervention Report on Ava Garcia-Shapiro (Child Autism Rating Scale (CARS), dated April 5, 2021.
2. Developmental Pediatric Examination Report of Ava Garcia-Shapiro from the Spero Developmental Behavior Pediatrics, completed by Mario Gaspar de Alba, M.D., dated August 10, 2021.
3. Deposition Transcript of Dr. Kathleen Bergquist, July 1, 2021

This psychologist was also asked by Ms. Rosenblum, to address whether these two reports on Ava, which were not available to Dr. Bergquist at the time of the completion of her evaluation, would change anything regarding my analysis of Dr. Bergquist’s conclusions and recommendations regarding a parenting plan for Ava.

#### **Dr. Bergquist’s Methodology:**

According to the AFCC standards, “evaluators shall use diverse methods in gathering information” (Standard 5.4) as well as use valid and reliable methods of data gathering (Standard 5.6). In reviewing Dr. Bergquist’s methodology, she

---

<sup>4</sup> Association of Family and Conciliation Courts (AFCC) (2006). Model standards of practice for child custody evaluations. Madison, WI: AFCC (available from AFCC website – afccnet.org)

<sup>5</sup> American Psychological Association (APA) (2010). Guidelines for child custody evaluations in family law proceedings. *American Psychologist*, 65(9), 863-867.

did utilize a diverse set of data gathering methods, which included multiple parent interviews, home visits/parent observations of Ava with each parent, numerous collateral interviews with professionals, family members and friends of each parent, as well as a review of numerous records. It was also positive that Dr. Bergquist had Dr. Sunshine Collins complete psychological testing of each parent. Dr. Collins also utilized psychological tests which have excellent validity and reliability, and are commonly utilized in child custody evaluations. While Dr. Bergquist did not list the specific amounts of time she spent with each parent in her "assessment procedures" section on page 1 and 2, she did appear to use a "balanced process in order to increase objectivity, fairness, and independence" (AFCC Standard 5.5), by spending relatively equivalent amounts of time with her parent. Thus, her methodology does not indicate any particular evidence of bias.

**Dr. Bergquist's "Analysis of the Case", including her "clinical summary," and "conclusions (pages 23 to 31):**

On page 25 of the report, the evaluator examines whether Ava may be at any risk due to fathers "alleged inattentiveness or carelessness, and lack of attention to safety." However, when she described an incident (also on page 25) of July 8, 2020, when Ava was left "alone in her room to play for several minutes while he (father) spent time in another part of the house," the report does not indicate that Dr. Bergquist ever directly questioned father about the incident, which reflects a lack of inquiry into an important issue of safety for this child. Another major concern about father as described in the report, is father's withholding of Ava from her mother for a two-week period of time, during a period when Ava was breastfeeding. This also represents significantly poor judgement on the part of father and a lack of attentiveness to Ava's sense of security, safety, and nurturance, which also was underplayed by the evaluator. However, Dr. Bergquist's did note about father that, "Eugene does have a tendency to minimize and be defensive, as evidenced by collateral reports, interviews, and suggested by psychological testing" (page 26).

On page 31, Dr. Bergquist described that "Dr. Collins has suggested that it might be appropriate to evaluate Ava for a developmental disorder, particularly an autism spectrum disorder (ASD)." Dr. Bergquist appears to agree with this recommendation when she states in the same paragraph, "further evaluation is advised." Dr. Bergquist then further states on page 32, "Given the possibility that Ava may need ongoing professional intervention, Ms. Garcia appears to be the more likely parent to ensure her needs are met." The evaluator then states, "Mr. Shapiro seems to be somewhat unaware of developmentally appropriate parenting to include the importance of childproofing and supervision as discussed above." However, as I will describe next, *Dr. Bergquist's parenting plan recommendations (i.e., a 55/45 or 60/40 timeshare) are inconsistent with the concerns she raises about father's parenting skills, and are highly questionable for a young child with autistic spectrum disorder (ASD).*

**Analysis of Dr. Bergquist's Child Custody/Parenting Plan  
"Recommendations" (pages 32 to 33):**

This psychologist, as a reviewing expert, cannot make parenting plan recommendations, as I have not evaluated the family members myself or conducted a child custody evaluation. However, a work product review can address whether the "best interests" opinions and recommendations are supported by the data presented in the report, as well supported by the research literature regarding any special issues involved in the family, such as if a child has special needs. In the AFCC Model Standards of Practice for Child Custody Evaluation (2006), it states in Standard 5.8, "Evaluators shall assess each child whose placement is at issue and *shall be attentive to any special developmental needs of the children.*"

A major concern with Dr. Bergquist's parenting plan recommendations is that they are inconsistent with the data and concerns she expresses about father in the body of the report, as well as inconsistent with the developmental, diagnostic and child custody research literature regarding children with ASD. Thus, her report does not exhibit an attentiveness to Ava's "special developmental needs," as required by AFCC standards.

Regarding the psychological testing data from Dr. Collins, the results of the BASC-3 for mother clearly indicate that mother is very aware of Ava's developmental and psychological areas of difficulty. Mother's clinically significant ratings for Ava on the BASC-3 (from Dr. Collin's report) are consistent with a child who has ASD (i.e., atypicality, withdrawal, poor adaptive, social and communication skills). However, as noted by Dr. Collins about father's BASC-3 ratings for Ava, "his responses indicate that he sees Ava as generally free of emotional or behavior problems". Although father did recognize that Ava has some social skills, his BASC-3 rating indicate that, "Father sees Ava as being as resilient as same age peers." Dr. Bergquist, in her "recommendation" section on page 32, states, "there are some significant concerns as to Mr. Shapiro's ability to fully attend to her (i.e., Ava) needs." The evaluator then further states, "Ms. Garcia seems better positioned to provide more fully for Ava's needs and interests, given her youth. Nechole plays an important protective role as a gatekeeper for Ava, and she will likely need to continue in that role if Ava is identified further with special needs."

Therefore, a major concern is that the evaluators recommendation for either a "55/45 or 60/40" parenting plan arrangement are inconsistent with the concerns she raises about father's parenting skills and his lack of awareness of Ava's special needs (as indicated by the BASC-ratings). As previously mentioned, Dr. Bergquist's parenting plan recommendations also do not take into account parenting plan considerations when a preschool child has such a serious diagnosis as an autistic spectrum disorder. Dr. Bergquist provides no clear rationale for why the parenting plan she recommends is in Ava's best

interests, given the concerns she noted about father being “in denial” about Ava’s developmental delays, his poor supervision and carelessness, and difficulty being fully attentive to her needs.

Furthermore, I have never reviewed a child custody evaluation report in which an evaluator only recommends time percentages for a time share arrangement, and does not offer the court recommendations with a specific parenting plan schedule. Unfortunately, the evaluator’s approach is far less useful than if she had recommended a specific parenting plan schedule. While it is positive that the evaluator recommended that father complete a parenting class “to enhance his ability to understand developmentally appropriate parenting” (page 32), it would have made sense to wait until father finished such a class before considering increasing paternal custodial periods with Ava.

In AFCC Standard 5.11, it states:

*When evaluators lack specialized training in particular areas of concern for the evaluation, they shall either decline the appointment for the evaluation or seek professional consultation in the assessment of that portion of the evaluation.*

On page 79 of Dr. Bergquist’s deposition of July 1, 2021, Dr. Bergquist is asked by Mr. King, “if Eva is diagnosed with ASD, and additional medical records are provided, do you think that we should have the ability to get a more complete and final custodial evaluation.” In response to this question, the evaluator stated, “I think what might be more helpful to the court is to actually have an expert review that diagnosis” and “because I am not an expert in autism spectrum” (page 81). Thus, Dr. Bergquist acknowledges not being an expert on ASD, but furthermore, she never sought consultation from an ASD expert (as per AFCC Standard 5.11). Therefore, it would have been a far more ethical and responsible practice for the evaluator to first have received both the developmental pediatric examination by Dr. De Alba and the Early Evaluation – Child Autism Rating Scale reports prior to issuing a report with parenting plan recommendations. For example, the Early Intervention Report, which contained a diagnosis of “mild to moderate autistic spectrum disorder” was only issued 6 weeks after the evaluator’s child custody evaluation report was issued.

Lastly, AFCC Standard 12.4 states:

#### **12.4 ARTICULATION OF LIMITATIONS**

*In reports and in testimony evaluators shall articulate any limitations to the evaluation with respect to methodology, procedure, data collection, and data interpretation. [Refer to 5.4.] When the available data do not enable evaluators to opine responsibly on the relative advantages and disadvantages of different parenting plans under consideration, they shall decline to offer an opinion.*

Dr. Bergquist in her report, offers no statement regarding any "limitations to her data," which is inconsistent with the above AFCC standard. Rather, because Dr. Bergquist is not an ASD expert and was likely aware that Ava was going to soon be evaluated by an Early Intervention Assessment for possible ASD, it would have been best to wait until the Early Intervention report was issued prior to completing her report.

**Conclusions Regarding Dr. Bergquist's' Parenting Plan Recommendations (now that Ava has been diagnosed with autistic spectrum disorder)**

In the Spero Developmental Behavioral Pediatrics report from August 10, 2021, Dr. de Alba made a diagnosis of "Autistic Spectrum Disorder Level 1 with Communication Delay for Ava. In the Therapy Management Group Early Intervention report dated April 5, 2021, Ava was diagnosed with "mild to moderate symptoms of autism spectrum disorder." It is worth noting, though, that Ava's score of 36 on the CARS (Child Autism Rating Scale) was only one point shy of placing her in the category of "severe symptoms of autism spectrum disorder." In other words, Ava's symptoms are likely more "moderate" than "mild. "Furthermore, in the Early Intervention Report, it states, "mother reports that she does have concerns for autism", and then states "father reports he does not have concerns for autism." Thus, the Early Intervention report provides clear evidence that mother is far more attuned to Ava's special developmental needs than father.

As previously stated, Dr. Bergquist acknowledges in her deposition that she is not an expert in autistic spectrum disorder. She also suggests that an expert in ASD should review her recommendations. Therefore, there are three major flaws in Dr. Bergquist's report recommendations:

- 1) The evaluator offers no specific parenting plan schedule for consideration by the court, beyond recommending percentages of time that each parent should spend with Ava.
- 2) The evaluator does not take into account that she is making "best interests" parenting plan recommendations for a child who has ASD. Her time-share recommendations are geared towards a child who is neurotypical, but are inappropriate for a preschool child with ASD.
- 3) The evaluator's recommendations are inconsistent with the data presented in her report, namely, that mother is far more attuned to Ava's special developmental needs than father, as well as that father lacks awareness of Ava's special developmental needs and may be inattentive to safety issues for his daughter.

Lastly, this psychologist cannot make parenting plan recommendations for this specific child, given that I have not evaluated these parents or child. However, I do want to offer highly relevant information to the court, which should be considered when devising appropriate parenting plans for a young child with ASD.

#### **Parenting Plan Considerations with Autistic Spectrum Disorder Children:**

For many ASD children, commonly recommended developmentally-based parenting plans following separation may be inappropriate, as some of these children function significantly below their developmental level. Also, in many instances of separation/divorce involving an ASD child, the need for consistent routine and stability in residential placement and/or the primary need for safety and supervision may outweigh a custodial schedule that provides significant time with both parents. Like all children, those with ASD are at risk for poor outcomes when their families go through separation and/or divorce. In particular, children with neurodevelopmental disorders such as ASD are at risk for a host of potentially harmful short and long-term consequences. In a previously referenced article (Pickar & Kaufman, 2015), we enumerated the multiple factors that must be weighed by family law professionals to support the best interests of special needs children, and how such factors may differ from considerations in other families. To this end, Dr. Kaufman and I developed a risk-protection continuum model for use with families with a special needs child (such as an ASD child), to assist with decision-making regarding these families involved in family court.

Appendix A of this declaration contains a table from our article (Pickar & Kaufman, 2015) entitled, "Risk-Protection Continuum for Use with Special Needs Children" which lists 8 risk-protection domains to be strongly considered when devising parenting plans for special needs children. The domains are based upon the diagnostic and treatment literature for a range of neurodevelopmental disorders, such as ASD. The domains highlight empirically-based variables that can eventuate in physical, social, and/or emotional compromise of a special needs child (SNC) and the educational and medical risks associated with a range of childhood disorders. The domains also consider the empirically-based educational, psychotherapeutic, and medical interventions that can benefit ASD children, and the risk if such treatment is not sought or provided. This model emphasizes the demand on parents to support and participate in intervention plans.

The domains include: 1. Safety issues, including physical and environmental safety; 2. Parenting skills, including a parent's ability to provide structure and routine, time availability to manage the child's special needs, emotional attunement, and whether a parent has "acceptance" or "denial" about their child's diagnosis; 3. Medical, educational and therapeutic needs, including not only a parent's awareness and acceptance of the need for such services, but

whether a parent will take the active steps to arrange for, and participate in, such services with their child when required or necessary; 4. Ability of each parent to be an assertive advocate for their child in educational, medical, and therapeutic settings; 5. Parenting plan considerations, including reducing the number of transitions between homes, predictability of the schedule, as well as the schedule being consistent with the child's developmental age (not their chronological age).

In varying degrees of severity, ASD children have great difficulty with reciprocal interpersonal interactions. They also have poor nonverbal skills for social relations (i.e., not making eye contact, lacking facial expressions, not reading social cues) and may lack interest in peers. Many ASD children also evidence a restricted pattern of behavior and may also perseverate on specific areas of interest or engage in repetitive motor movements. Children with ASD frequently insist upon excessive environmental repetition and an inflexible adherence to routine. Thus, they have difficulty with transitions between settings, and they may display extreme distress at small changes in their routine.

With regards to a parenting plan schedule for a 3-year old child with ASD, there is no particular formula which works best in every situation. Therefore, our risk assessment model was developed as a "best practice" to be utilized in family law situations with an ASD child, in order to devise a safe parenting plan arrangement emphasizing the special needs of the ASD child, while considering the history of parenting of such a child, including parental acceptance of the diagnosis, willingness to be involved in all forms of treatment, and the ability of divorcing parents to effectively "co-parent," given the complexity of the ASD child's needs. In general, with a three-year old child with ASD, even in a situation of two fully involved parents prior to separation, it would not be considered best for such a child to be in a joint or fully shared physical custody arrangement. Some of the reasons for such an empirically-based, cautionary approach to parenting plan development for a 3-year old ASD child are noted below.

Due to the severe impairments in everyday living skills found in many, if not most ASD children, approaches to treatment are comprehensive and intensive. ABA (Applied Behavior Analysis) therapy, which has been recommended for Ava, places a heavy demand on parents not only to support the treatment, but to implement specific behavioral strategies in a variety of settings. Most ABA therapies, which can begin with children as young as 2 years of age, typically involve 20 to 40 hours per week of parent and child ABA instruction, as parents are involved as change agents for their children in the home and community. Parents are typically asked to work alongside an experienced behaviorist for several hours per week, as it is crucial for parents to be implementing teaching procedures for their child at home. This includes parents' encouraging their child to use appropriate communication skills in

everyday settings, incorporating self-help skills into children's daily routines, and arranging activities that promote further skill development, such as outings and play dates. Parents must also be strong advocates for their children in educational and medical settings, and have the time and willingness to get their ASD child to speech-language therapy, occupational therapy, and in many instances, to sensory integration therapy or social skills groups. If one of the parents in a divorce is not fully accepting of the ASD diagnosis or demonstrates an unwillingness or lack of availability to participate in such required services, then joint physical custody would be contraindicated for a young ASD child.

For ASD children, even those who are at a Level 1 or Level 2 degree of severity, an extraordinary level of supervision may be required. Such children are especially prone to physical dangers due to excessive self-absorption, such as not looking out for cars. Given how serious these risks can be, family law professionals should assess which parent is most attentive to physical dangers to insure the ASD child's safety. Having a parent who can provide vigilant supervision, consistent with the ASD child's functional capacities, is a crucial parenting plan consideration with such children. ASD children exhibit an excessive need for sameness and consistency in their daily routines and thrive with schedules and predictability. In turn, they tend to become anxious and may have tantrums when their routine is disrupted in even small ways. The parent who is "in denial" about their child's condition will have far more difficulty providing the specialized parenting needed with ASD children. As mentioned, children with moderate to severe ASD often need 24-hour supervision, so the question underlying the best parenting plan arrangement frequently becomes, which parent has the time availability to closely supervise and manage the child's needs, while also getting them to appointments for special therapeutic or medical services?

With ASD children, there are typically a host of decisions that need to be made regarding which educational and medical interventions to pursue or when adjunctive mental health services may benefit the child. In situations in which one parent is "in denial" about their child's diagnosis, or the parents have very limited ability to make joint decisions, it may be necessary to have one parent with the legal authority of make accurate and timely decisions.

#### **Summary regarding time-share considerations with an ASD child:**

Even under the best of circumstances, when there are two capable parents with a functional co-parenting relationship and general agreement about diagnosis and treatment approaches, traditional joint custody time-share arrangements may not be feasible or best for an ASD child. Because ASD children generally function at a lower developmental level than their chronological age, parenting plans must be calibrated to the functional capacity of the child. Moreover, for many ASD children, the need for sameness

in home environment may supersede the need for sameness of routine. Thus, even if routines in two homes are coordinated and come close to mirroring each other, the ASD child may still be stressed by merely transitioning to a different physical home environment. Parenting plans must accommodate this basic need that arises out of an autistic spectrum disorder, to prevent exacerbation of symptoms. Even higher functioning ASD children find it difficult to transition between homes and require longer periods to adjust to the shift in residence.

Sincerely yours,

/s/ Daniel Pickar, Ph.D., ABPP

Daniel B. Pickar, Ph.D., ABPP  
Diplomate in Clinical Psychology  
American Board of Professional Psychology  
California Licensed Psychology - #PSY9317

**Appendix A**

### Risk-Protection Continuum for Use with Special Needs Children

(From: Pickar, D.B., & Kaufman, R.L. (2015). Parenting plans for special needs children: Applying a risk assessment model. *Family Court Review*, 53(1), 113-133.)

Domain	Most likely to cause risk for harm	Most likely to provide protection from harm
<b>1. Safety Issues</b>		
<ul style="list-style-type: none"> <li>Physical safety/supervision</li> </ul>	Lack of or inconsistent supervision	Vigilant supervision consistent with child's functional capacities
<ul style="list-style-type: none"> <li>Environmental safety</li> </ul>	Parent has not implemented appropriate home safety modifications as needed	Parent has or is willing to implement recommended home safety modifications
<b>2. Parenting Skills</b>		
<ul style="list-style-type: none"> <li>Parent/child temperament match</li> </ul>	Poor match between parent and child temperaments that interferes with parent's ability to tolerate and manage child's behavior	Positive match between parent and child temperaments that enables parent to tolerate and manage child behaviors
<ul style="list-style-type: none"> <li>Structure and routine</li> </ul>	Parent unable to implement consistent and appropriate structures and routines (i.e., meals, bedtime, hygiene, chores), and follow-through with in-home behavioral plan	Parent able to implement consistent structures and routines (i.e., meals, bedtime, hygiene, chores) and follow-through with in-home behavioral plan
<ul style="list-style-type: none"> <li>Discipline</li> </ul>	Parent does not apply appropriate limit-setting, positive reinforcement, and consequences	Parent applies appropriate limit-setting, positive reinforcement, and consequences
<ul style="list-style-type: none"> <li>Time availability at home</li> </ul>	Parent does not have adequate time to manage special needs of child at home.	Parent has time available to manage the special needs of the child at home.
<ul style="list-style-type: none"> <li>Acceptance or denial about child's condition</li> </ul>	Parent is "in denial" about child's special needs and resists becoming educated about the child's needs.	Parent is well versed and educated regarding the child's special needs.
<ul style="list-style-type: none"> <li>Emotional attunement</li> </ul>	Parent is not well attuned to shifts in child's moods and behavioral functioning. Parent misses or misreads cues and is unable to implement effective and timely interventions.	Parent understands and is attuned to shifts in the child's moods and behavioral functioning. Parent is able to fashion and implement effective and timely interventions.
<b>3. Medical Needs</b>		
<ul style="list-style-type: none"> <li>Openness to medical intervention</li> </ul>	Parent won't consider appropriate medication for child as per recommendations of medical providers, or administer prescribed medication	Parent is cooperative and follows-through with recommended medical interventions
<ul style="list-style-type: none"> <li>Time availability for medical appointments</li> </ul>	Parent is not available to take child to medical appointments and is not	Parent has good availability for medical appointments and

	in contact with medical and providers.	prioritizes availability for child's treatment.
<b>4. Educational Needs</b>		
<ul style="list-style-type: none"> <li><b>Awareness of special educational needs</b></li> </ul>	Parent is unaware of and/or uninterested in child's specific educational needs.	Parent is aware of child's educational needs and is actively involved with school and other auxiliary providers.
<ul style="list-style-type: none"> <li><b>Coparenting and communication about special educational needs</b></li> </ul>	Joint decision-making regarding educational needs is not possible due to divergent views or high conflict.	Parents are able to make decisions jointly and collaboratively, despite any disagreements they may have. Alternately, one parent is in charge of educational decisions.
<ul style="list-style-type: none"> <li><b>Takes steps to arrange for special education services</b></li> </ul>	Parent has not pursued necessary educational plans for accommodations, such as IEPs or 504 plans.	Specialized educational plans, such as IEPs or 504 plans are in place.
<b>5. Therapeutic Services</b>		
<ul style="list-style-type: none"> <li><b>Mental health therapy</b></li> </ul>	Parent denies need for or refuses to pursue needed mental health services.	Parent pursues and implement appropriate mental health services.
<ul style="list-style-type: none"> <li><b>Occupational therapy, physical therapy, or other needed services</b></li> </ul>	Parent denies need for, or refuses to pursue, needed Occupational Therapy or Physical Therapy services.	Parent pursues and implements appropriate Occupational Therapy or Physical Therapy services.
<ul style="list-style-type: none"> <li><b>Parent participation in services</b></li> </ul>	Parent refuses to participate in parent component of therapeutic services.	Parent is available and willing to participate in parent component of therapeutic services.
<b>6. Advocacy</b>	Parent is passive and unable or unwilling to advocate for child.	Parent is appropriately assertive and willing to advocate for child.
<b>7. Parenting Plan Schedule Considerations</b>		
<ul style="list-style-type: none"> <li><b>Transitions between homes</b></li> </ul>	Schedule with multiple transitions, especially when parents are in conflict.	Schedule that minimizes transitions and has low-key and effective transitions.
<ul style="list-style-type: none"> <li><b>Predictability of schedule</b></li> </ul>	Schedule that has many changes week-to-week or has too much unpredictability.	Schedule that is stable, predictable and one that the child can learn.
<ul style="list-style-type: none"> <li><b>Parenting plan schedule consistent with child's developmental level (not just chronological age)</b></li> </ul>	Parenting plan is not consistent with child's developmental level.	Parenting plan is consistent with child's developmental level.
<b>8. Financial Considerations</b>	Parent is unwilling and/or unable to pay for special services. If unable, the parent is not willing to	Parent is willing and able to pay for special services as recommended.

	pursue alternative sources of financial support.	
--	---	--

## Child Custody Complaint

## COURT MINUTES

November 03, 2021

D-20-612006-C      Evgeny Shapiro, Plaintiff.  
                                 vs.  
                                 Nechole Garcia, Defendant.

---

**November 03, 2021      09:00 AM      Evidentiary Hearing**

**HEARD BY:**      Harter, Mathew      **COURTROOM:** Courtroom 24

**COURT CLERK:**      Moffett, Hilary

**PARTIES PRESENT:**

**Evgeny Shapiro, Counter Defendant, Plaintiff,      Jennifer Isso, Attorney, Present**  
**Present**

**Nechole Garcia, Counter Claimant, Defendant,      Molly S. Rosenblum, Attorney, Present**  
**Present**

**Ava Garcia-Shapiro, Subject Minor, Not Present**

**JOURNAL ENTRIES****EVIDENTIARY HEARING**

Ms. Rosenblum made her opening statement. Ms. Isso waived.

Testimony and exhibits were presented (see worksheets).

Court noted that day two of the evidentiary hearing is scheduled for 11/5/21 at 9:00 a.m.

**INTERIM CONDITIONS:****FUTURE HEARINGS:**

Nov 04, 2021    1:15PM Telephonic Hearing  
Courtroom 24 Harter, Mathew

Nov 05, 2021    9:00AM Evidentiary Hearing  
Courtroom 24 Harter, Mathew

1 **TRANS**

2  
3  
4  
5 **EIGHTH JUDICIAL DISTRICT COURT**  
6 **FAMILY DIVISION**  
7 **CLARK COUNTY, NEVADA**  
8

9 EVGENY SHAPIRO, )  
10 Plaintiff, ) CASE NO. D-20-612006-D  
11 vs. ) DEPT. N  
12 NECHOLE GARCIA, ) APPEAL NO. 83992  
13 Defendant. )  
14

15 BEFORE THE HONORABLE MATHEW HARTER  
16 DISTRICT COURT JUDGE

17 TRANSCRIPT RE: EVIDENTIARY HEARING

18 WEDNESDAY, NOVEMBER 3, 2021

19 **APPEARANCES:**

19 The Plaintiff: EVGENY SHAPIRO  
20 For the Plaintiff: JENNIFER ISSO, ESQ.  
21 8965 S. Eastern Ave., #120M  
22 Las Vegas, Nevada 89123  
23 (702) 434-4424  
24  
22 The Defendant: NECHOLE GARCIA  
23 For the Defendant: MOLLY ROSENBLUM, ESQ.  
24 376 E. Warm Springs Rd., #140  
Las Vegas, Nevada 89119  
(702) 433-2889

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

I N D E X   O F   W I T N E S S E S

<u>PLAINTIFF'S</u> <u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
---	---------------	--------------	-----------------	----------------

EVGENY SHAPIRO	87	--	--	--
NECHOLE GARCIA	210	--	--	--
HEATHER TAUCHEN	282	287	--	--

DEFENDANT'S  
WITNESSES:

DANIEL PICKAR	28	52	81	--
NECHOLE GARCIA	308	--	--	--

\* \* \* \* \*

I N D E X   O F   E X H I B I T S

<u>PLAINTIFF'S</u> <u>EXHIBITS:</u>	<u>ADMITTED</u>
--	-----------------

8 - Receipts	184
25, Bates 0856 - Text messages	123
25, Bates 1646 - Text messages	267
25, Bates 2040, 2041 - Text messages	265
25, Bates 2354, 2356 - Text messages	270
25, Bates 2357 - Text messages	270
25, Bates 2412, 2413 - Text messages	272
25, Bates 2437 - Text messages	273

1	25, Bates 2441 - Text messages	274
2	25, Bates 2639, 2640 - Text messages	277
3	31 - Pictures	123
4	33 - CARS report	205
5	39 - Pictures	125
6	40 - Pictures	179
7	49 - Medical records	160
8	53 - Dr. Gaspar report	206
9	55-3 - Video	152
10	55-9, 55-37, 55-39, 55-43 - Videos	173
11	55-17 - Video	153
12	55-36 - Video	174
13	57 - Firefly ABA plan	204
14	60 - TMG exit records	205
15	65 - IEP	95
16		
17	DEFENDANT'S	
18	<u>EXHIBITS:</u>	
19	M - Dr. Pickar curriculum vitae	29
20	U - Dr. Pickar report	52
21		
22		
23		
24		

P R O C E E D I N G S

(The following transcript contains multiple indiscernibles due to poor recording quality)

(THE PROCEEDINGS BEGAN AT 9:01:58)

MS. ISSO: We're going to waive opening statements, but we -- we do want to object to the fact that we have a very limited time to present the evidence considering --

THE COURT: Okay.

MS. ISSO: -- how --

THE COURT: But I already --

MS. ISSO: -- complex --

THE COURT: You've already noted that at a --

MS. ISSO: Your Honor --

THE COURT: -- previous hearing --

MS. ISSO: -- let me --

THE COURT: -- and --

MS. ISSO: -- let me --

THE COURT: -- the Court --

MS. ISSO: -- finish my statement please --

THE COURT: -- has overruled --

MS. ISSO: -- Your Honor.

THE COURT: -- that --

1 MS. ISSO: So I was speaking, Your Honor.

2 THE COURT: -- six hours --

3 MS. ISSO: Your Honor, I was speaking.

4 THE COURT: -- is enough.

5 MS. ISSO: Your Honor, I was speaking.

6 THE COURT: Excuse me?

7 MS. ISSO: I'm trying to make a clear record. We  
8 would like to object to the time limit considering how complex  
9 this case is. In fact, when I spoke to your Clerk yesterday,  
10 he was stating that they haven't had a case like this with so  
11 many exhibits and so many binders for such a long time. So  
12 it's very complex. And we do want to object to the time  
13 limit. Thank you.

14 THE COURT: Okay. So noted.

15 MS. ROSENBLUM: So are we ready? Judge, just as a  
16 -- as a matter of housekeeping, Dr. Pickar will be on probably  
17 in about 10 minutes. He was in a meeting this morning. He is  
18 the witness that we have asked for accommodation. The other  
19 witness was Amber Harris. She contacted our office last night  
20 and advised that she can only be available on Friday. So  
21 we'll call her on Friday. If we need, we can.

22 MS. ISSO: Your Honor, we don't mind accommodating  
23 their witnesses as long as they accommodate our witness. Our  
24 expert won't be available until Friday. So if her expert

1 wants to go today, that's fine, but our expert will need to go  
2 on Friday along with -- we have Mark James on Friday and Dr.  
3 Bergquist. Who else? And Dr. Bergquist on Friday. We also  
4 might want to call the Defendant's mother on Friday if we have  
5 enough time. If not, then we might not call her.

6 THE COURT: Right now it's your time, Ms. Rosenblum.  
7 You're the one who wanted to go out of order. Otherwise --

8 MS. ISSO: So is there a stipulation?

9 THE COURT: -- we would have started with their case.

10 MS. ISSO: Well, before -- is there a stipulation  
11 to that before I allow her to call her expert?

12 THE COURT: Yeah, I'm -- I'm fine with -- I -- I  
13 agree with that.

14 MS. ISSO: Okay. So there's just -- there's an  
15 agreement.

16 THE COURT: Yeah.

17 MS. ISSO: Okay.

18 THE COURT: I agree with that.

19 MS. ISSO: Okay. Then she can --

20 MS. ROSENBLUM: I -- I think the Court was clear we  
21 were going to call witnesses as you call them.

22 MS. ISSO: I'm sorry, I didn't hear. What? I  
23 didn't hear what Opposing Counsel said, Your Honor.

24 THE COURT: Listen, I can't -- I'm not sure if she

1 said anything that was pertinent anyway.

2 MS. ISSO: So you didn't hear what she said either?  
3 Okay.

4 MS. ROSENBLUM: Just briefly, Your Honor, I would  
5 like to make an opening if that's --

6 THE COURT: Go right ahead.

7 MS. ROSENBLUM: -- if that's okay.

8 THE COURT: It's your time ticking.

9 MS. ROSENBLUM: Right. So Your Honor, I -- I want  
10 to say at the outset of this case, and I think my client  
11 agrees, both of these parents love this little girl, Ava.  
12 They both care about her. They both want what's best for her.  
13 And this case really is about Ava. It -- it really is not  
14 about these parties.

15 As the Court considers this case, I think Ms. Isso  
16 and I would agree this is not a typical custody case in that  
17 we've got a child, the three-year-old little girl, who does  
18 have special needs. She was diagnosed with autism spectrum  
19 disorder. And I know that has been briefed and argued to this  
20 Court extensively.

21 What we're asking the Court to do today is consider  
22 the factors that weigh into custody and particularly pay  
23 attention to the factors regarding conflict and regarding the  
24 needs of this child. And we believe that the testimony and

1 evidence over the next two days will show the Court that the  
2 conflict in this case is extremely high. And it started out  
3 high as the Court will recall and the testimony will show that  
4 Dad withheld this child for two days from Mom until the Court  
5 had to weigh in -- I'm sorry, two weeks from Mom so the Court  
6 had to weigh in.

7           And the -- unfortunately the conflict has remained  
8 high; although, I think that the Court will find at the end of  
9 the testimony and the evidence in this case that the conflict  
10 is being perpetuated by the Plaintiff. For that reason, my  
11 client is asking at the end of this case that the Court  
12 appoint a parenting coordinator -- for the purposes of dealing  
13 with the issues that will involve this little girl for the  
14 next 15 years and probably for the rest of her life. The  
15 issues will require the parties to communicate, to cooperate,  
16 and to work together to meet Ava's best interest. And it  
17 remains questionable as we stand here today whether the  
18 Plaintiff can do that.

19           And so to prevent additional protracted litigation,  
20 after we finish with trial we are asking that the Court  
21 appoint Audrey Beeson (ph) as the parenting coordinator. We  
22 are also asking that the Court order as part of the  
23 therapeutic interventions for these parties that the parties  
24 be ordered to participate either in parent coaching or family

1 therapy with Michelle Magnich (ph).

2           With regard to custody and visitation, Your Honor,  
3 we briefed this extensively in our pretrial, but it remains  
4 our position that the schedule that the Court has set is the  
5 schedule that should be followed. We believe the testimony  
6 and evidence will show that Ava is a child that is deeply  
7 affected by change in routine, that she is deeply affected by  
8 conflict, that she's deeply affected by new people involved in  
9 her life, and that this schedule, at least for the time being,  
10 remains in her best interest.

11           My client is willing to consider the schedule as a  
12 joint custody schedule as the Court --

13           THE COURT: Well, it is joint.

14           MS. ROSENBLUM: -- has already done --

15           THE COURT: It is joint.

16           MS. ROSENBLUM: -- and that accommodations be made  
17 with regard to the child support addition in this case. Even  
18 the Plaintiff's experts, the -- the Court -- I guess Court  
19 appointed custody evaluator has determined that a 50/50 split,  
20 the way that Plaintiff is asking, is not in Ava's best  
21 interest, that Dr. Bergquist recommended a 60/40 or even a  
22 55/45; however, Dr. Pickar, Nechole's expert who is -- and the  
23 Court will hear testimony and evidence with regard to that who  
24 is one of the foremost experts in the country on creating

1 parenting plans for special needs children will inform the  
2 Court as to his concerns with Dr. Bergquist's report, the lack  
3 of information that Dr. Bergquist had available to her at the  
4 time she made her custody recommendations.

5           Your Honor, this case has been going on for quite  
6 some time. Again, with regard to the conflict, it remains our  
7 position that the conflict in this case is largely being  
8 created by the Plaintiff dragging this matter on, filing  
9 motions, disclosing the entirety of our settlement  
10 negotiations to the Court and just creating more and more  
11 litigation unnecessarily.

12           So at this point we are asking the schedule to  
13 remain that same, that the Court will consider that joint  
14 physical custody, that the Court will appoint a parenting  
15 coordinator, that the Court will order these parties to attend  
16 family mediation -- or I'm sorry, family therapy or parent  
17 coaching to assist with their conflict and that the Court will  
18 make accommodations with regard to child support.

19           And on the child support issue, Your Honor, we  
20 believe that the evidence and testimony will demonstrate that  
21 Plaintiff has woefully under reported his income. He has  
22 extensive education and experience in music. He is quite  
23 capable of earning. But my -- there's no question. My client  
24 is the primary earner in this relationship, that her earning

1 is significant. But again, with this child's needs, my client  
2 is asking this Court to consider that she provide the health  
3 insurance for this minor child and that she be the one who is  
4 responsible for paying the medical bills associated and that  
5 that be offset against the child support obligation she may  
6 owe the Plaintiff.

7 THE COURT: The -- I'm sorry, she's -- that she -- I  
8 don't think there's going to be an objection to that she  
9 maintain health insurance and reimburse split.

10 MS. ROSENBLUM: I think they're objecting, Your -- I  
11 don't --

12 MS. ISSO: Well, hold on. Let me -- let me ask.

13 MS. ROSENBLUM: -- speak to that.

14 (COUNSEL AND CLIENT CONFER BRIEFLY)

15 MS. ROSENBLUM: I -- I think they're objecting and  
16 they're asking for child support.

17 THE COURT: Well, I'm -- and he may be asking for  
18 child support but I'm talking about health insurance itself.

19 MS. ROSENBLUM: Right. And my --

20 MS. ISSO: Yeah, that's --

21 MS. ROSENBLUM: -- my client would ask --

22 MS. ISSO: That's fine.

23 THE COURT: Okay. That --

24 MS. ROSENBLUM: -- for a deviation.

1 MS. ISSO: As long as the child's insured, that's  
2 all we care about. Who cares who's holding the insurance.

3 THE COURT: Okay.

4 MS. ROSENBLUM: I don't know if Dr. Pickar on -- I  
5 can't see the screen.

6 MS. ISSO: And just to be clear, when they filed  
7 their motion to accommodate, they said he was going to testify  
8 at 11:00. So now it's 9:00. Okay.

9 THE COURT: My understanding was --

10 MS. ISSO: We --

11 THE COURT: -- it was --

12 MS. ISSO: We're going to agree that he can be  
13 called --

14 THE COURT: Hold on one second, Ms. Isso. My  
15 understanding was it was their two first -- that's why I went  
16 out of order. My understanding was they're going to be their  
17 first two right out of the box.

18 MS. ISSO: No. No. No. That's not what their  
19 motion said. That's not what your decision said. They asked  
20 for him to testify at 11:00 in their motion.

21 MS. ROSENBLUM: Your Honor --

22 MS. ISSO: Is it -- just pull up the motion. Is  
23 that what it said?

24 MS. ROSENBLUM: Your --

1 MS. ISSO: They --  
2 MS. ROSENBLUM: -- order clearly stated that the  
3 first two witnesses would be accommodated. Those --  
4 THE COURT: There you go.  
5 MS. ROSENBLUM: -- two witnesses were Ms. Harris and  
6 Dr. Pickar.  
7 THE COURT: They're the ones wasting their time, Ms.  
8 -- I shouldn't say wasting their time, but --  
9 MS. ISSO: I'm not --  
10 THE COURT: -- it's their --  
11 MS. ISSO: I'm --  
12 MS. ROSENBLUM: Well --  
13 THE COURT: -- time ticking.  
14 MS. ISSO: This is not my time. This is her time.  
15 This is --  
16 THE COURT: I --  
17 MS. ISSO: -- her opening arguments.  
18 MS. ROSENBLUM: Well, then why are we --  
19 THE COURT: Again --  
20 MS. ROSENBLUM: It's not. I'm ready to call my  
21 first witness.  
22 MS. ISSO: Call him.  
23 MS. ROSENBLUM: I don't know if he's available on  
24 the witness stand.

1 MS. ISSO: Call him. We're waiting.

2 MS. ROSENBLUM: I don't know if he's available. I

3 can't see the screen.

4 THE COURT: All I know --

5 MS. ROSENBLUM: I don't know if he's in --

6 THE COURT: -- Ms. -- Ms. Rosenblum is it's your

7 time.

8 MS. ROSENBLUM: Right.

9 THE COURT: For the first --

10 MS. ROSENBLUM: I'm -- I'm asking --

11 THE COURT: Until we get through the first two

12 professionals, it's your time.

13 MS. ROSENBLUM: Well, my other professional --

14 THE COURT: You can --

15 MS. ROSENBLUM: -- Ms. Harris is --

16 THE COURT: -- sing the National Anthem if you want.

17 We can all --

18 MS. ROSENBLUM: Well --

19 THE COURT: -- say the --

20 MS. ROSENBLUM: -- Your Honor --

21 THE COURT: -- Pledge of Allegiance.

22 MS. ROSENBLUM: My other professional is not

23 available today. I made --

24 THE COURT: Listen.

1 MS. ROSENBLUM: -- that clear at the --  
2 THE COURT: We have acc --  
3 MS. ROSENBLUM: -- beginning.  
4 THE COURT: I understand that.  
5 MS. ROSENBLUM: Dr. --  
6 THE COURT: Let's --  
7 MS. ROSENBLUM: -- Pickar --  
8 THE COURT: -- go back to originally and that's why  
9 again this was set for one day.  
10 MS. ROSENBLUM: Right. And we had --  
11 THE COURT: And then we --  
12 MS. ROSENBLUM: -- all of our --  
13 THE COURT: -- extended it --  
14 MS. ROSENBLUM: -- witnesses subpoenaed --  
15 THE COURT: -- twice as much.  
16 MS. ROSENBLUM: -- and they were all available on  
17 that day.  
18 THE COURT: I --  
19 MS. ROSENBLUM: And so --  
20 THE COURT: -- understand that.  
21 MS. ROSENBLUM: -- now Dr. Pickar --  
22 THE COURT: And that's how we --  
23 MS. ROSENBLUM: I don't know if he's been put in a  
24 breakout room. I'm asking the Court. I don't know. I

1 can't --

2 THE COURT: Madam Clerk, is he in -- is someone in a  
3 breakout room?

4 MS. ROSENBLUM: I don't know if he's on a screen, if  
5 he's --

6 THE CLERK: No, I prepared a breakout room --

7 MS. ROSENBLUM: Okay.

8 THE CLERK: -- so that I can put them in there as  
9 they join if they --

10 MS. ROSENBLUM: Then let me email him and see if he  
11 is --

12 THE COURT: While -- while Ms. Rosenblum's doing  
13 that, I mean, I know she's heard this and I believe Ms. Isso's  
14 heard this as well. We try to keep things because it's so  
15 tense, relaxed as possible. If you need water, feel free to  
16 go back and get a drink of water. If you want to eat  
17 something, I'm not offended whatsoever. If you just need to  
18 get up and walk around and stretch your legs, not offended at  
19 all. You'll see me typing chronically. All I'm doing is  
20 keeping my internal notes. Everybody can feel free to walk up  
21 and see that I have nothing up here but your case file.

22 So when I'm typing here, I'm not doing early  
23 Christmas shopping, I'm not talking to my JEA. I'm not doing  
24 anything else. So just simply keeping my notes.

1           We will -- we will take a couple of breaks when it  
2 gets to that point. Usually, they're 10 to 15 minutes and  
3 then we'll try to keep lunch to half an hour since we're kind  
4 of keeping things timed. But we will try to accommodate  
5 everybody. We will be done again by Friday. And I believe  
6 Ms. Isso told my staff that she's got to be done by 4:45; is  
7 that correct?

8           MS. ISSO: Yes.

9           THE COURT: Okay.

10          MS. ISSO: Thank you.

11          THE COURT: So we will definitely call it quits  
12 by --

13          MS. ROSENBLUM: I do --

14          THE COURT: -- 4:45.

15          MS. ROSENBLUM: I do have a pref -- if I log in and  
16 see this on my screen, does that create that -- Dr. Pickar is  
17 on now, but if -- does that create like that reverberation  
18 sound in here? Do you -- Judge? Dr. Pickar is in the room.  
19 I can see him.

20          THE COURT: Madam Clerk?

21          THE CLERK: No, you know, let me check the other  
22 (indiscernible).

23          MS. ROSENBLUM: Yeah. I don't know.

24 (Indiscernible). That one is for you.

1 THE CLERK: There's the general room and there's  
2 nobody in there.

3 MS. ROSENBLUM: I see me, Brian Blackham, Daniel  
4 Pickar, and Montana Garcia.

5 THE CLERK: In the meeting labeled Shapiro v.  
6 Garcia?

7 MS. ROSENBLUM: It is -- she doesn't have a label on  
8 it. It just says waiting for the moderator to start a  
9 meeting. Dr. Pickar left -- has now left. It says he and --  
10 this --

11 THE CLERK: Okay. Let me -- let me give you the  
12 meeting ID just to make sure that everybody's on the same one.

13 MS. ROSENBLUM: Okay. Do you want to just email  
14 what it is? So I have -- I still see Dr. Pickar on my --

15 THE COURT: Okay. Talk --

16 THE CLERK: Okay. Are you ready?

17 MS. ROSENBLUM: Yeah.

18 THE CLERK: I got a meeting ID 714432588. And the  
19 pass code is 0416.

20 MS. ROSENBLUM: I'm sorry, one more time with the  
21 pass code?

22 THE CLERK: 0416.

23 MS. ROSENBLUM: 0416. Got it. All right. I'm  
24 going to email him now.

1 (PAUSE)

2 MS. ROSENBLUM: Dr. Pickar? I know that -- Dr.  
3 Pickar, can you hear me?

4 (COURT AND CLERK CONFER BRIEFLY)

5 MS. ROSENBLUM: He's off now. (Indiscernible),  
6 that's fine. There's Brian. So look, like I'm in this one  
7 and that's me and that's your mom. Brian's in this one and I  
8 think Dr. Pickar maybe --

9 THE CLERK: Mr. Blackham's on.

10 MS. ROSENBLUM: Walking into this one, hopefully  
11 getting on this one. No, he's not on here anymore.

12 THE CLERK: Do you want me to go off the record for  
13 a bit while they all straighten out? I mean, what if she has  
14 everybody on there and that -- who she wants me to put in the  
15 breakout room.

16 THE COURT: I -- I don't care either way. Keeping  
17 it on or off the record is up to you. I mean, nothing's --

18 THE CLERK: Okay.

19 THE COURT: -- being said right now, so -- my  
20 Clerk's going to turn off the record because nothing's --

21 MS. ROSENBLUM: Yeah.

22 THE COURT: -- going on right now. So --

23 MS. ROSENBLUM: I don't know why --

24 MR. PICKAR: Dr. Pickar.

1 MS. ISSO: And Your Honor, before Ms. Rosenblum  
2 begins, I would like to object to this individual from  
3 testifying. Number one, they violated 16.1. They did not --

4 THE COURT: 16 --

5 MS. ISSO: I'm hearing --

6 THE COURT: -- .1 doesn't apply in --

7 MS. ISSO: Well --

8 THE COURT: -- family court.

9 MS. ISSO: -- they -- they violated the rule  
10 regarding expert disclosure. They did not provide the expert  
11 report with the disclosure. They waited months before they  
12 provided me with the expert report. In fact, they didn't  
13 provide it to me until I disclosed our expert. The rule  
14 requires this individual to provide his expert report. So I  
15 have an opportunity to read it and see what I have to rebut.  
16 And that's not what they did.

17 Number two, his opinions lack proper foundation. He  
18 did not gather sufficient facts. Okay. His --

19 THE COURT: Let's --

20 MS. ISSO: -- opinion --

21 THE COURT: -- start -- let's start --

22 MS. ISSO: He is not -- well, let me finish. I want

23 --

24 THE COURT: Okay.

1 MS. ISSO: -- to make a clear record.

2 THE COURT: I've got a -- let's address them  
3 one-by-one, Ms. Isso, because if you prevail on the first  
4 issue, then we --

5 MS. ISSO: Oh.

6 THE COURT: -- don't --

7 MS. ISSO: Okay.

8 THE COURT: -- need to go to --

9 MS. ISSO: Okay.

10 THE COURT: -- second, third, fourth, fifth, sixth,  
11 seventh, eighth. Ms. Rosenblum, where is the proof that you  
12 provided them disclosure of this expert witness and a copy of  
13 the report? Did you file that with the Court pursuant to the  
14 trial setting order?

15 MS. ROSENBLUM: We filed a copy. We disclosed our  
16 expert after we took the deposition of Dr. Bergquist.

17 THE COURT: That's not the question. When --

18 MS. ROSENBLUM: We filed --

19 THE COURT: -- was that?

20 MS. ROSENBLUM: -- the report. We filed the  
21 disclosure. The report was provided to Ms. Isso I believe on  
22 September 8th. A copy of the report was provided to Ms. Isso  
23 on -- on September 8th. And if Ms. Isso is going to object to  
24 our witness, I'm objecting to her witness. We had discussed

1 all --

2 THE COURT: Okay.

3 MS. ROSENBLUM: -- these issues --

4 THE COURT: Listen.

5 MS. ROSENBLUM: -- prior.

6 THE COURT: If -- if she's going to push that issue

7 and, again, if they're going to do the same thing to you

8 unless you want to stip to both experts --

9 MS. ISSO: No, we're not going to stip.

10 THE COURT: -- I -- do you have proof that you --

11 MS. ROSENBLUM: It was --

12 THE COURT: -- sent it to her on the 8th?

13 MS. ROSENBLUM: It was filed with the Court. I --

14 MS. ISSO: They disclosed their expert in July.

15 Didn't give me the report until September 8th after we

16 disclosed our expert. We were waiting for the report. This

17 violates the rule. We're going to object to this individual

18 testifying.

19 MS. ROSENBLUM: I have to pull the file, Your Honor.

20 Again, this -- I --

21 THE COURT: I just --

22 MS. ROSENBLUM: Would have been nice to --

23 THE COURT: Listen.

24 MS. ROSENBLUM: -- know --

1 THE COURT: I --

2 MS. ROSENBLUM: -- this before we showed up at court  
3 today months and months later. My client has paid this expert  
4 to be here twice now. The first day of trial.

5 THE COURT: You know what, I think this is a product  
6 in our trial setting order. The date again?

7 MS. ROSENBLUM: I believe the report was disclosed  
8 Your Honor September 8th.

9 THE COURT: 9/8/2021, expert witness disclosure. So  
10 that objection is overruled.

11 MS. ISSO: That doesn't comply with the rule. Yeah,  
12 we got -- we got the expert report I said but I wasn't timely.  
13 It wasn't disclosed when they disclosed the expert in July.  
14 They waited July, August, almost three months to get me the  
15 report. And then I had to get my expert and that's when they  
16 finally gave me the report after I disclosed my experts. So  
17 that's not timely. It violates the rule. So we're objecting.

18 THE COURT: Point me to the exact part of the rule.  
19 That's not -- not my understanding. And, again --

20 MS. ISSO: You don't know --

21 THE COURT: -- that's --

22 MS. ISSO: You don't know the expert disclosure  
23 rule?

24 THE COURT: Don't -- I'm asking -- you don't know

1 that? I'm asking --  
2 MS. ISSO: Do you --  
3 THE COURT: -- you. And if not, there's a book of  
4 rules down -- I'm -- go ahead --  
5 MS. ISSO: Okay.  
6 THE COURT: -- and cite the rule.  
7 MS. ISSO: Let me pull it up. Let me pull it up.  
8 MS. ROSENBLUM: And Your Honor, I would assume that  
9 this objection is coming off of Ms. Isso's time, Your Honor?  
10 THE COURT: It --  
11 MS. ISSO: No.  
12 THE COURT: -- will be.  
13 MS. ISSO: No --  
14 MS. ROSENBLUM: Thank you.  
15 MS. ISSO: -- it's not. It's coming off her time.  
16 THE COURT: No, it's --  
17 MS. ISSO: Otherwise --  
18 THE COURT: -- coming --  
19 MS. ISSO: -- every single objection she makes is  
20 going to come off her time.  
21 THE COURT: If they're --  
22 MS. ISSO: So NRS --  
23 THE COURT: -- brief objections.  
24 MS. ISSO: -- 50.275 is very specific on when the

1 rules are -- when -- of when an expert is supposed to be  
2 disclosed.

3 THE COURT: NRS --

4 MS. ISSO: Or at 6 --

5 THE COURT: -- what?

6 MS. ISSO: NRS 50.275.

7 THE COURT: That's a Rule of Evidence. That's not a  
8 Procedure Rule of Disclosure pursuant to 16. -- and first of  
9 all, you cited 16.1 which does not apply to Family Court.

10 MS. ISSO: Okay. 16.2. The rule --

11 THE COURT: And --

12 MS. ISSO: -- requires the expert report to be  
13 disclosed with the expert.

14 THE COURT: You're not -- I'm -- I'm not hearing a  
15 -- a citation. I'm not hearing a subsection --

16 MS. ISSO: 16.2.

17 THE COURT: I need a subsection. I need a --

18 MS. ISSO: Oh, now you want a --

19 THE COURT: -- sub subsection.

20 MS. ISSO: -- subsection? Okay. Okay.

21 THE COURT: And, again, these extended objections do  
22 go toward your time, Ms. Isso. A brief objections for let's  
23 say for relevancy, no, but for something where we're taking  
24 this time to look it up.

1 (COURT AND CLERK CONFER BRIEFLY)

2 MS. ISSO: Okay. NRS 16.2. Let's see here. Let me  
3 look up the rule for you guys. Disclosure of expert, Section  
4 5. Within 90 days of service of the financial disclosure  
5 form. Report experts 5 and 7. Rule Number 26.

6 THE COURT: Ms. Isso, let me try to save some time.  
7 Pursuant to the trial setting order on page 3, it indicates  
8 that document disclosure witness list and everything related  
9 to that under 16.2 and 205, any objections must be filed with  
10 the court clerk. Did you do that?

11 MS. ISSO: Does that address experts?

12 THE COURT: Yes, ma'am.

13 MS. ISSO: Which rule is that? Which rule is for  
14 the experts?

15 THE COURT: That is from the trial setting order.  
16 If you want to turn to page 3 of the trial setting order in  
17 bold. And I do this for not only attorneys, pro se. Document  
18 disclosure list, witness lists, and if there's an objection to  
19 them, you must file them with the court clerk.

20 MS. ISSO: Yeah, that's not for experts, Your Honor.  
21 That's never been for experts. That's been for --

22 THE COURT: It does --

23 MS. ISSO: -- regular --

24 THE COURT: -- include experts.

1 MS. ISSO: No, it --

2 THE COURT: Witness --

3 MS. ISSO: -- does not. It's been for regular  
4 witnesses and documents. It --

5 THE COURT: That is --

6 MS. ISSO: -- hasn't been for experts, okay?

7 THE COURT: You know what, Ms. Isso, overruled.

8 MS. ISSO: Okay. My other objection is going to be  
9 his opinions lack proper foundation. He did not gather  
10 sufficient facts. Furthermore, his opinion does not assist  
11 the trier of fact because he's not going -- going to be giving  
12 an opinion on custody or timeshare. He's here to talk about  
13 whether Dr. Bergquist did her job properly. He didn't even  
14 interview Dr. Bergquist. He didn't interview the parties. He  
15 didn't evaluate the child. So he's basically here just to  
16 mislead the Court and to confuse you.

17 THE COURT: Overruled. You -- that is four minutes.

18 MS. ROSENBLUM: Okay.

19 MS. ISSO: And that objection is based on Hallimark  
20 (ph) .

21 MS. ROSENBLUM: I don't know if Dr. -- can Dr.  
22 Pickar hear me from here? Dr. Pickar, can you hear me?

23 MR. PICKAR: Yes, I can.

24 MS. ROSENBLUM: Okay.

1 MR. PICKAR: Yeah.

2 MS. ROSENBLUM: Yeah.

3 MR. PICKAR: The name Dr. Pickar is the correct --

4 MS. ROSENBLUM: Okay.

5 MR. PICKAR: -- pronunciation.

6 MS. ROSENBLUM: Dr. Pickar, can you state your full  
7 name for the -- I'm sorry, do you need to swear him in? I  
8 don't know.

9 THE COURT: Yes, ma'am. Madam Clerk?

10 THE CLERK: Can you raise your right hand? You do  
11 solemnly swear the testimony you're about to give in this  
12 action shall be the truth, the whole truth, and nothing but  
13 the truth, so help you God?

14 THE WITNESS: Yes.

15 DANIEL PICKAR

16 called as a witness on behalf of the Defendant, having been  
17 first duly sworn, testified upon his oath as follows on:

18 DIRECT EXAMINATION

19 BY MS. ROSENBLUM:

20 Q All right. Dr. Pickar, can you go ahead and state  
21 your full name for truth record, please?

22 A Daniel B. Pickar, spelled P-i-c-k-a-r.

23 Q And Dr. Pickar, can you tell the court what your  
24 office address is, please?

1           A     1212 College Avenue, Suite A, Santa Rosa,  
2 California. The zip code is 95404.

3 Q And Dr. Pickar, you have a copy of your CV as our  
4 Defendant's Exhibit M; is that correct? M, like Mary.

5 A Yeah. Yes, I have a copy of my curriculum vitae.

6 Q All right. All right. Dr. Pickar, did you author  
7 your curriculum vitae?

8 A Yes, I did.

9 MS. ROSENBLUM: And I would ask that Dr. Pickar's  
10 curriculum vitae be admitted into evidence, please.

11 THE COURT: Exhibit number for the record?

12 MS. ROSENBLUM: M, like Mary.

13 THE COURT: Any objection, Ms. Isso?

14 MS. ISSO: No.

15 THE COURT: It'll be admitted.

16 (DEFENDANT'S EXHIBIT M ADMITTED)

17 BY MS. ROSENBLUM:

18 Q All right. Dr. Pickar -- Pickar, can you briefly  
19 summarize your education for the Court?

20           A       I received a bachelor's degree from Brown  
21 University, a bachelor's degree in psychology and I have a  
22 master's degree and PhD from the California school of  
23 professional psychologist at Berkeley. I am a licensed  
24 psychologist and I'm also a board certified in clinical

1 psychology. It's considered a diplomate in clinical  
2 psychology that only about 10 percent of psychologists have  
3 this specialty certification.

4 Q And Dr. Pickar, what do you do for a living  
5 currently?

6 A Currently I'm in full-time private practice and I  
7 conduct child custody evaluations. I conduct  
8 psychoeducational evaluations of children and teenagers. And  
9 also I do expert witness consultation where I'm asked to come  
10 in on cases in which there's a special needs child or -- or to  
11 review a work product of another psychologist child custody  
12 evaluation report. I also previously to -- my private  
13 practice is more circumscribed as of five years ago after I  
14 turned 60, but I have a long history as a child psychologist  
15 working in medical centers as a psychiatry department with  
16 children and families.

17 Q And Dr. Pickar, if you can estimate for the Court  
18 over the last year or so how many times have you been retained  
19 as an expert witness in a child custody case.

20 A Are -- are you talking about cases in which I've  
21 been -- done an evaluation myself or -- or when I've been  
22 brought in not as the evaluator.

23 Q Both.

24 A As a consult.

1 Q Both.

2 A So in -- I'm sorry, did you say the last two years?

3 Q In the last two years we'll call it.

4 A The last two years I would estimate that I have  
5 conducted 26 child custody evaluations and in the last two  
6 years I have been retained as a consultant on a custody case  
7 to provide expert witness services in the last two years  
8 approximately eight times.

9 Q Have you ever had your testimony stricken by any  
10 court?

11 A Never.

12 Q With regard to the publications that you have on  
13 your CV on page 3 -- well, they start actually on page 4. Do  
14 you see that?

15 A Yes.

16 Q If you could estimate for the Court approximately  
17 how many publications you have with regard to custody  
18 evaluations.

19 A Publications related to custody evaluations,  
20 divorce, special needs children. It's -- it's in the  
21 neighborhood of about 20.

22 Q Dr. Pickar, is it fair to say that your publications  
23 are routinely used in custody cases?

24 MS. ISSO: Objection.

1 THE COURT: Sustained.

2 MS. ISSO: Lacks --

3 THE COURT: Sustained.

4 BY MS. ROSENBLUM:

5 Q No, it's okay. Let me -- Dr. Pickar, are you a  
6 member of any associations or -- or organizations having to do  
7 with family law or family court cases?

8 A Yes, I'm a member of the Association of Family and  
9 Conciliation Courts. It's called AFCC. It's probably the  
10 main national organization where judges, mental health  
11 professionals, attorneys, mediators of in the family court.  
12 And I'm currently on the board of directors of that  
13 organization.

14 Q Any other organizations of which you're a member or  
15 affiliated?

16 A Several. I'm a member of the American Psychological  
17 Association, the Redwood Psychological Association, the  
18 Society for Personality Assessment. I'm a member of the  
19 American Board of Professional Psychology. I'm a fellow of  
20 the Academy of Clinical Psychology and I'm a member of the  
21 local bar association in the county in California in which I  
22 work.

23 Q Dr. Pickar, if you could just explain for the record  
24 what the AFCC is.

1           A     The Association of Family Conciliation Courts is an  
2 international organization. It has membership of probably 17  
3 countries. And it is -- it -- it also publishes one of the  
4 main journals in the family law area called the Family Court  
5 Review. And it's an organization -- it's a service  
6 organization essentially that provides training to  
7 professionals in the family law area both in the United States  
8 and internationally.

9           Q     And --

10          A     It offers numerous trainings also child custody  
11 evaluators, parenting coordinators, children's attorneys has a  
12 number of specialty trainings that offers regularly. It's  
13 probably the number one educational organization for providing  
14 family law education in the country, probably the world.

15          Q     Dr. Pickar, you have authored a report as a result  
16 of your retention in this case; is that correct?

17          A     Yes.

18          Q     And if you can turn to Exhibit U.

19          A     Is Exhibit U the copy of my work product review --

20          Q     Cor --

21          A     -- report?

22          Q     Correct.

23          A     Yes. Yes.

24          Q     Do you have a copy of that report in front of you?

1           A     Yes, I do.

2           Q     And is this the report that you authored?

3           A     Yes.

4           Q     If you could for the Judge explain what a work  
5 product review is.

6           A     A work product review sometimes it might be called a  
7 rebuttal expert, but it's -- it -- it's -- it's a service in  
8 which another child custody evaluator is asked to review the  
9 report of a child custody evaluator who has been appointed to  
10 the court to conduct an evaluation. And there's been a huge  
11 amount written in this area about work product reviews. It's  
12 entirely accepted within the courts around the country.  
13 There's actually articles that are sort of guidelines about  
14 doing work product review. There's books on doing forensic  
15 consultation.

16                     And it's also mentioned in the AFCC model standards  
17 of practice that -- that this is an aspect of all custody  
18 evaluation field where another individual may review the  
19 quality of a work -- of a work product child custody  
20 evaluation report.

21           Q     And Dr. Pickar, I don't know if you heard the  
22 arguments of Counsel, but why did you not make -- let me ask a  
23 better question. Based on your understanding of the AFCC and  
24 the AAML, are you limited in providing a custody evaluation in

1 this case?

2       A     Well, you can only provide a child custody  
3 evaluation if you've been provided by the court to provide  
4 that service. So I have not been appointed by the court to do  
5 a child custody evaluation. And you cannot make diagnoses  
6 about individuals. You cannot make parenting plan  
7 recommendations to a specific child if you have not evaluated  
8 the family members yourself, that would be considered  
9 improper. However, it is considered proper to do an  
10 examination of an evaluator's work product to look at does  
11 their methodology conform with the professional standards, you  
12 know, in the field.

13           Do they rely on empirical research which is part of  
14 the guidelines for custody evaluation by the AFCC and the  
15 American Psychological Association. And then a common thing  
16 which psychologists who do work product reviews is looking at  
17 does the data in the report -- is the data in the report  
18 consistent with the recommendations that are offered? Do they  
19 logically flow from the report or does there seem to be either  
20 inconsistencies or data which is omitted or nonsensical  
21 recommendations that's really based upon the data that's  
22 gathered in the report?

23       Q     Dr. Pickar, you had an opportunity to review the  
24 report produced by Dr. Bergquist with regard to this case; is

1 that true?

2 A That's correct.

3 Q Can you inform the Court as to any other documents  
4 or information you received with regard to your review in this  
5 case?

6 A So you provided me with a binder that contained all  
7 of the documents that was reviewed by Dr. Bergquist. And then  
8 you also provided me with some documents which became  
9 available after the Dr. Bergquist submission of the report  
10 which includes the Therapy Management Group early in -- early  
11 intervention report. And that was a document on April 5th,  
12 2021. I also received a developmental pediatric examination  
13 report of Ava from the Sparrow Developmental Pediatrics Group  
14 (ph). And then I received the deposition transcript of Dr.  
15 Bergquist from July 1st, 2021.

16 And then after I submitted my report you also  
17 provided a copy of the ABA, applied behavioral analysis report  
18 in which there was a further evaluation of Ava with  
19 recommendations for what the ABA would have -- would -- would  
20 cover. And it's by Firefly. It was a treatment plan. And  
21 that was dated September 13th, 2021.

22 Q And Doctor, for the record, did the Fire -- Firefly  
23 report change any of your analysis or recommendations as  
24 indicated in the September 10, 2021 report you authored?

1           A     No, it did not.

2           Q     Were -- were there documents that you had requested  
3 that you did not receive?

4           A     Yes. I asked to be provided the raw psychological  
5 test data that Dr. Bergquist relied upon from Dr. Sunshine and  
6 that was never received. The -- the other document I didn't  
7 mention that I was provided after my report was the report of  
8 Dr. Leslie Carter who -- who also did, you know, a review of  
9 information requested by Jennifer Isso.

10          Q     Okay. Doctor, do you believe that there were any  
11 documents that you have requested that you did not receive  
12 that might change or alter the report that you're authored as  
13 of September 10, 2021?

14          A     I mean, it's possible that if I was able to see the  
15 raw psychological test data that I would have been able to  
16 have some broader based information about the psychological  
17 functioning of each of the parents as it could impact  
18 parenting to be able to do a further analysis of Dr.  
19 Bergquist's analysis of the case and recommendations. So that  
20 -- that would have been helpful to have seen that. I don't  
21 know if it would have changed anything or not in my view -- in  
22 my work product review.

23          Q     As part of your report in your work product review,  
24 you had indicated that you review Dr. Bergquist's report for

1 bias; is that correct?

2 A That's correct.

3 Q And did you find that there was any bias in Dr.  
4 Bergquist's report?

5 A No, I did not.

6 Q You have -- in your report you have a number of  
7 criticisms of -- of Dr. Bergquist's report. Can you briefly  
8 indicate for the Court what those criticisms are?

9 A Well, there were a few areas of -- of criticism.  
10 First, she generally used a sound methodology as far as the  
11 approaches than she did use what we call a converse method of  
12 data gathering in which she used in interviews, home visits,  
13 review of records, a number of collateral contact. And that  
14 was positive.

15 What was problematic in the methodology was that at  
16 times there seemed to be kind of a surprising lack of inquiry  
17 or asking more questions about issues of concern that were  
18 raised. One example was that Mother had alleged that Father  
19 in this case -- according to a video was actually seem to be  
20 almost laying down and perhaps sleeping on the ground for five  
21 minutes while watching Ava.

22 MS. ISSO: Objection, misstates -- misstates --

23 A And --

24 MS. ISSO: Objection, misstates information to the

1 Court. There's no such video.

2 MS. ROSENBLUM: I'm not sure what the legal  
3 objection is, Your Honor. My client is commenting on  
4 something that Dr. Bergquist put in her report.

5 THE COURT: Correct.

6 MS. ISSO: There was nothing about five minutes  
7 putting your head down. There was nothing about five minutes.

8 MS. ROSENBLUM: There is -- -- there is, actually.

9 MS. ISSO: Not five minutes.

10 MS. ROSENBLUM: I -- I suppose that she could --

11 MS. ISSO: They're mis --

12 MS. ROSENBLUM: -- cross --

13 MS. ISSO: He's misstating information --

14 MS. ROSENBLUM: -- cross examine --

15 MS. ISSO: -- which is --

16 MS. ROSENBLUM: -- Dr. Pickar.

17 MS. ISSO: -- out of the scope of his expert report.

18 MS. ROSENBLUM: It's not.

19 THE COURT: Do you want to direct him to that part  
20 of the report I guess might be easier?

21 MS. ROSENBLUM: Sure.

22 THE WITNESS: I know which part of the report.

23 MS. ROSENBLUM: Yeah, it's in his report, Judge.

24 THE COURT: Well, I mean, her -- she's object -- it

1 would be Dr. Bergquist's report.

2 MS. ROSENBLUM: So Dr. -- yes. In Dr. Bergquist's  
3 report including her clini -- clinical summary and  
4 conclusions, pages 23 to 31.

5 BY MS. ROSENBLUM:

6 Q And -- and Dr. Pickar, is that the part that begins  
7 on your report on page 5 on -- on page 25 of the report, the  
8 evaluator? Is that --

9 MS. ROSENBLUM: I mean, he can tell you exactly  
10 where in Dr. Bergquist's report it is.

11 A Yes. So --

12 THE COURT: Is that --

13 THE WITNESS: Your Honor, should I respond at  
14 this --

15 THE COURT: Yeah, it'll be overruled.

16 BY MS. ROSENBLUM:

17 Q Yes, the Judge is overruling the objection.

18 A So, you know, I note this in -- in my report, but on  
19 page 25 of Dr. Bergquist's report, it says on July 8th Ms.  
20 Garcia noticed that Ava was, quote, left alone in a room to  
21 play for several minutes while he meaning Father spent time in  
22 another part of the house. It says al -- although Nechole may  
23 not have seen Eugene on the camera, he could have been within  
24 sight line. The total was six minutes, 39 seconds. The

1 evaluator said that Ava did appear in distress. And then  
2 there was another incident -- and it said that this was a  
3 video on page 25. And then there was a -- so she expressed a  
4 concern that while he may have been asleep or passed out, he  
5 was not fully attentive to Ava.

6 And there was another incident described on page 25  
7 where the nanny cam showed that Ava appeared to be alone in  
8 her room for several minutes. So one of the things that --  
9 that the evaluator puts on page 25 is that she says that it's  
10 impossible to know what happened on either occasion. Ms.  
11 Garcia has not discussed either of them with her co-parent;  
12 however, there is nothing in the report that indicates that  
13 Dr. Bergquist asked father what actually happened in these  
14 incidents. There's nothing -- perhaps she did but there's  
15 nothing reflected in the report that she actually asked about  
16 that. So that's probably an example of a number of -- of  
17 times in which it just seemed inquiry, you know, was somewhat  
18 weak.

19 The main concerns having to do with her report are  
20 that -- is that she -- you know, it's a number of concerns  
21 about Father's parenting skills, you know, maybe having weak  
22 parenting skills that -- that she says that father -- excuse  
23 me, I'm just going to refer to my report. That Father's not  
24 aware of appropriate developmental issues for Ava, that he

1 wasn't attending to -- attentive to child proofing, that he  
2 didn't seem to accept the diagnosis, that she may have some  
3 particular difficulties. She talked about that Mother seems  
4 much more attuned to Ava than does Father.

5           And she also reports that the psychological testing  
6 showed a lot of defensiveness for Father in the psychological  
7 test. Most of the psychological test data for Father was  
8 invalid because he was so defensive. He couldn't admit any  
9 faults, any problems. Mother's was not defensive at all. She  
10 provided valid MMPI -- MMPI-2. She provided a -- a valid PAI  
11 which is the parenting assessment inventory. So there was a  
12 level of defensiveness she noted for Father.

13           Another striking thing that Dr. Bergquist reported  
14 was that in the BASC-3 three that Dr. Sunshine gave to the  
15 parents, Father's ratings for Ava were all within the normal  
16 range. It was like he didn't see Ava as having any  
17 difficulties. Mother's ratings for Ava showed Ava having a  
18 lot of features which would be consistent with an Autism  
19 Spectrum Disorder child, like there were significant ratings  
20 for atypicality which means somewhat unusual behavior,  
21 withdrawal, poor adaptive skills.

22           So Dr. Bergquist talks about all this information  
23 that she gathered during the course of a process but then one  
24 of the biggest criticisms I have is that the data she gathered

1 is not consistent with the recommendations she makes where  
2 then suddenly at the end of her report she makes a  
3 recommendation for close to a 50/50 custody arrangement where  
4 she makes a recommendation of either a 45 -- 55/45 split or a  
5 60/40 split and there's no explanation or rationale as to why  
6 that's appropriate for this child who may have an autistic  
7 spectrum disorder and appropriate for this child with all of  
8 the difficulties she noted for Father in conducting the  
9 evaluation.

10           So it -- it appeared to me reading the report that  
11 there was disconnect with all of the data that she gathered  
12 and -- and listed in her report with the ultimate  
13 recommendations that she makes. And, again, she provides no  
14 rationale, you know, of why this is an appropriate parenting  
15 plan for a child, you know, with -- with moderate -- with a  
16 moderate Autism Spectrum Disorder.

17           The -- the other concern that I had about the  
18 report, one of the things that the AFCC model of standards is  
19 that you're supposed to articulate in the report the  
20 limitations of a report. Dr. Bergquist noted in her  
21 deposition that she's not an expert in autism. And it  
22 specifically says in the AFCC model standards of practice that  
23 if you're not an expert in a particular area, you should do  
24 one of two things. You should either not accept the referral

1 for the appointment to do the evaluation or you should hire an  
2 expert consultant, you know, as a way to cover for your own  
3 maybe lack of expertise.

4           So what Dr. Bergquist does is not only does she not  
5 consult an expert, but she notes that there probably should be  
6 an evaluation for aut -- an autistic spectrum disorder. But  
7 she doesn't wait until those reports are done before she  
8 issues her report. So it's almost as if it's not even taken  
9 into consideration that this is a child with a autistic  
10 spectrum disorder and to her an evaluation. And she noted in  
11 her deposition that one of the things that likely should  
12 happen, you know, is that in light of this new information  
13 there's probably someone with expert -- expertise in autistic  
14 spectrum disorder that should review the parenting plan, you  
15 know, with taking in the information that is now available  
16 that Ava has an auti -- autistic spectrum disorder.

17           Q     Dr. Pickar, any other criticisms that you have with  
18 regard to Dr. Bergquist's report that we have not already  
19 discussed?

20           A     Well, one of the -- the main concerns with the  
21 report has -- has to do with the fact that when you have a  
22 family situation that goes to a custody evaluation in which  
23 there are particular kinds of issues like domestic violence or  
24 a special needs children or -- or relocation, it says in the

1 AFCC model of standards that you really need -- need to use an  
2 empirically based con -- risk assessment approach to looking  
3 at those issues. And that was not done by Dr. Bergquist. I  
4 know that the risk assessment model that I developed with my  
5 colleague Robert Kaufman (ph) is being used around the country  
6 in many places with special needs children. It's really the  
7 only model out there.

8           And a big criticism is that Dr. Bergquist is  
9 approaching her recommendations to the Court in this case as  
10 if she's looking at a neurotypical child and not a child who  
11 is, you know, neuroatypical and has special needs like an  
12 autistic spectrum disorder. So nowhere does -- does the  
13 concern about Ava's functioning, you know, come into play as  
14 far as her parenting plan recommendations for the split she  
15 recommends, the 45/55, and how that should be dealt with.

16           And one of the things she clearly pointed out in the  
17 report was that Father didn't seem to accept that this may be  
18 a diagnosis where -- where Mother did and that's a crucial  
19 factor as far as compliance with ultimate treatment getting  
20 the support a child needs, being a good advocate as a parent  
21 for the child getting the services they need for their special  
22 needs. So that -- that's another concern?

23           Now -- and lastly one other concern is that -- I  
24 noted this in my report is that I've never seen -- I mean, I

1 don't know if this happens in the state of Nevada, but I've  
2 reviewed a lot of reports. I've never seen an evaluator just  
3 recommend percentage of time as a parenting plan  
4 recommendation. And time can be divided in a number of ways  
5 that I think that if you read anything about develop --  
6 developmentally based parenting plans there's a lot of huge  
7 amount of things written about the way, you know, if it's 15  
8 -- if it's 50/50 or two-thirds and one-third about the way  
9 that time should be divided based upon the age of a child.  
10 And she didn't really offer any guidance to the Court in the  
11 report other than percentages about what that plan would  
12 actually look like that would be in this child's best  
13 interests.

14 Q Any other criticisms of Dr. Bergquist's report that  
15 we haven't discussed?

16 A I'm just going to refer to my report here. Yeah, I  
17 mean, the other thing that she didn't -- she also noted in the  
18 report that -- that there's evidence that Father's  
19 inattentive, you know, and forgetful and -- and she did talk  
20 about that Father had the assessment for ADHD and maybe that  
21 wasn't clear and he had been recommended medication. But, you  
22 know, inattentiveness is a major risk factor for a parent to  
23 have with a child who may have an autistic spectrum disorder.  
24 So that was another thing which I think she didn't almost take

1 into consideration in making the recommendations. But  
2 otherwise I think I covered the main concerns.

3 Q All right. Dr. Pickar, you mentioned the risk  
4 protection continuum, the model that you created with Dr.  
5 Kaufman, could you explain to the Court what that is?

6 A Yes. So -- so essentially Dr. Kaufman and I barked  
7 -- we -- we began this process probably about eight years ago  
8 and had done presentations nationally about special needs kids  
9 in situations of divorce and how the default model of a lot of  
10 courts around the country 50/50 did not -- may not really be  
11 appropriate for many special needs kids because if you have a  
12 child with autistic spectrum disorder who's eight, they may be  
13 functioning at the level of a three-year-old. Or if you have  
14 a child who has Down's syndrome, they may be a 10-year-old  
15 child functioning at the level of a five-year-old. So  
16 developmentally appropriate parenting plans don't quite make  
17 sense. They may be appropriate, it's possible, especially if  
18 you have a child with a particular kind of special needs who's  
19 at -- who's a high functioning, you know, child within that  
20 particular diagnostic area.

21 But what we did is we looked at a lot of the main  
22 diagnostic roots -- conditions that happen amongst children  
23 and reviewed all of the empirical literature both about the  
24 symptoms, the various types of empirically based treatments

1 that should happen for these kids, and what are the risk  
2 factors with these kids, like autistic children, you know, not  
3 really being aware of their surroundings and running, you  
4 know, out of a house and into the middle of a street or  
5 potentially leaving the house without telling a parent or  
6 various safety factors in the home or what may be the special  
7 types of parenting they may need.

8           So what we did is we looked all -- at all of the  
9 literature and then as a result of that we kind of did a  
10 factor analysis and looked at the main domains of concern that  
11 could either cause harm -- because a risk protection continuum  
12 means you're looking at what are situations where it could  
13 cause harms and whether family base situations or parenting  
14 plans which can mitigate against harm. So we developed a -- a  
15 domain -- risk assessment model that's contained in the  
16 article -- one of the articles that was referenced in my  
17 report and also at the end of my work product review there's  
18 an appendix which lists the key domains.

19           This is taken from the article about what it is we  
20 look at. And our recommendation to the family law  
21 communication was that a risk assessment model like this be  
22 utilized in cases in which there is a special needs children  
23 so that the best interest of the special needs child is looked  
24 at, not just the best interest of a neurotypical child. So

1 that was developed.

2 And we've been presenting about this model around  
3 the country. I was specifically asked to do a training at the  
4 annual conference for all of the family law judges in the  
5 state of Colorado three years ago right before COVID on  
6 special needs children and things for the courts to be aware  
7 of --

8 MS. ISSO: Objection, narrative.

9 A -- and making rec --

10 THE COURT: Sustained.

11 MS. ISSO: Narrative.

12 MS. ISSO: I'm trying not to be rude, but holy moly.

13 THE COURT: All right.

14 BY MS. ROSENBLUM:

15 Q All right.

16 THE COURT: That's sustained.

17 Q Dr. Pickar, has this model been accepted in other  
18 jurisdictions?

19 MS. ISSO: Objection, lacks personal knowledge.  
20 Speculation.

21 THE COURT: If he knows. I mean --

22 MS. ROSENBLUM: If he knows.

23 THE COURT: -- I -- listen, I'm not -- jurisdictions  
24 could be 50 plus including territories. So I -- I don't know

1 how you want to quantify that, Ms. Rosenblum.

2 MS. ROSENBLUM: I was going to break it down.

3 THE COURT: Okay.

4 MS. ROSENBLUM: Right.

5 THE COURT: If -- if he has knowledge.

6 MS. ROSENBLUM: Right.

7 BY MS. ROSENBLUM:

8 Q So Dr. Pickar, do you know if this model has been  
9 accepted in other jurisdictions?

10 A Yes -- yes, it has. I mean, I'm not aware if it has  
11 been incorporated into any case law in particular, but it --  
12 it is being regularly utilized by child custody evaluators  
13 across the country --

14 THE COURT: Non-responsive.

15 A -- and I know if --

16 THE COURT: Your question was jurisdictions. I need  
17 to know which jurisdictions specifically.

18 BY MS. ROSENBLUM:

19 Q Right. And so --

20 A Yeah, I don't think I can name specific  
21 jurisdictions.

22 Q Okay. Dr. Pickar, do you believe that this model  
23 should be considered by the Court in the evaluation of the  
24 child in this case?

1           A     Yes. Absolutely.

2           Q     Are there any specific domains that you have -- that  
3 are part of this model that you believe that the Court should  
4 consider with specific -- was specificity to Ava?

5           MS. ISSO: Objection, Your Honor.

6           THE COURT: Sustained. That's -- we talked about  
7 this before that he indicated himself that he is not to do any  
8 sort of analysis in this, that he is only to do a records  
9 review of it indicating any inconsistencies or error in it.

10          MS. ROSENBLUM: Okay. I'll pass the witness at this  
11 point.

12          THE COURT: Okay. Hold on.

13          MS. ROSENBLUM: Oh, I would ask that his report be  
14 admitted.

15          MS. ISSO: We were going to object to that, Your  
16 Honor.

17          THE COURT: Ms. -- we'll start -- we'll go back to  
18 the trial setting order, Ms. Isso. Did you --

19          MS. ISSO: Well --

20          THE COURT: -- file an objection?

21          MS. ISSO: Oh, yeah, but we're going to -- I just  
22 want to note it for the record. Number one, it wasn't timely  
23 disclosed. Number two, it lacks proper foundation. It did  
24 not gather sufficient facts. Number two, it doesn't assist

1 the trier of fact because it does not give an opinion as to  
2 custody. And he's not qualified to give an opportunity if Dr.  
3 Bergquist did her evaluation correctly. Thank you.

4 THE COURT: Overruled. Again, I'll note for the  
5 record that pursuant to the trial setting order that was  
6 issued there was no objection filed with the clerk's office  
7 regarding this specific report that was provided.

8 (DEFENDANT'S EXHIBIT U ADMITTED)

9 MS. ISSO: The witness passed?

10 MS. ROSENBLUM: Yeah.

11 MS. ISSO: Okay.

12 CROSS EXAMINATION

13 BY MS. ISSO:

14 Q Sir, you weren't here earlier today but your client  
15 agrees that my client should have joint physical custody. Are  
16 you aware of that?

17 A Well, first of all --

18 Q Sir, that --

19 A -- I -- I --

20 Q -- calls for a yes --

21 A I don't --

22 Q -- or no answer, sir. Are you aware of that?

23 A No, I'm not aware of that.

24 Q Yeah, she stated on the record that --

1 THE COURT: Okay.

2 Q -- my client should have joint physical custody  
3 today during her opening arguments. So you're not aware,  
4 correct?

5 MS. ROSENBLUM: Your Honor -- Your Honor, objection,  
6 argumentative.

7 THE COURT: He -- he answered --

8 MS. ROSENBLUM: It's --

9 THE COURT: -- already.

10 MS. ROSENBLUM: -- been asked and answered.

11 THE COURT: He did not know.

12 MS. ISSO: Okay.

13 BY MS. ISSO:

14 Q So what are you doing here today if she's agreeing  
15 to joint physical custody?

16 MS. ROSENBLUM: Your Honor, I would object that it's  
17 argumentative.

18 A Well --

19 THE COURT: Su --

20 A -- you --

21 THE COURT: Sus --

22 A -- you would have -- you --

23 MS. ROSENBLUM: Hold on.

24 THE WITNESS: Should I respond, Your Honor?

1 THE COURT: The phra -- hold on one second. I'm  
2 thinking. The phraseology is a little argumentative. You can  
3 ask the same question, just a little less argumentative,  
4 Counsel.

5 MS. ISSO: Okay.

6 BY MS. ISSO:

7 Q If she is agreeing to joint physical custody, what  
8 are you doing here today, sir?

9 THE COURT: That's just asking it in a nicer tone.

10 MS. ROSENBLUM: Right.

11 THE COURT: You did different --

12 MS. ISSO: Okay.

13 THE COURT: -- phraseology.

14 BY MS. ISSO:

15 Q Sir, are you familiar with Nevada law?

16 A No.

17 Q Okay. Are you familiar with the preference in  
18 Nevada regarding custody?

19 A I -- I'm not familiar with the specific law about --

20 Q Okay.

21 A -- that.

22 Q And that the preference in Nevada is joint physical  
23 custody. Are you familiar with that?

24 A Well, I'm familiar with that's the law in most

1 states.

2 Q Okay. So you did a product review, correct?

3 A Correct.

4 Q And your product review does not provide additional  
5 custody recommendations because you have not been appointed by  
6 the Court to do so, correct?

7 A That's correct.

8 Q So you're not here to make custody evaluations.

9 A That's correct.

10 Q Did you evaluate the mother?

11 A No, I did not.

12 Q Which is the Defendant in this matter?

13 A No.

14 Q Did you evaluate the father?

15 A No, I did not.

16 Q Did you evaluate or observe the child?

17 A No, I did not.

18 Q Did you observe the child with each parent?

19 A No.

20 Q So you are lacking firsthand observations, correct?

21 A That's correct.

22 Q And isn't it true that Dr. Kathleen Bergquist did  
23 in fact observe the parents and the child multiple times?

24 A Yes.

1 Q At their homes?

2 A Yes.

3 Q Sir, is it fair to say that there's no two children  
4 alike?

5 A Yes.

6 Q And so your journal reports and your book chapter,  
7 they're mostly generalizations, correct?

8 A I would not say that they're generalizations --

9 Q But they assume --

10 A -- be -- because --

11 Q -- that children are alike if they're giving a  
12 specific recommendation, correct? Yes or no, sir? Sir, my  
13 questions call for yes or no answers.

14 MS. ROSENBLUM: Your Honor, argumentative.

15 Q Yes or no?

16 A No.

17 MS. ISSO: It's not argumentative.

18 THE COURT: She --

19 MS. ISSO: This is how I talk.

20 THE COURT: She can clarify whether it's a yes or no  
21 for him. He was going to give an expanded answer at some  
22 point. Go ahead, Ms. Isso.

23 THE WITNESS: Well, the answer is no but sometimes I  
24 cannot adequately answer the question unless I'm allowed to --

1 THE COURT: Sir --

2 THE WITNESS: -- you know --

3 THE COURT: -- I'm sure you've testified --

4 THE WITNESS: -- go beyond --

5 THE COURT: -- I'm sure you've testified in court.

6 I'm sure you understand how court works. I'm sure you've been  
7 in a situation where you can only yes or no and I'm sure you  
8 know what the purpose of counsel is. Go ahead, Ms. Isso.

9 BY MS. ISSO:

10 Q Sir, did you read your journal publication?

11 MS. ROSENBLUM: Objection, foundation.

12 Q The one that you authored?

13 MS. ROSENBLUM: Objection, foundation.

14 MS. ISSO: The one titled --

15 THE COURT: Overruled on foundation but you probably  
16 should specify as to which since he's indicated he's drafted  
17 over 20.

18 MS. ISSO: Okay.

19 THE COURT: So --

20 MS. ISSO: I'm getting there. I'm getting there.

21 BY MS. ISSO:

22 Q Sir, did you read your article parenting plans for  
23 special needs applying risk assessment models?

24 A Yes.

1 Q On the table that you authored, there is a factor  
2 identified as time availability at home. Are you aware of  
3 that?>

4 A Yes.

5 Q Okay. Are you aware that the Defendant works 10,  
6 four -- I'm sorry, strike that. Are you aware that the  
7 Defendant works four 10 hour shifts as an attorney?

8 A I'm aware she's an attorney.

9 Q Sir, that calls --

10 A Yes.

11 Q -- for a yes or no answer. I -- let me rephrase my  
12 question. Are you aware that the Defendant that hired you in  
13 this matter works four 10 hour shifts a week?

14 A I was not aware of her schedule. So no.

15 Q Are you aware that sometimes her work carries over  
16 to her home because she has numerous trials a week?

17 A I don't know that specifically from the report.

18 Q So the --

19 A So no.

20 Q -- answer is yes or no?

21 A No.

22 Q Another one of the factors is co-parenting and  
23 communication, correct?

24 A Correct.

1 Q Did you address that in your report, sir?

2 A Address how so?

3 Q Sir --

4 A I'm not --

5 Q -- does your report or inquiry address that factor  
6 that was listed on the table of the journal entry that you  
7 authored? Yes or no?

8 MS. ROSENBLUM: Your Honor, I would argue that  
9 it's --

10 THE COURT: It's a yes --

11 MS. ROSENBLUM: -- argumentative.

12 THE COURT: No, overruled. It's a yes or no  
13 question. It's either in there or it's not. I understand  
14 what his report is. It's limited, but she has absolutely  
15 every right to ask the question whether that particular factor  
16 was in there.

17 THE WITNESS: No.

18 BY MS. ISSO:

19 Q Don't you think those are important factors sir  
20 whether a parent is at home to take care of the child or  
21 whether they're able to co-parent and communicate to further  
22 the child's interest? Yes or no?

23 A Yes.

24 Q Well, your report is lacking that inquiry you just

1 testified, correct?

2 MS. ROSENBLUM: Objection, Your Honor. It's outside  
3 his scope.

4 MS. ISSO: Correct?

5 THE COURT: Hold on. I will allow him to answer in  
6 that form if in fact that's what he indicates given what his  
7 knowledge of the -- his purpose of being hired was. Okay.

8 THE WITNESS: And I would say --

9 MS. ISSO: It's -- it's yes or no --

10 THE WITNESS: -- that's incorrect --

11 MS. ISSO: -- sir.

12 THE WITNESS: -- because it's not.

13 THE COURT: No, it's --

14 MS. ISSO: Sir.

15 THE COURT: -- not yes or no --

16 THE WITNESS: I'm answering --

17 THE COURT: -- Ms. Isso. I clarified he's got to  
18 expand on this one because --

19 MS. ISSO: Oh.

20 THE COURT: -- if in fact his purpose or his purpose  
21 for his report that he submitted if not those factors were not  
22 part of that process, then of course they're not going to be  
23 in there. So he's got to -- he can't -- it's not a yes or no  
24 question.

1 THE WITNESS: It's incorrect because it -- it was  
2 not the scope of my practice to inquire about that, the scope  
3 of my -- the job that I was doing in this case to do that.

4 BY MS. ISSO:

5 Q But sir, your job was to evalu -- do a product  
6 review of Dr. Kathleen Bergquist's report, right?

7 A Correct.

8 Q And does her report not address these issues?

9 A I don't think her report addresses them adequately.  
10 So I would say no.

11 Q But my question to you is should you not have  
12 brought that up in your report saying that she did not  
13 adequate those adequately?

14 A Well, I've already said --

15 Q Yes or no?

16 A -- that she --

17 Q No, that calls for a yes or no --

18 A It's not --

19 Q -- answer. Yes or no, sir?

20 A Can you repeat the question, please?

21 Q These are factors in the chart that you prepared,  
22 correct? Correct.

23 A And your report does not address these issues  
24 despite the fact Dr. Kathleen Bergquist has raised them in

1 her report, correct?

2 MS. ROSENBLUM: Again, Your Honor, I would object  
3 that it's outside the scope.

4 THE COURT: Overruled. It indicates that he  
5 reviewed Dr. Bergquist's report. He -- he indicated that he  
6 thought they were inadequate. She has a right to follow up on  
7 that particular part. Go ahead, Ms. Isso.

8 BY MS. ISSO:

9 Q Correct?

10 A You're going to have to repeat the question.

11 Q Okay. Let's go back. Sir, your report does not  
12 adequate factors that you just discussed to the Court saying  
13 that these are factors that are used by numerous jurisdictions  
14 and by numerous professionals. Factors such as time available  
15 at home, factors such as co-parenting and communication. Does  
16 your report address those issues? Yes or --

17 A Yes.

18 Q -- no?

19 A Yes.

20 Q Okay. Tell me where your report considered the fact  
21 that Ms. Garcia, the Defendant in this matter, works four 10  
22 hour shifts a week as an attorney and that her work carries  
23 over to her home life. Show me in your report where you  
24 addressed that issue.

1 A Well, you didn't allow me to answer --  
2 Q No.  
3 A -- your first --  
4 Q Sir --  
5 A -- question --  
6 Q -- you're not going to run --  
7 A -- which --  
8 Q -- the show here. I asked you to specifically show  
9 me in the report where you -- where you addressed that issue.  
10 Are you --  
11 THE WITNESS: Your Honor --  
12 Q -- able to do that, sir?  
13 THE WITNESS: -- she didn't allow me to --  
14 Q Are you able to do that, sir?  
15 THE WITNESS: Your Honor, she didn't allow me to  
16 answer her first question and then she --  
17 Q Are you able to do that --  
18 THE WITNESS: -- changed --  
19 Q -- sir?  
20 THE WITNESS: -- the question.  
21 THE COURT: At this juncture I believe where we're  
22 at and I -- we're going to that point at the end of the day  
23 since I am the trier of fact, again, he was not supposed to do  
24 that as part of his analysis. The issue is if in his report

1 he specifically addressed that Dr. Bergquist did not address  
2 those particular factors adequately. That was his last  
3 statement. So if you want to --  
4 MS. ISSO: Yeah. Okay.  
5 THE COURT: -- go -- so Doc --  
6 MS. ISSO: Let's -- let's just go on anyways.  
7 THE COURT: Well, in your report, is there somewhere  
8 in there where you specifically say Dr. Bergquist did not  
9 address those factors adequately?  
10 THE WITNESS: Well, yes, and that I made a statement  
11 that she didn't address --  
12 THE COURT: Okay.  
13 THE WITNESS: -- any of the specific factors --  
14 MS. ISSO: Okay. Objection.  
15 THE WITNESS: -- which you can consider with a --  
16 MS. ISSO: Now that's out of the scope.  
17 THE WITNESS: -- special needs child.  
18 MS. ISSO: That's out of the scope of his report.  
19 THE WITNESS: May I -- may I --  
20 THE COURT: Overruled.  
21 MS. ISSO: That's not what his --  
22 THE WITNESS: May I finished?  
23 MS. ISSO: -- report says.  
24 THE COURT: Overruled. That was the Court's

1 question. I have the right to ask questions Ms. Isso --

2 MS. ISSO: Okay.

3 THE COURT: -- as well.

4 BY MS. ISSO:

5 Q Sir, identify in your report where you make a  
6 negative statement about Ms. Garcia.

7 A I -- I don't have one.

8 Q Okay. But sir, in your report you call yourself  
9 objective and balanced and that you're here to be helpful to  
10 the Court, right? You put that in your report, right?

11 A Correct.

12 Q How could you call yourself objective and balanced  
13 when you didn't address any of the negative things that Dr.  
14 Bergquist said about the Defendant?

15 THE COURT: Watch the tone --

16 MS. ROSENBLUM: Objection.

17 THE COURT: -- Ms. Isso.

18 MS. ISSO: I'm sorry. I'm sorry.

19 THE COURT: It's not funny. We're in a --

20 MS. ISSO: Listen --

21 THE COURT: -- court of law.

22 MS. ISSO: -- I -- I have the right --

23 THE COURT: This is --

24 MS. ISSO: -- to smile and laugh if I feel like it.

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

NECHOLE GARCIA,

Appellant,

v.

EVGENY SHAPIRO,

Respondent.

Case No.: 83992-COA

**APPEAL FROM DECISION AND ORDER**

Eighth Judicial District Court of the State of Nevada

In and for the County of Clark

THE HONORABLE MATTHEW HARTER

DISTRICT COURT JUDGE

---

**AMENDED JOINT APPENDIX – VOL. 16**

---

Emily McFarling, Esq.  
Nevada Bar # 8567  
McFarling Law Group  
6230 W. Desert Inn Road  
Las Vegas, NV 89146  
(702) 565-4335  
*Attorney for Appellant,  
Nechole Garcia*

Jennifer Isso, Esq.  
Nevada Bar # 13157  
Isso & Hughes Law Firm  
8965 S. Eastern Ave  
Suite 120M  
Las Vegas, NV 89123  
(702) 434-4424  
*Attorney for Respondent,  
Evgeny Shapiro*

## INDEX OF JOINT APPENDIX

<b><u>VOLUME:</u></b>	<b><u>BATES NUMBER:</u></b>
1	000001 – 000250
2	000251 – 000500
3	000501 – 000750
4	000751 – 001000
5	001001 – 001250
6	001251 – 001500
7	001501 – 001750
8	001751 – 002000
9	002001 – 002250
10	002251 – 002500
11	002501 – 002750
12	002751 – 003000
13	003001 – 003250
14	003251 – 003500
15	003501 – 003750
16	003751 – 004000
17	004001 – 004250
18	004251 – 004500

19

004501 - 004750

20

004751 - 004896

**INDEX OF JIONT APPENDIX  
CHRONOLOGICAL ORDER**

<b><u>VOL.</u></b>	<b><u>DATE</u></b>	<b><u>DOCUMENT TITLE</u></b>	<b><u>BATES NO.</u></b>
1	08/07/2020	Complaint for Custody	JA000001 JA000005
1	08/07/2020	Financial Disclosure Form	JA000006 - JA000015
1	08/07/2020	Motion for Custody, Child Support, Attorney's Fees, and Other Related Relief	JA000016 - JA000025
1	08/07/2020	Amended Motion for Custody, Child Support, Attorney's Fees and Other Related Relief	JA000026 JA000035
1	08/14/2020	Answer and Counterclaim	JA000036 - JA000044
1	08/18/2020	Defendant's Opposition to Plaintiff's Amended Motion for Custody, Child Support and Other and Countermotion for Immediate Return of Child; for Primary Physical Custody; Child Support and Child Support Arrears; for Plaintiff to Share in Medical Costs for Child; for Attorney's Fees and All Other Related Relief	JA000045 - JA000061
1	08/26/2020	Reply In Support of Plaintiff's Amended Motion for Custody, Child Support, Attorney's Fees and Costs, and Other Related Relief	JA000062 - JA000074
1	08/26/2020	Plaintiff's Exhibits in Support of Plaintiff's Reply and Opposition	JA000075 - JA000161
1	09/04/2020	Def's General Financial Disclosure Form	JA000162 - JA000171
1	09/10/2020	Reply to Counterclaim	JA000172 - JA000174
1	09/11/2020	Exhibit in Support of Defendant's Opposition	JA000175 - JA000176
1	09/14/2020	Supplemental Exhibit in Support of Defendant's Opposition	JA000177 - JA000196
1	09/17/2020	Order for the Our Family Wizard Website Seervices	JA000197 - JA000198
1	10/29/2020	SAO CUSTODY EVALUATION	JA000199 - JA000201

1	11/03/2020	Notice of Entry of Stipulation and Order	JA000202 - JA000206
1	11/25/2020	D-20-612006-C - Shaprio v. Garcia - ORDR - Order After Hearing	JA000207 - JA000212
1	11/25/2020	Notice Of Entry Of Order	JA000213 - JA000220
1	12/21/2020	Order Adopting this Court's Holiday Schedule re Christmas D612006	JA000221 - JA000226
1	12/21/2020	Defendant's Objection To Plaintiff s Ex Parte Request For Holiday Visitation Time On Order Shortening Time	JA000227 - JA000231
1	12/21/2020	Defendant's Motion For Reconsideration Motion for Reconsideration and Objection and Plaintiff's Countermotion to Extend Custodial Time and For Attorney's Fees and Other Related Relief	JA000232 JA000240
1	12/28/2020	Minute Order Modifying the Decision and Order filed 12-21-20	JA000241 - JA000243
1-2	12/28/2020	Plaintiff's Opposition to Defendant's Motion for Reconsideration and Objection and Plaintiff's Countermotion to Extend Custodial Time and For Attorney's Fees and Other Related Relief	JA000244 - JA000253
2	12/28/2020	Exhibits in Support of Plaintiff's Opposition and Countermotion	JA000254 - JA000261
2	01/04/2021	Plaintiff's Re-Notice of Countermotion	JA000262
2	03/11/2021	Defendant s Reply To Plaintiff s Opposition To Defendant's Motion For Reconsideration And Objection And Plaintiff's Countermotion To Extend Custodial Time And For Attorney s Fees And Other Related Relief	JA000263 - JA000268
2	03/16/2021	PLAINTIFF S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION	JA000269 - JA000272
2	03/23/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY AND EXPERT REPORT PURSUANT TO NRCP 16.1(a)(2)	JA000273 - JA000286

2	03/23/2021	Custody Evaluation by Kathleen L. Bergquist, Licensed Clinical Social Worker <sup>1</sup>	JA000287 - 000319
2	04/20/2021	Order From Hearing On March 16, 2021	JA000320 - JA000324
2	05/04/2021	Notice of Scheduling Settlement Conference	JA000325 - JA000328
2	05/04/2021	Notice Of Entry Of Order	JA000329 - JA000334
2	05/29/2021	Notice of Seminar Completion EDCR 5.302	JA000335
2	05/29/2021	Financial Disclosure Form	JA000336 - JA000343
2	07/13/2021	Settlement Conference Minutes	JA000344 - JA000345
2	07/13/2021	Expert Witness List	JA000346 - JA000369
2	07/19/2021	PLAINTIFF S MOTION FOR A SANCTIONS AND FOR ATTORNEY S FEES AND COSTS AND OTHER RELATED RELIEF	JA000370 - JA000378
2	07/20/2021	Defendant's Opposition to Plaintiff's Motion for Sanctions and for Attorney's Fees and Costs and Other Related Relief Defendant's Countermotion for Plaintiff's Motion to Be Stricken; for Attorney's Fees and Costs; for Related Relief	JA000379 - JA000395
2	08/12/2021	Order Setting Civil Non-Jury Trial	JA000395 - 000400
2	09/07/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY PURSUANT TO NRCP 16.1(a)(2)	JA000401 - JA000414
2	09/08/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY PURSUANT TO NRCP 16.1(a)(2)	JA000415 - JA000429
2	09/15/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS REPORT	JA000430 - JA000437
2	09/21/2021	Trial Subpoena - Video Testimony Only	JA000438 - JA000440

---

<sup>1</sup> Submitted under seal subject to Court approval.

2	09/21/2021	Trial Subpoena - Video Testimony Only For Dr Mario Gaspar De Alba	JA000441 - JA000443
2	09/22/2021	Trial Subpoena - Video Testimony Only For Marine Lancz	JA000444 - JA000446
2	09/23/2021	Notice Of Taking Remote Deposition	JA000447 - JA000448
2	10/05/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000449 - JA000456
2	10/05/2021	General Financial Disclosure Form	JA000457 - JA000466
2	10/06/2021	Financial Disclosure Form	JA000467 - JA000482
2	10/07/2021	Plaintiff's Pre-Trial Memorandum	JA000483 - JA000492
2-3	10/08/2021	Defendant's Pretrial Memorandum	JA000493 - JA000530
3	10/09/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000531 - JA000539
3	10/14/2021	Calendar Call - Evidentiary Hearing	JA000540
3	10/15/2021	Financial Disclosure Form	JA000541 - JA000556
3	10/15/2021	Defendant's Emergency Motion for Witness Accommodation, or Alternatively, to Continue Trial on an order Shortening Time	JA000557 - JA000573
3	10/28/2021	Plaintiff's Reply to Defendant's Opposition to Motion for Witness Accommodation	JA000574 - JA000577
3	10/28/2021	Defendant s Limited Opposition To Plaintiff s Motion For Witness Accommodation And Request For Attorney s Fees And Costs Hearing Minutes	JA000578
3	11/02/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000579 - JA000587
3	11/03/2021	Trial Exhibit: Child's TMG Exit Records. Eugene	JA000588 - JA000612
3	11/03/2021	Trial Exhibit: Carter Counseling Autism Treatment Plan	JA000613 - JA000637
3	11/03/2021	Trial Exhibit: Firefly treatment plan for ABA Therapy. Eugene 4484-4508	JA000638 - JA000643

3	11/03/2021	Trial Exhibit: Dr. Gaspar Pediatric Report. Eugene 4462-4467	JA000644 - JA000649
3-4	11/03/2021	Trial Exhibit: Teladoc Health inc. records for Nechole Garcia. Eugene 3997-4111 <sup>2</sup>	JA000650 - JA000764
4	11/03/2021	Trial Exhibit: Pictures of child with scratches and diaper rash. Eugene 3715-3732	JA000765 - JA000782
4	11/03/2021	Trial Exhibit: Pictures of child with her brothers. Eugene 3700-3714	JA000783 - JA000797
4-5	11/03/2021	Trial Exhibit: Therapy Manage Group CARS Report Information. Eugene 3140-3152	JA000798 - JA000810
5	11/03/2021	Trial Exhibit: 2021 Additional Child Photos and Videos. Eugene 3134-3137	JA000811 - JA000814
5,6,7	11/03/2021	Trial Exhibit I: All Our Family Wizard Communications, Updated	JA000815 - JA001715
7 -15	11/03/2021	Trial Exhibit: Text Messages between the parties. Eugene 0845-2754	JA001716 - JA003625
15	11/03/2021	Trial Exhibit G: Constructive Arrears	JA003626 - JA003669
15	11/03/2021	Trial Exhibit: Dr. Pickar' s Report: Defendant Ex	JA003670 JA003684
15	11/03/2021	Evidentiary Hearing - Minutes	JA003685
15-17	11/03/2021	Transcript of Hearing: Evidentiary Hearing (Corrected)	JA003686 - JA004027
17	11/04/2021	Telephonic Hearing - Minutes	JA004028
17	11/04/2021	Transcript of Hearing: Telephonic Hearing	JA004029 - JA004037
17-18	11/05/2021	Transcript of Hearing: Evidentiary Hearing	JA004038 - JA004344
18	11/05/2021	Trial Exhibit: Plaintiff's PayPal Account. Eugene 0828-0844	JA004345 - JA004361
18	11/05/2021	Trial Exhibit: Child expenses and receipt from Dr. Berquist. Eugene 0800-0823	JA004384- JA004385
18	11/05/2021	Plaintiff's Mortgage Statement. Eugene 0795-0799	JA004386- JA004390
18	11/05/2021	Trial Exhibit: Plaintiff's traceable expenses report. Eugene 0793-0794	JA004391- JA004392

---

<sup>2</sup> Submitted under seal subject to Court approval.

18	11/05/2021	Trial Exhibit: Ledger of checks and cash given to Defendant. Eugene 0706-0707	JA004393 - JA004394
18	11/05/2021	Trial Exhibit: Child Medical Expenses. Eugene 0701-0705	JA004395- JA004399
18	11/05/2021	Trial Exhibit: Amazon Manage Order. - Eugene 0624-0625	JA004400- JA004401
18	11/05/2021	Trial Exhibit: Wal-Mart receipts. Eugene 0566-0623	JA004402- JA004459
18	11/05/2021	Trial Exhibit: Proof of Purchases for Baby Proofing. Eugene 0318-0322	JA004460- JA004464
18	11/05/2021	Trial Exhibit: Proof of Humidifier Purchase; Eugene 0316-0317	JA004465 JA004466
18-19	11/05/2021	Trial Exhibit: Checks and Cash Paid to Defendant by Plaintiff; Eugene 0080-0121	JA004468 JA004508
19	11/05/2021	Trial Exhibit: Statement related to health insurance for the minor child, Defendant Ex	JA004509 JA004512
19	11/05/2021	Trial Exhibit: Plaintiffs Bank Records, Defendant Ex W-0001 - Defendant Ex W-0086	JA004513 JA004599
19	11/05/2021	Trial Exhibit Z: Coparenting Concerns Involving CCSD, Defendant Ex Z-0001 to Defendant Ex Z-0015	JA004600 - JA004615
19	11/05/2021	State of Nevada Individualized Educational Program (IEP)	JA004616 JA004636
19	11/05/2021	Trial Exhibit: Defendant's 2018 Tax Return	JA004637
19	11/05/2021	Trial Exhibit: Defendant's 2019 Tax Return	JA004638 - JA004640
19	11/05/2021	Trial Exhibit: Defendant's 2020 Tax Return	JA004641 JA004645
19	11/05/2021	Trial Exhibit: Plaintiff's 2018 Tax Return	JA004646- JA004653
19	11/05/2021	Trial Exhibit: Plaintiff's 2019 Tax Return	JA004654 JA004665
19	11/05/2021	Trial Exhibit: Plaintiff's 2020 Tax Return	JA004666 JA004677
19	11/16/2021	SAO TO EXTENDED DUE DATE OF BRIEF	JA004678 JA004680
19	11/23/2021	Defendants Closing Brief	JA004681

			JA004690
19	11/24/2021	Defendant's Nechole Garcia's Brief Regarding Child Support	JA004691 JA004695
19	11/25/2021	PLAINTIFF S CLOSING BRIEF	JA004696 JA004705
19	11/26/2021	PLAINTIFF S CLOSING BRIEF	JA004706 JA004715
19	12/15/2021	Decision and Order for November 03, 2021 and November 05, 2021 Evidentiary Hearings	JA004716 JA004728
19	12/18/2021	Notice of Appeal	JA004729 JA004731
19	12/18/2021	Plaintiff's Motion For Attorney's Fees And Reimbursement Of Costs And Memorandum Of Fees And Costs Incurred	JA004732 JA004750
20	12/21/2021	Exhibits In Support Of Defendants Motion For Attorneys Fees And Costs Pursuant To NRCP 54(d)	JA004751 JA004829
20	12/21/2021	Defendant's Motion For Attorney's Fees and Costs Pursuant To NRCP 54(d)	JA004830 JA004846
20	12/22/2021	Defendant's Opposition to Plaintiff's Motion for Attorney's Fees and Reimbursement of Costs and Memorandum of Fees and Costs Incurred	JA004847 JA004862
20	12/27/2021	Plaintiff's Opposition To Defendant's Motion For Attorney's Fees And Costs And Counter Motion For Sanctions Under NRCP 11	JA004863 JA004874
20	12/29/2021	Order Deferring Motions Pending Appeal	JA004875 JA004877
20	01/06/2022	Emergency Motion to Stay The Court's Order	JA004878 JA004885
20	01/09/2022	Opposition to Motion to Stay	JA004886 JA004892
20	01/12/2022	Notice of Entry of Decision and Order	JA004893
20	01/12/2022	Decision and Order Denying Request for Stay	JA004894 JA004896

**INDEX OF JOINT APPENDIX  
ALPHABETICAL ORDER**

<b><u>VOL.</u></b>	<b><u>DATE</u></b>	<b><u>DOCUMENT TITLE</u></b>	<b><u>BATES NO.</u></b>
1	08/07/2020	Amended Motion for Custody, Child Support, Attorney's Fees and Other Related Relief	JA000026 JA000035
1	08/14/2020	Answer and Counterclaim	JA000036 - JA000044
3	10/14/2021	Calendar Call - Evidentiary Hearing	JA000540
1	08/07/2020	Complaint for Custody	JA000001 JA000005
2	03/23/2021	Custody Evaluation by Kathleen L. Bergquist, Licensed Clinical Social Worker <sup>3</sup>	JA000287 - 000319
1	11/25/2020	D-20-612006-C - Shaprio v. Garcia - ORDR - Order After Hearing	JA000207- JA000212
20	01/12/2022	Decision and Order Denying Request for Stay	JA004894 JA004896
19	12/15/2021	Decision and Order for November 03, 2021 and November 05, 2021 Evidentiary Hearings	JA004716 JA004728
3	10/28/2021	Defendant s Limited Opposition To Plaintiff s Motion For Witness Accommodation And Request For Attorney s Fees And Costs	JA000578
2	03/11/2021	Defendant s Reply To Plaintiff s Opposition To Defendant's Motion For Reconsideration And Objection And Plaintiff's Countermotion To Extend Custodial Time And For Attorney s Fees And Other Related Relief	JA000263 - JA000268
1	12/21/2020	Defendant's Motion For Reconsideration Motion for Reconsideration and Objection and Plaintiff's Countermotion to Extend Custodial Time and For Attorney's Fees and Other Related Relief	JA000232 JA000240

---

<sup>3</sup> Submitted under seal subject to Court approval.

1	12/21/2020	Defendant's Objection To Plaintiff's Ex Parte Request For Holiday Visitation Time On Order Shortening Time	JA000227 - JA000231
19	11/23/2021	Defendants Closing Brief	JA004681 JA004690
3	10/15/2021	Defendant's Emergency Motion for Witness Accommodation, or Alternatively, to Continue Trial on an order Shortening Time	JA000557 - JA000573
20	12/21/2021	Defendant's Motion For Attorney's Fees and Costs Pursuant To NRCP 54(d)	JA004830 JA004846
19	11/24/2021	Defendant's Nechole Garcia's Brief Regarding Child Support	JA004691 JA004695
1	08/18/2020	Defendant's Opposition to Plaintiff's Amended Motion for Custody, Child Support and Other and Countermotion for Immediate Return of Child; for Primary Physical Custody; Child Support and Child Support Arrears; for Plaintiff to Share in Medical Costs for Child; for Attorney's Fees and All Other Related Relief	JA000045 - JA000061
20	12/22/2021	Defendant's Opposition to Plaintiff's Motion for Attorney's Fees and Reimbursement of Costs and Memorandum of Fees and Costs Incurred	JA004847 JA004862
2	07/20/2021	Defendant's Opposition to Plaintiff's Motion for Sanctions and for Attorney's Fees and Costs and Other Related Relief Defendant's Countermotion for Plaintiff's Motion to Be Stricken; for Attorney's Fees and Costs; for Related Relief	JA000379 - JA000395
2-3	10/08/2021	Defendant's Pretrial Memorandum	JA000493 - JA000530
1	09/04/2020	Def's General Financial Disclosure Form	JA000162 - JA000171
20	01/06/2022	Emergency Motion to Stay The Court's Order	JA004878 JA004885
15	11/03/2021	Evidentiary Hearing - Minutes	JA003685
1	09/11/2020	Exhibit in Support of Defendant's Opposition	JA000175 - JA000176

20	12/21/2021	Exhibits In Support Of Defendants Motion For Attorneys Fees And Costs Pursuant To NRCP 54(d)	JA004751 JA004829
2	12/28/2020	Exhibits in Support of Plaintiff's Opposition and Countermotion	JA000254 - JA000261
2	07/13/2021	Expert Witness List	JA000346 - JA000369
1	08/07/2020	Financial Disclosure Form	JA000006 - JA000015
2	05/29/2021	Financial Disclosure Form	JA000336 - JA000343
2	10/06/2021	Financial Disclosure Form	JA000467 - JA000482
3	10/15/2021	Financial Disclosure Form	JA000541 - JA000556
2	10/05/2021	General Financial Disclosure Form	JA000457 - JA000466
1	12/28/2020	Minute Order Modifying the Decision and Order filed 12-21-20	JA000241 - JA000243
1	08/07/2020	Motion for Custody, Child Support, Attorney's Fees, and Other Related Relief	JA000016 - JA000025
19	12/18/2021	Notice of Appeal	JA004729 JA004731
20	01/12/2022	Notice of Entry of Decision and Order	JA004893
1	11/25/2020	Notice Of Entry Of Order	JA000213 - JA000220
2	05/04/2021	Notice Of Entry Of Order	JA000329 - JA000334
1	11/03/2020	Notice of Entry of Stipulation and Order	JA000202 - JA000206
2	05/04/2021	Notice of Scheduling Settlement Conference	JA000325 - JA000328
2	05/29/2021	Notice of Seminar Completion EDCR 5.302	JA000335
2	09/23/2021	Notice Of Taking Remote Deposition	JA000447 - JA000448
20	01/09/2022	Opposition to Motion to Stay	JA004886 JA004892

1	12/21/2020	Order Adopting this Court's Holiday Schedule re Christmas D612006	JA000221 - JA000226
20	12/29/2021	Order Deferring Motions Pending Appeal	JA004875 JA004877
1	09/17/2020	Order for the Our Family Wizard Website Seervices	JA000197 - JA000198
2	04/20/2021	Order From Hearing On March 16, 2021	JA000320 - JA000324
2	08/12/2021	Order Setting Civil Non-Jury Trial	JA000395 - 000400
19	11/25/2021	PLAINTIFF S CLOSING BRIEF	JA004696 JA004705
19	11/26/2021	PLAINTIFF S CLOSING BRIEF	JA004706 JA004715
2	09/15/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS REPORT	JA000430 - JA000437
2	03/23/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY AND EXPERT REPORT PURSUANT TO NRCP 16.1(a)(2)	JA000273 - JA000286
2	09/07/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY PURSUANT TO NRCP 16.1(a)(2)	JA000401 - JA000414
2	09/08/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY PURSUANT TO NRCP 16.1(a)(2)	JA000415 - JA000429
2	07/19/2021	PLAINTIFF S MOTION FOR A SANCTIONS AND FOR ATTORNEY S FEES AND COSTS AND OTHER RELATED RELIEF	JA000370 - JA000378
2	03/16/2021	PLAINTIFF S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION	JA000269 - JA000272
2	10/05/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000449 - JA000456
3	10/09/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000531 - JA000539
3	11/02/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000579 - JA000587
18	11/05/2021	Plaintiff's Mortgage Statement. Eugene 0795-0799	JA004386- JA004390

1	08/26/2020	Plaintiff's Exhibits in Support of Plaintiff's Reply and Opposition	JA000075 - JA000161
19	12/18/2021	Plaintiff's Motion For Attorney's Fees And Reimbursement Of Costs And Memorandum Of Fees And Costs Incurred	JA004732 JA004750
20	12/27/2021	Plaintiff's Opposition To Defendant's Motion For Attorney's Fees And Costs And Counter Motion For Sanctions Under NRCP 11	JA004863 JA004874
1-2	12/28/2020	Plaintiff's Opposition to Defendant's Motion for Reconsideration and Objection and Plaintiff's Countermotion to Extend Custodial Time and For Attorney's Fees and Other Related Relief	JA000244 - JA000253
2	10/07/2021	Plaintiff's Pre-Trial Memorandum	JA000483 - JA000492
2	01/04/2021	Plaintiff's Re-Notice of Countermotion	JA000262
3	10/28/2021	Plaintiff's Reply to Defendant's Opposition to Motion for Witness Accommodation	JA000574 - JA000577
1	08/26/2020	Reply In Support of Plaintiff's Amended Motion for Custody, Child Support, Attorney's Fees and Costs, and Other Related Relief	JA000062 - JA000074
1	09/10/2020	Reply to Counterclaim	JA000172 - JA000174
1	10/29/2020	SAO CUSTODY EVALUATION	JA000199 - JA000201
19	11/16/2021	SAO TO EXTENDED DUE DATE OF BRIEF	JA004678 JA004680
2	07/13/2021	Settlement Conference Minutes	JA000344 - JA000345
19	11/05/2021	State of Nevada Individualized Educational Program (IEP)	JA004616 JA004636
1	09/14/2020	Supplemental Exhibit in Support of Defendant's Opposition	JA000177 - JA000196
17	11/04/2021	Telephonic Hearing - Minutes	JA004028
15-17	11/03/2021	Transcript of Hearing: Evidentiary Hearing	JA003686 - JA004027
17-18	11/05/2021	Transcript of Hearing: Evidentiary Hearing	JA004038 - JA004344

17	11/04/2021	Transcript of Hearing: Telephonic Hearing	JA004029 - JA004037
15	11/03/2021	Trial Exhibit G: Constructive Arrears	JA003626 - JA003669
5,6,7	11/03/2021	Trial Exhibit I: All Our Family Wizard Communications, Updated	JA000815 - JA001715
19	11/05/2021	Trial Exhibit Z: Coparenting Concerns Involving CCSD, Defendant Ex Z-0001 to Defendant Ex Z-0015	JA004600 - JA004615
5	11/03/2021	Trial Exhibit: 2021 Additional Child Photos and Videos. Eugene 3134-3137	JA000811 - JA000814
18	11/05/2021	Trial Exhibit: Amazon Manage Order. - Eugene 0624-0625	JA004400- JA004401
3	11/03/2021	Trial Exhibit: Carter Counseling Autism Treatment Plan	JA000613 - JA000637
18-19	11/05/2021	Trial Exhibit: Checks and Cash Paid to Defendant by Plaintiff; Eugene 0080-0121	JA004468 JA004508
18	11/05/2021	Trial Exhibit: Child expenses and receipt from Dr. Berquist. Eugene 0800-0823	JA004384- JA004385
18	11/05/2021	Trial Exhibit: Child Medical Expenses. Eugene 0701-0705	JA004395- JA004399
3	11/03/2021	Trial Exhibit: Child's TMG Exit Records. Eugene	JA000588 - JA000612
19	11/05/2021	Trial Exhibit: Defendant's 2018 Tax Return	JA004637
19	11/05/2021	Trial Exhibit: Defendant's 2019 Tax Return	JA004638 - JA004640
19	11/05/2021	Trial Exhibit: Defendant's 2020 Tax Return	JA004641 JA004645
3	11/03/2021	Trial Exhibit: Dr. Gaspar Pediatric Report. Eugene 4462-4467	JA000644 - JA000649
15	11/03/2021	Trial Exhibit: Dr. Pickar' s Report: Defendant Ex	JA003670 JA003684
3	11/03/2021	Trial Exhibit: Firefly treatment plan for ABA Therapy. Eugene 4484-4508	JA000638 - JA000643
18	11/05/2021	Trial Exhibit: Ledger of checks and cash given to Defendant. Eugene 0706-0707	JA004393 - JA004394
4	11/03/2021	Trial Exhibit: Pictures of child with her brothers. Eugene 3700-3714	JA000783 - JA000797

4	11/03/2021	Trial Exhibit: Pictures of child with scratches and diaper rash. Eugene 3715-3732	JA000765 - JA000782
19	11/05/2021	Trial Exhibit: Plaintiff's 2018 Tax Return	JA004646- JA004653
19	11/05/2021	Trial Exhibit: Plaintiff's 2019 Tax Return	JA004654 JA004665
19	11/05/2021	Trial Exhibit: Plaintiff's 2020 Tax Return	JA004666 JA004677
19	11/05/2021	Trial Exhibit: Plaintiffs Bank Records, Defendant Ex W-0001 - Defendant Ex W-0086	JA004513 JA004599
18	11/05/2021	Trial Exhibit: Plaintiff's PayPal Account. Eugene 0828-0844	JA004345 - JA004361
18	11/05/2021	Trial Exhibit: Plaintiff's traceable expenses report. Eugene 0793-0794	JA004391- JA004392
18	11/05/2021	Trial Exhibit: Proof of Humidifier Purchase; Eugene 0316-0317	JA004465 JA004466
18	11/05/2021	Trial Exhibit: Proof of Purchases for Baby Proofing. Eugene 0318-0322	JA004460- JA004464
19	11/05/2021	Trial Exhibit: Statement related to health insurance for the minor child, Defendant Ex	JA004509 JA004512
3-4	11/03/2021	Trial Exhibit: Teladoc Health inc. records for Nechole Garcia. Eugene 3997-4111 <sup>4</sup>	JA000650 - JA000764
7 -15	11/03/2021	Trial Exhibit: Text Messages between the parties. Eugene 0845-2754	JA001716 - JA003625
4-5	11/03/2021	Trial Exhibit: Therapy Manage Group CARS Report Information. Eugene 3140-3152	JA000798 - JA000810
18	11/05/2021	Trial Exhibit: Wal-Mart receipts. Eugene 0566-0623	JA004402- JA004459
2	09/21/2021	Trial Subpoena - Video Testimony Only	JA000438 - JA000440
2	09/21/2021	Trial Subpoena - Video Testimony Only For Dr Mario Gaspar De Alba	JA000441 - JA000443
2	09/22/2021	Trial Subpoena - Video Testimony Only For Marine Lancz	JA000444 - JA000446

---

<sup>4</sup> Submitted under seal subject to Court approval.

## **CERTIFICATE OF SERVICE**

I, an employee of McFarling Law Group, hereby certify that on the 28<sup>th</sup> day of March, 2022, I served a true and correct copy of this Joint Appendix as follows:

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

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

Jennifer Isso, Esq.  
[ji@issohugheslaw.com](mailto:ji@issohugheslaw.com)

/s/ Alex Aguilar  
Alex Aguilar

1 I'm sorry, but I get very involved. Okay. I'm not the issue  
2 here.

3 THE COURT: Okay. But your demeanor is an issue and  
4 a decorum is absolutely under your professional rules.

5 MS. ISSO: This is how I do cross.

6 THE COURT: Talk to --

7 MS. ISSO: This is --

8 THE COURT: -- to the professional --

9 MS. ISSO: This is how I do cross.

10 THE COURT: -- as a professional.

11 MS. ISSO: This is how I treat an adverse party.  
12 This is how I talk.

13 MS. ROSENBLUM: He's -- he's --

14 MS. ISSO: I can't change it.

15 MS. ROSENBLUM: -- not an ad --

16 THE COURT: And I'm telling you to treat him with  
17 respect and decorum. He's a professional as you --

18 MS. ISSO: I treated --

19 THE COURT: -- are as well.

20 MS. ISSO: -- him with enough --

21 THE COURT: So drop the level down and ask him the  
22 question properly.

23 BY MS. ISSO:

24 Q How do you call yourself objective and neutral when

1 you haven't addressed the negative comments about the  
2 Defendant that Dr. Kathleen Bergquist made in her report?

3 MS. ROSENBLUM: Objection, Your Honor. It lacks  
4 foundation.

5 THE COURT: Overruled.

6 THE WITNESS: I addressed in my report what Dr.  
7 Bergquist said about each of these parents' parenting skills  
8 and how they affect the child. That's what was portrayed.

9 BY MS. ISSO:

10 Q Sir --

11 A That -- that --

12 Q -- show me in your report where you addressed a nega  
13 -- the -- one of -- a negative comment about your -- about the  
14 client that paid you to be here today. Show me in your report  
15 and tell me the page and the line number.

16 MS. ROSENBLUM: Objection, argumentative. Asked and  
17 answered.

18 THE COURT: It was asked and answered. He already  
19 indicated --

20 MS. ISSO: Okay.

21 THE COURT: -- there was not --

22 MS. ISSO: Okay.

23 THE COURT: -- Ms. Isso.

24 BY MS. ISSO:

1           Q     So sir, it's fair to say that you're not really here  
2 to be helpful to anyone but yourself, right?

3           MS. ROSENBLUM:  Objection, argumentative.

4           THE COURT:  Sustained.

5 BY MS. ISSO:

6           Q     That you're only here to benefit your own pockets,  
7 right?

8           MS. ROSENBLUM:  Objection --

9           THE COURT:  Sustained.

10          MS. ROSENBLUM:  -- argumentative.

11 BY MS. ISSO:

12          Q     Sir -- sir, your report doesn't address the fact  
13 that Ms. Garcia withheld the child for 33 days, does it?

14          MS. ROSENBLUM:  Objection --

15          Q     Yes or no?

16          MS. ROSENBLUM:  -- exceeds the scope, Your Honor.

17          THE COURT:  Sustained.

18          MS. ISSO:  Sir, how is that sustained?  He's saying  
19 Dr. Kathleen Bergquist --

20          THE COURT:  His scope --

21          MS. ISSO:  -- didn't address --

22          THE COURT:  -- was limited --

23          MS. ISSO:  -- certain things.

24          THE COURT:  -- Ms. Isso.  He did not do an in depth

1 analysis nor --

2 MS. ISSO: Yeah, but he did --

3 THE COURT: -- custody evaluation.

4 MS. ISSO: -- an analysis where he said he withheld  
5 the child. Why didn't he address the fact that Ms. Garcia  
6 withheld the child? That's not a sustained. This is within  
7 the scope. So I'm going to ask the question again so we have  
8 a clear record.

9 BY MS. ISSO:

10 Q Sir, show me in your --

11 THE COURT: Take --

12 Q -- report where you address the fact that Ms. Garcia  
13 withheld the child for 33 days. Are you able to do that?

14 MS. ROSENBLUM: Objection, Your Honor.

15 Q Yes or no?

16 MS. ROSENBLUM: Objection, Your Honor. It exceeds  
17 the scope. Assumes --

18 THE COURT: He can answer --

19 MS. ROSENBLUM: -- facts not in evidence.

20 THE COURT: -- whether he addressed the 33 days.  
21 That's a yes or no question.

22 THE WITNESS: I did not address --

23 MS. ISSO: Yes --

24 THE WITNESS: -- the 33 days.

1 BY MS. ISSO:

2 Q Okay. Tell me in your report where you addressed  
3 the fact that Nechole withheld the child unless Eugene agreed  
4 to give her primary custody. Did you address that in your  
5 report?

6 MS. ROSENBLUM: Objection, assumes facts not in  
7 evidence. Your Honor, I would argue that it exceeds the  
8 scope. Dr. Pickar was retained to review Dr. Bergquist's  
9 report.

10 THE COURT: Sustained.

11 MS. ISSO: This is -- this is Dr. Kathleen  
12 Bergquist's report. I am getting --

13 THE COURT: I'm --

14 MS. ISSO: -- all these from her report. I'm not  
15 pulling these from the sky.

16 THE COURT: Your next question, Ms. Isso.

17 BY MS. ISSO:

18 Q Your report did not address the fact that after  
19 Eugene Shapiro baby proofed the home that Ms. Garcia continued  
20 to find reasons to keep the child away from him, does it?

21 MS. ROSENBLUM: Objection, it exceeds the scope.

22 THE COURT: Sustained.

23 BY MS. ISSO:

24 Q Your report does not address the fact that Dr.

1 Kathleen Bergquist said in her report that Ava has a strong  
2 bond with Eugene and enjoys being with him, does it?

3 A I don't know.

4 Q So the answer is no?

5 A Correct.

6 Q Okay. Your report doesn't address the fact that Dr.  
7 Kathleen Bergquist's report stated Eugene has a stable home  
8 and a support system, does it?

9 A No.

10 Q Does your report state that -- does your report  
11 address that Dr. Kathleen Bergquist's report stated that  
12 Eugene is able to meet Ava's primary needs?

13 A I -- I would answer that from the standpoint that  
14 there was a lot of inconsistencies --

15 Q Sir.

16 A -- suggesting --

17 Q Sir.

18 A -- that he has --

19 THE COURT: It's a --

20 MS. ISSO: Move to strike --

21 THE COURT: -- yes or no --

22 A -- difficulty --

23 THE COURT: -- Doctor.

24 MS. ISSO: -- as non-responsive.

1           A     -- doing them.

2           MS. ISSO:  Move to --

3           THE COURT:  It's a yes or no question --

4           MS. ISSO:  Thank you.

5           THE COURT:  -- or you don't know or if you need to

6 refer to your report, she's asked it in a yes or no form.

7           A     I believe I addressed that, yes --

8           Q     Okay.  And show me --

9           A     -- and to some --

10          Q     -- show me --

11          A     -- to some --

12          Q     -- in your --

13          A     -- degree.

14          Q     -- report.  Show me in your report the page and the

15 line number, sir, since you're -- since you're saying -- since

16 you're trying to mislead the Court.

17          MS. ROSENBLUM:  Objection --

18          THE COURT:  Sus --

19          MS. ROSENBLUM:  -- argumentative.  Move to strike.

20          THE COURT:  Watch the professionalism, Ms. Isso.

21          THE WITNESS:  On page 4 of my report, I know that

22 Dr. Bergquist says given the possibility that Ava may need

23 ongoing professional intervention --

24 BY MS. ISSO:

1 Q No, just tell me what --  
2 A It says Ms. --  
3 Q Sir.  
4 A Ms. Shapiro's -- this is on page 4. Mr. Shapiro  
5 seems to be somewhat unaware of --  
6 Q No. Sir --  
7 A -- developmentally --  
8 MS. ISSO: Move to strike as --  
9 A -- appropriate --  
10 MS. ISSO: -- non-responsive.  
11 A -- parenting.  
12 MS. ISSO: Objection, move to strike as non --  
13 THE COURT: Doctor, you're just reading the report  
14 out loud. If you don't have the specific line that addresses  
15 her question --  
16 MS. ISSO: Move to strike.  
17 THE COURT: It's stricken.  
18 BY MS. ISSO:  
19 Q Do you --  
20 A I don't have a specific line.  
21 Q Okay. Because you -- your report doesn't address  
22 that statement, sir, correct?  
23 A Correct.  
24 Q Sir, your report did not address Dr. Kathleen

1 Bergquist's recommendation that Ms. Garcia continued to work  
2 with her individual therapist to increase her ability to  
3 co-parent and relinquish some control and increase her ability  
4 to trust. Does your report address that?

5 MS. ROSENBLUM: Objection, exceeds the scope.

6 THE COURT: Here's where we're at at this point.  
7 Then I need him to indicate that that's outside the scope of  
8 what he was retained for.

9 MS. ISSO: It's not outside the scope. He's here to  
10 do a product review of Kathleen Bergquist's --

11 THE COURT: Right.

12 MS. ISSO: -- report.

13 THE COURT: If he doesn't -- so --

14 MS. ISSO: So he didn't address certain important  
15 information that relates to the factors that he addressed in  
16 the table --

17 THE COURT: Ms. Isso.

18 MS. ISSO: -- of the journal entry that he authored.

19 THE COURT: Is that within your scope, Doctor, yes  
20 or no?

21 THE WITNESS: Well, it wouldn't be within the scope  
22 of the work product review.

23 THE COURT: Okay. That's --

24 BY MS. ISSO:

1 Q But don't you think that's an important thing that  
2 you should consider if you're here today acting as an expert  
3 to tell the Judge whether another doctor did her job correctly  
4 and whether it complies with the ABA or ASD or AFCC?

5 MS. ROSENBLUM: Objection, argumentative.

6 THE COURT: Sustained.

7 MS. ROSENBLUM: Compound. Thank you.

8 THE COURT: Sus --

9 BY MS. ISSO:

10 Q Sir, don't you think that that's -- that's important  
11 information that you should have considered? Yes or no?

12 A It was outside the scope of what I was to do my  
13 task.

14 Q But your scope included reviewing Dr. Kathleen  
15 Bergquist's report, right?

16 A Correct.

17 Q And that information was in her report, is that not  
18 correct?

19 A Correct.

20 Q And that her report consisted of 33 pages plus  
21 numerous exhibits, correct?

22 A Correct.

23 Q And I mean, what -- I mean, when you review a  
24 report, don't you review the report in its entirety?

1           A     Yes, I do.

2           Q     Well, it seems like you did not do that in this  
3 case, sir, because you're saying it's outside of the scope.

4           MS. ROSENBLUM:  Objection, argumentative.

5           A     You are incorrect.

6           THE COURT:  Sustained.

7 BY MS. ISSO:

8           Q     You just said --

9           THE COURT:  Sustained.

10          Q     -- on the record that --

11          THE COURT:  Move on to your next question.

12          Q     You just stated on the record that you are here to  
13 review her product, to review her report.  Did you not just  
14 say that?

15          MS. ROSENBLUM:  Objection, this is --

16          THE COURT:  Sustained.

17          MS. ROSENBLUM:  -- asked and answered.

18 BY MS. ISSO:

19          Q     Sir, are you -- are you a reliable reporter of  
20 facts?

21          MS. ROSENBLUM:  Objection, vague and ambiguous.

22 BY MS. ISSO:

23          Q     You agree -- yes or no, sir, are you reliable  
24 reporter of facts?

1 THE COURT: Listen.

2 MS. ROSENBLUM: Same objection.

3 THE COURT: I'm going to allow him to an -- listen.

4 THE WITNESS: I strive to be, yes.

5 BY MS. ISSO:

6 Q But you didn't report these essential information  
7 that was in Dr. Kathleen Bergquist's report to the Judge  
8 today, right?

9 MS. ROSENBLUM: Objection, argumentative.

10 THE COURT: He can answer in the form that the  
11 Court's already allowed him to answer in that if he indicates  
12 it's --

13 MS. ISSO: Could you stop --

14 THE COURT: -- outside the --

15 MS. ISSO: -- coaching the witness?

16 THE COURT: -- scope of what he was retained for --

17 MS. ISSO: Stop coaching --

18 THE COURT: -- then he can --

19 MS. ISSO: -- the witness.

20 THE COURT: -- indicate that.

21 MS. ISSO: Stop coaching the witness, please.

22 THE COURT: Excuse me, Ms. Issso?

23 MS. ISSO: You're telling him what to say in  
24 response to my question.

1 THE COURT: I am not. I'm saying --  
2 MS. ISSO: Yes, you did. You just --  
3 THE COURT: -- that that's a form.  
4 MS. ISSO: -- told him to say out of the scope which  
5 -- that was not what he was saying. So please do not coach  
6 the witness.  
7 THE COURT: I'm not coaching a --  
8 MS. ISSO: You did.  
9 THE COURT: -- witness.  
10 MS. ISSO: It's on the record.  
11 THE COURT: It is on the record.  
12 MS. ISSO: And you're not going to scare him.  
13 THE COURT: I'm sorry, what did you say?  
14 THE MARSHAL: She told -- she told me I'm not going  
15 to scare her.  
16 MS. ISSO: I'm going to make my record. No one's  
17 going to scare me. I'm making my record.  
18 THE COURT: All right. Move on to your next  
19 question --  
20 MS. ISSO: Okay.  
21 THE COURT: -- Ms. Isso.  
22 BY MS. ISSO:  
23 Q Sir, you admit that Dr. Bergquist complied with  
24 AFCC standards 5.4, 5.5, and 5.6, correct?

1           A     I'm sorry, could you repeat the question?

2           Q     Sir, you admit that Dr. Bergquist complied with  
3 AFCC standards 5.4, 5.5, and 5.6, correct?

4           A     I'm going to need to refer to those.

5           Q     Yeah, please do. I thought you were an expert in  
6 this area, sir.

7                   MS. ROSENBLUM: Move to strike the last statement,  
8 Judge.

9                   THE COURT: It'll be stricken.

10          A     Yes, I did say that -- that her -- she conducted a  
11 sound methodology.

12          Q     Okay.

13          A     That -- that those -- those particular codes  
14 address.

15          Q     Sir, did you -- did you review the child's IEP?

16          A     I think I said what documents I reviewed. I'm not  
17 sure what you're referring to as the IEP.

18          Q     The individualized education plan issued by Clark  
19 County School District.

20          A     If it was in the documents, I can go -- I can go get  
21 my binder --

22          Q     No, sir --

23          A     -- to refresh my memory.

24          Q     Sir, just look at your expert report, because I

1 think in there you listed the documents that you reviewed. Is  
2 it listed in there?

3 A Well, I didn't mention specifically all the  
4 documents provided to me to Dr. Bergquist. So all those --  
5 those were listed in the binder.

6 Q Well, let me just --

7 A If you'll refer --

8 Q -- make it easier for you, sir. That IEP was -- was  
9 issued after you did your product review. So most likely you  
10 did not review the IEP report. Okay? Do you agree?

11 A I -- I don't -- what's the title of the report?  
12 Could you say the title of it?

13 Q State of Nevada Individualized Education Program.

14 A I don't believe that I reviewed that or was provided  
15 that.

16 Q Did you know that they recommended that the child is  
17 put in a generalized classroom?

18 MS. ROSENBLUM: Objection, relevance. Outside the  
19 scope.

20 THE COURT: Sustained. If he hasn't seen it, how  
21 would he know?

22 BY MS. ISSO:

23 Q Sir, are you aware that Eugene's been exercising  
24 joint physical custody and there's been no issues? Are you

1 aware of that?

2 MS. ROSENBLUM: Objection, relevance. Outside the  
3 scope.

4 THE COURT: Sustained.

5 MS. ISSO: Okay. Then I pass the witness. I pass.

6 REDIRECT EXAMINATION

7 BY MS. ROSENBLUM:

8 Q Dr. Pickar, just to figure --

9 THE COURT: Are you going to be more than 10 or 15  
10 minutes, Ms. Rosenblum?

11 MS. ROSENBLUM: I don't know.

12 THE COURT: Otherwise, we're going to take a break.

13 MS. ROSENBLUM: Do you want to take a quick break?

14 A quick break?

15 THE COURT: If --

16 MS. ROSENBLUM: I'll be fine.

17 THE COURT: -- you're -- if you're --

18 MS. ISSO: Well, let's just do --

19 THE COURT: -- doing more than say 15 minutes --

20 MS. ROSENBLUM: I -- I don't know. I don't know.

21 THE COURT: All right. Let's go ahead and take a 10  
22 minute break. We'll resume at 10:40 pursuant to that clock  
23 up --

24 MS. ISSO: Let's just go --

1 THE COURT: -- on the wall.

2 MS. ISSO: -- for 15 minutes and see if she's going  
3 to be done and then we can take a break so he can go.

4 THE COURT: Ms. Isso, she indicates she does not  
5 know how long she's --

6 MS. ROSENBLUM: I don't know.

7 THE COURT: -- going to go.

8 MS. ISSO: Which means that she can finish before 15  
9 minutes.

10 THE COURT: We're in recess for 10 minutes.

11 (COURT RECESSED AT 10:29 AND RESUMED AT 10:39)

12 THE CLERK: We're back.

13 THE COURT: All right. Before we -- I -- throughout  
14 this trial the Court will keep Counsel apprised as to where  
15 we're at time wise. So far, Ms. Rosenblum, you used 58  
16 minutes. Ms. Isso, you've used a total of 29 minutes.

17 MS. ISSO: Thank you.

18 THE COURT: Ms. Rosenblum?

19 MS. ROSENBLUM: All right.

20 BY MS. ROSENBLUM:

21 Q Dr. Pickar, just following up on the questions that  
22 were asked of you regarding statements made in Dr. Bergquist's  
23 report that didn't make it into your report. Did you at least  
24 -- you read Dr. Bergquist's report in its entirety, correct?

1 A That's correct.

2 Q You considered those statements that were read to  
3 you when you authored your report; is that correct?

4 A Yes.

5 Q The fact that Dr. Bergquist commented that Eugene  
6 had a stable home and a support system?

7 MS. ISSO: Objection, asked and answered.

8 A Yes.

9 MS. ISSO: Already asked him that question.

10 THE COURT: I'm sorry, I was distracted by the  
11 Marshal. And what was the question again?

12 MS. ROSENBLUM: The question was whether he  
13 considered those statements, the statement that Eugene had a  
14 stable home and a support system.

15 THE COURT: That's -- overruled.

16 BY MS. ROSENBLUM:

17 Q You considered the fact that Dr. Bergquist commented  
18 about the parents being able to meet Ava's needs?

19 A Yes.

20 Q And you considered --

21 MS. ISSO: Objection, asked and answered.

22 BY MS. ROSENBLUM:

23 Q -- you considered Dr. Bergquist's rec --

24 THE COURT: Overruled.

1 Q -- recommendations regarding therapy for Nechole?

2 A Yes.

3 Q And you considered Dr. Bergquist's statements about  
4 the other issues that Ms. Isso asked you about, correct?

5 MS. ISSO: Objection, asked and answered.

6 THE COURT: Overruled.

7 THE WITNESS: Yes.

8 BY MS. ROSENBLUM:

9 Q Okay. Dr. Pickar, regarding your criticisms of Dr.  
10 Bergquist's report and her conclusions, did those statements  
11 do -- let me ask it a different way. Does being aware of  
12 those statements refreshed as to those comments in Dr.  
13 Bergquist's report change your opinions today?

14 MS. ISSO: Objection, lacks foundation.

15 THE COURT: Overruled.

16 MS. ISSO: Which -- which statements?

17 THE COURT: The statements in his report. She  
18 specified that.

19 MS. ISSO: He just said a lot of the statements were  
20 out of the scope. So which one is it? Did he read them? Did  
21 he -- he just -- they testified. They were out of his scope  
22 of his employment.

23 THE COURT: Not his ultimate recommendations.

24 Overruled.

1 BY MS. ROSENBLUM:

2 Q All right. Dr. Pickar, can you answer my question?

3 A It doesn't change anything with -- with respect to  
4 the opinions I offered in my report.

5 Q And you stand by those opinions today; is that  
6 correct?

7 A I'm sorry, could you repeat the question?

8 Q Do you stand by those opinions as you sit here  
9 today?

10 A Yes.

11 MS. ROSENBLUM: Your Honor, I don't have anything  
12 further for Dr. Pickar.

13 THE COURT: All right, Dr. Pickar. Thank you for  
14 testifying here today. Have a good day. Stay safe and  
15 healthy.

16 THE WITNESS: You're welcome. Thank you, Your  
17 Honor.

18 THE COURT: Ms. Rosenblum, your next -- apparently  
19 your next expert.

20 MS. ROSENBLUM: Judge, as I stated at the beginning,  
21 Ms. Harris is unavailable today. She is --

22 THE COURT: Oh.

23 MS. ROSENBLUM: She is a treater. She is not an  
24 expert. She's --

1 THE COURT: Okay.

2 MS. ROSENBLUM: -- a treater. And she -- originally  
3 she was unavailable because she has her own children with  
4 special needs that have therapy on --

5 THE COURT: Listen.

6 MS. ROSENBLUM: -- Friday.

7 THE COURT: The question -- are you ready to go with  
8 your -- your case, Ms. Isso?

9 MS. ISSO: I'm going to call Eugene Shapiro.

10 THE COURT: Okay. So that fixes that.

11 MS. ROSENBLUM: Okay.

12 MS. ISSO: You're going to go up there. No, on the  
13 other side.

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

18 THE WITNESS: I do. I'm going to ask permission to  
19 remove my mask, Your Honor, if that's okay with you. I -- I  
20 have an accent so it's probably going to be easier for court,  
21 but whatever you decide on the rule.

22 MS. ISSO: I have no objection to that.

23 MS. ROSENBLUM: I have no objection.

24 THE MARSHAL: I'll move this -- this up close so you

1 can speak directly into the microphone.

2 THE COURT: My -- listen, as I couldn't find mine  
3 originally, I got mine on. My understanding is unless I get  
4 consensus from everybody on the courtroom, I'll just have to  
5 have you speak as loud as you can. So unless everybody  
6 wants --

7 MS. ROSENBLUM: There's not an objection.

8 MS. ISSO: There's no objection.

9 THE COURT: None?

10 MS. ROSENBLUM: None.

11 MS. ISSO: None.

12 THE COURT: Does that go for everybody in the  
13 courtroom?

14 MS. ROSENBLUM: Yeah.

15 THE COURT: We'll have to ask I guess each witness  
16 that comes in though. So if we have an -- no objection, then  
17 we'll all just --

18 THE WITNESS: Sounds good.

19 THE COURT: -- unmask. All right. Ms. Isso, if you  
20 want to go ahead.

21 EVGENY SHAPIRO  
22 called as a witness on his own behalf, having been first duly  
23 sworn, testified upon his oath as follows on:

24 DIRECT EXAMINATION

1 BY MS. ISSO:

2 Q State your name, for the record.

3 A My legal name is Evgeny Ilyich Shapiro.

4 Q What else are you known as?

5 A As Eugene Shapiro.

6 Q Okay. What is the name of the child subject of this  
7 case?

8 A Ava Garcia-Shapiro.

9 Q And what's her date of birth?

10 A September 26th, 2018.

11 Q And how old is she today?

12 A She is three years old.

13 Q Is she currently -- does she have insurance?

14 A She is currently on her mother's private insurance  
15 as well as Medicaid.

16 Q Was -- she was on your insurance previously?

17 A She was briefly on my private insurance --

18 Q Okay.

19 A -- most recently.

20 Q Were you present at the hospital during the child's  
21 birth?

22 A Yes, I was.

23 Q Did you attend the prenatal appointments?

24 A Yes, I have.

1 Q How many of them?

2 A I have attended all of them.

3 Q All of them. Is your name on the birth certificate?

4 A Yes, it is.

5 Q Did you and the Defendant live together?

6 A We have briefly lived together for about a couple of

7 weeks the first time we dated but I would be at her house at

8 least four days a week every week.

9 Q And during that time were you taking care of the

10 child?

11 A Yes, I was.

12 Q And what things were you doing for the child?

13 A I was watching the child, I was cooking for the

14 child, I was feeding the child, I was changing her diapers. I

15 was working with her on teaching her Russian and English. I

16 would sing to her. I would play the guitar and the piano for

17 her. I would take her to my house as well in which at my

18 house I played with her and so on and so forth.

19 Q And were these times when you were alone with the

20 child?

21 A Yes. That's correct.

22 Q And about how many days a week were you watching the

23 child when -- and -- and where -- where was Ms. Garcia during

24 this time?

1 MS. ROSENBLUM: Objection, foundation.

2 THE COURT: What --

3 MS. ISSO: Okay. During the --

4 THE COURT: As far as the time period.

5 BY MS. ISSO:

6 Q During the first two years of the child's life.

7 THE COURT: There you go.

8 A The Defendant was at work when I was watching the  
9 child.

10 Q And where did she work?

11 A She work -- she works at the City of Henderson.

12 Q Okay. And how many hours a day was she leaving you  
13 with the child?

14 A Eleven plus hours two to four days a week.

15 Q Okay.

16 A I have also watched the child exclusively in the  
17 summer of 2019 between mid-May 2019 and mid-August 2019 for  
18 four days, 11 plus hours. I have also watched the child on  
19 demand when she had fights with her mother every few weeks and  
20 change what she called the schedule. And then I would watch  
21 the child for a week or two exclusively four days a week  
22 Monday through Thursday 11 plus hours a day.

23 Q You testified you would take the child to your home  
24 as well, right?

1           A     That is correct.

2           Q     And was she complaining at that time during the  
3 first two years when you took the child to your home?

4           A     No, she wasn't. In -- in fact she expected myself  
5 and my mother that was also watching Ava to be available  
6 immediately as soon as she had a fight with her mother and  
7 would deny her mother access to Ava. She expected us to jump  
8 in -- in immediately and be ready for -- to watch Ava which we  
9 were.

10          Q     Are you involved in the child's medical care?

11          A     Yes, I am.

12          Q     Do you attend the child's medical appointments?

13          A     Yes, I do.

14          Q     Do you know which doctor the child's seeing at this  
15 time?

16          A     Yes.

17          Q     Which doctor?

18          A     Ava has seen Dr. Hutchings at Siena Pediatrics, Dr.  
19 Miyake at Allergy Partners of Nevada, Dr. Gaspar at Ackerman  
20 Autism Center, Firefly Behavior Services for her ABA therapy.  
21 She's going to see Dr. Shin (ph) for her eye appointment. And  
22 she's going to Anthem Dental Pediatrics for -- to check on her  
23 teeth.

24               THE COURT: This is for the attorneys and clients as

1 well. I -- I can see him -- I prefer that you talk to your  
2 attorney like a conversation exactly you are doing --

3 THE WITNESS: Absolutely.

4 THE COURT: -- and I can see you -- we don't have  
5 that -- see that little box up there. But I -- I can see your  
6 facial expressions much better on my video monitor. So --

7 THE WITNESS: Okay.

8 THE COURT: -- that's why --

9 THE WITNESS: Thank you, Your Honor.

10 THE COURT: -- I'm looking this way and not that  
11 way.

12 THE WITNESS: Sounds good.

13 THE COURT: Okay.

14 BY MS. ISSO:

15 Q Was the child recently diagnosed with anything?

16 A Yes, she was.

17 Q And what was she diagnosed with?

18 A She was diagnosed on August 10th by Dr. Gaspar with  
19 mild autism level one with speech delay.

20 Q Before she was diagnosed with that, did they have  
21 any other theories of what was causing her speech impediment?

22 A Yes.

23 Q What did they believe it was?

24 MS. ROSENBLUM: Objection, speculation.

1 MS. ISSO: He's going to be here to testify, Dr.  
2 Gaspar.

3 THE COURT: Then you might ask him or you would have  
4 to rephrase it as to how he would know.

5 MS. ISSO: Okay.

6 THE COURT: But if you're going to have the other  
7 person coming in anyway, it's --

8 BY MS. ISSO:

9 Q Does the child have a treatment plan?

10 A Yes, she does.

11 Q Could you describe it to the Judge or what -- what  
12 is it titled?

13 A Yes, it's -- it's Ava's ABA plan developed by Heat  
14 -- Heather Tauchen. She's one of the witnesses. And that's a  
15 developmental plan for her ABA treatment. It states that --

16 MS. ROSENBLUM: Objection, move to strike.  
17 Non-responsive.

18 THE COURT: He answered the question. He's just --  
19 I -- I will -- he'll have to stop after he indicated that  
20 there is a treatment plan done by Heather. You would have to  
21 ask follow up questions.

22 BY MS. ISSO:

23 Q Okay. So who was it issued by?

24 A Heather Tauchen of Firefly Behavioral Services,

1 BCBA.

2 Q Is she currently treating the child?

3 A She is along with three other RBTs, registered  
4 behavior technicians.

5 Q And do you know when Heather started treating the  
6 child?

7 A Yes, on September 13th she has done evaluations on  
8 September 1st at my house and on September 3rd of the  
9 Defendant's house and then the treatment -- treatment started  
10 on September 13th, the same day her report came out.

11 Q Okay. Was the child recently issued an IEP?

12 A Yes, she was.

13 Q And do you know who issued that?

14 A Yes, the Clark County School District Child Find.

15 Q And do you know what that report suggests or  
16 recognize?

17 A Yes, it recognized that Ava goes to a -- a general  
18 classroom which she actually started this week -- this Monday.  
19 This is her third day of going to school. She's going to do  
20 an elementary school and she's in the regular classroom,  
21 inclusive classroom, with neurotypical kids.

22 Q And do you know when that report was issued?

23 A Yes, I believe it was issued on October 21st.

24 Q We have copies of the report. And we want -- we

1 want to move to admit them. They were just -- it was just  
2 issued October 21st. It is the IEP for the child.

3 THE COURT: An objection with an IEP -- IEP report?

4 MS. ROSENBLUM: I don't have any objection.

5 THE COURT: What are -- we got to -- we got to label  
6 it something. So what letter are you up to?

7 MS. ISSO: Well, I thought you said Kathleen  
8 Bergquist's report was going to be number 1. That's what you  
9 said --

10 THE COURT: Well, I -- yeah, let me clarify for the  
11 record. Kathleen Bergquist's report will be Court's Exhibit  
12 number 1, but anything else will have to come through you.  
13 They have not objected to it. So we'll -- whatever your last  
14 one is, what is -- what is the last one you have listed? I  
15 don't have a --

16 MS. ISSO: 64. I have 64. So can we make this 65?

17 THE COURT: Make it 65 then.

18 (PLAINTIFF'S EXHIBIT 65 ADMITTED)

19 MS. ROSENBLUM: Another copy of it though?

20 MS. ISSO: I have five copies right here.

21 THE COURT: Do you have a copy?

22 MS. ROSENBLUM: I need to get a copy.

23 THE WITNESS: It's five copies.

24 MS. ROSENBLUM: I don't have theirs. So --

1 THE WITNESS: They're separated by those --  
2 MS. ROSENBLUM: -- if she's going to refer to  
3 specific pages, I need a copy. It's -- it's not an original,  
4 is it?  
5 THE WITNESS: This is the original. You know that.  
6 MS. ROSENBLUM: This is --  
7 THE WITNESS: Copy --  
8 MS. ROSENBLUM: This is not an --  
9 THE WITNESS: What do you mean --  
10 MS. ROSENBLUM: -- original.  
11 THE WITNESS: -- by an original? This is copies  
12 that I made that was mailed to us by Child Find.  
13 MS. ROSENBLUM: I just want the original. That's  
14 all. I just asked. I didn't want to take an original, but --  
15 THE WITNESS: No.  
16 (COURT AND CLERK CONFER BRIEFLY)  
17 THE COURT: Did you say you had five copies?  
18 THE WITNESS: Yes.  
19 THE COURT: Sorry. One, two, three, four and then  
20 we have an extra one. So is there -- is there --  
21 THE WITNESS: Yeah --  
22 THE COURT: -- two here?  
23 THE WITNESS: -- there's -- there's separated Judge  
24 by a pink -- or whatever that is, an orange sheet. You --

1 THE COURT: Okay.

2 THE WITNESS: -- can see it, yeah.

3 THE COURT: I'm sorry.

4 THE WITNESS: No problem.

5 THE COURT: Here you go, Madam Clerk.

6 BY MS. ISSO:

7 Q Would you -- were you involved in that -- in that  
8 interest, you know, evaluation and treatment?

9 A Well, yes. Absolutely. I -- I have participated in  
10 every appointment since Ava was born including all of the  
11 meetings with TMG, including all of the meetings with Firefly,  
12 including all of the meetings with a school district and so on  
13 and so forth. I have been present for every appointment.

14 Q Not only did you babysit, did you contribute  
15 financially whatsoever during -- since the child was born  
16 or --

17 A Yes --

18 Q -- even before?

19 A -- I have.

20 Q Tell the Judge about that.

21 MS. ROSENBLUM: Objection, calls for a narrative.

22 Q Tell the Judge about how you contributed  
23 financially.

24 MS. ROSENBLUM: Objection, calls for a narrative.

1           THE COURT: Overruled. We have to -- I'm going to  
2 allow it. Go ahead.

3           THE WITNESS: So I have contributed over \$10,000  
4 overall that I can trace. I believe that I contributed much  
5 more. I gave Defendant \$2,000 the week before Ava was born.  
6 All of that is submitted as evidence. I have given her checks  
7 and cash during the time we were together between September  
8 2018 and July 20 -- 2020. I have also given her a check for  
9 \$1900 on June 23rd, 2020 that she later returned to me I  
10 believe trying to make it sound like I wasn't contributing.  
11 In addition to that, I have cooked for the Defendant and  
12 bought food for her, bought food for the child.

13           I bought medicine for the child. I have receipts  
14 for -- Ava was on acid reflux medicine for over six months  
15 when she was born. And -- and I -- which was not covered by  
16 the Defendant's insurance. And that was the one who paid for  
17 that -- for that medicine.

18           All that time I bought her ointments for her skin.  
19 She has -- had at the time sensitive skin. Again, that was  
20 not covered. It required a special prescription that I have  
21 to go to special pharmacy or that was done by me. And I have  
22 paid for that medicine. I have at least \$825 in receipts for  
23 that. I cooked for the Defendant and I have partial receipts  
24 of \$4600 from Walmart and that's partially only because at the

1 time Walmart had this policy of price matching which required  
2 entering the receipts. So it -- it is much, much more.

3 In addition to that, I have paid for every outing  
4 that we had between -- before Ava was even born and until July  
5 2020. Every time we went out when it was two of us, three of  
6 us, or even five of us when -- when we went with my older  
7 kids. I was the one who would pay for, you know, going to  
8 restaurants, things of that nature, any activities we had,  
9 going to parks, going to Springs Preserve or going any --  
10 anywhere where we would go before Ava was born and after Ava  
11 was born.

12 THE COURT: See, so I am going to jump in at this  
13 point. He is being narrative and is talking about stuff that  
14 -- that has nothing to do with child support. Paying for  
15 meals, going to parks, things like that, is not child support.

16 MS. ISSO: No, we're just --

17 THE COURT: I think that --

18 MS. ISSO: -- talking that he was there physically  
19 and financially. That's what we're trying to show here.

20 THE COURT: Okay. He's indicated that --

21 MS. ISSO: Okay.

22 THE COURT: -- so far.

23 THE WITNESS: I have paid for 3D ultrasound before  
24 Ava was born so we can see our child. I paid for Christmas

1 pictures and so on and so forth because I -- I have at least  
2 \$10,000 of -- of evidence that I can prove that was submitted.  
3 I believe that I contributed much more.

4 BY MS. ISSO:

5 Q Okay, sir. And then when you were babysitting, did  
6 she ever make any complaints to you during that time, the  
7 first two years when she was working, did she make complaints  
8 to you about your babysitting style?

9 A No, she hasn't.

10 Q Or when you were watching the child?

11 A No, she hasn't.

12 Q And are you able to take care of the child at least  
13 146 days out of the year?

14 A Yes, absolutely. I am able to take care of this  
15 child every day if needed.

16 Q Every day? Okay. And then --

17 A Yes.

18 Q -- do you have a criminal record?

19 A No, I do not.

20 Q Have you been arrested?

21 A No.

22 Q What timeshare are you recommending that the Judge  
23 implement in his order today?

24 A I am asking for a 50/50 timeshare. I am asking that

1 each parent gets a weekend with the child. Any decent parent  
2 wants to spend weekends with their child and take them places.  
3 And -- and so I -- I recommend a week on -- I recommend a  
4 two-two-three schedule with the current schedule week one  
5 being my weekend. That is also because Ava currently only  
6 sees her brother literally twice a month which to me is just  
7 cruel. They have a wonderful relationship. She loves them  
8 and they love her. And so I would ask for the two-two-three  
9 schedule with week one being my weekend with current temporary  
10 schedule and with week two being the Defendant's weekend. I  
11 would ask to adjust it to a week on week off but that depends  
12 on, you know, what the other party is thinking about that.  
13 But two-two-three schedule to me seems -- seems very fair and  
14 a reasonable schedule to adopt.

15 Q Describe the relationship between the child and her  
16 siblings.

17 A As I just stated, they have a wonderful  
18 relationship. They love each other. Ava waves at her  
19 brothers, smiles. She go -- I'm sorry. She calls them by  
20 their names.

21 Q Do you need a tissue?

22 A No, I'm okay. She calls them by their names. She's  
23 visibly upset when she comes to the house and they are not  
24 there. She's learned so much from them. For example, they --

1 it was their idea to try to put a cereal snack into her  
2 Cheerios and she started eating them. She loves playing with  
3 them. She learned words from them. They have a wonderful  
4 relationship together. My kids have been asking why they can  
5 only see their sister twice a month. They do not understand  
6 that.

7           She points to pictures of -- I mean, it's -- it's  
8 wonderful a relationship that I would on -- only want to  
9 nurture especially because Ava actually needs interaction with  
10 other child. That is in her best interest.

11       Q     What are some fun things you've done with with the  
12 siblings together with Ava? Like do you go to a pumpkin  
13 patch? What are some fun -- fun things you did?

14       A     We go to parks, we go to Pumpkin Pa -- Patch in the  
15 -- in the summer. We went to the pool. Ava loves going to  
16 the pool. We've gone walking -- I -- I take Ava to play  
17 places and she loves going with her siblings and they slide  
18 down the slide and -- and play together and I -- I just see a  
19 smile on her face and she knows that she has two older  
20 siblings that love her very much.

21       Q     So are you suggesting that you have Ava on the same  
22 weekends that you have your other children?

23       A     Yes, that is correct. I think to do it otherwise  
24 would be really cruel because any family wants -- wants to get

1 together and -- and have time together on the weekends.  
2 That's when most parents -- any decent parent might know wants  
3 to spend their time with their children together so they can  
4 go places they can potentially travel and so on and so forth.  
5 Current schedule does not allow that. In -- in fact, current  
6 schedule only has me have two Sundays a month.

7 Q Dr. Bergquist described -- in her report described  
8 Ms. Garcia as being inter -- interrogative like when she  
9 communicates with you almost like a criminal proceeding. What  
10 is your response to that?

11 MS. ROSENBLUM: Objection, misstates the facts and  
12 evidence.

13 THE COURT: Overruled.

14 THE WITNESS: Can I answer that?

15 BY MS. ISSO:

16 Q Yeah. I mean, that's what -- that's what Ms. --

17 A Okay.

18 Q -- Dr. Bergquist said.

19 A Okay. Yes, that's --

20 THE COURT: Unless you're saying no, it's absolutely  
21 not in there.

22 MS. ROSENBLUM: It -- it is Dr. Bergquist's  
23 recitation of what Dad reported to her. Dr. Bergquist didn't  
24 make a finding that Mom is that way. Dr. Bergquist reported

1 what Dad reported to her.

2 THE WITNESS: That's not correct.

3 THE COURT: I'll have to have you read directly from

4 the report --

5 MS. ROSENBLUM: Yeah.

6 THE COURT: -- exactly what it says Ms. Isso if

7 that's the case.

8 MS. ISSO: I mean, her --

9 THE COURT: I misunder --

10 MS. ISSO: -- expert just talked --

11 THE COURT: I misunder --

12 MS. ISSO: -- about a video that --

13 THE COURT: That is --

14 MS. ISSO: -- Dr. --

15 THE COURT: -- his self -- it's his statement.

16 Okay?

17 MS. ISSO: Okay.

18 THE COURT: He can't ask about his own statement.

19 That --

20 MS. ISSO: Okay. Okay.

21 THE COURT: Go ahead --

22 MS. ISSO: But --

23 THE COURT: -- and re --

24 MS. ISSO: -- Doctor -- but you just had an expert

1 talk about --

2 THE COURT: Ms. Isso --

3 MS. ISSO: -- a video that --

4 THE COURT: -- we're not talking --

5 MS. ISSO: -- Dr. Bergquist --

6 THE COURT: -- talking about the expert.

7 MS. ISSO: -- addressed in --

8 THE COURT: Right.

9 MS. ISSO: -- her report.

10 THE COURT: We're not talking about the expert --

11 MS. ISSO: So --

12 THE COURT: -- right now.

13 MS. ISSO: -- I mean, I --

14 THE COURT: You --

15 MS. ISSO: -- just want to be treated fairly.

16 That's all.

17 THE COURT: Go ahead and read from the report if

18 necessary. If it indicates that's what he reports, then

19 that's not what she determined.

20 THE WITNESS: That's not --

21 MS. ISSO: Okay. So Dr. Bergquist states in her

22 report -- let me find the page. In Dr. Bergquist report, it

23 uses words that communication is like an -- an interrogation

24 and --

1 THE COURT: Ms. --

2 MS. ISSO: -- criminal investigation.

3 THE COURT: -- I need -- I'm at the report. I need  
4 a report. I need a paragraph number. Because that is what  
5 their --

6 MS. ISSO: Okay.

7 THE COURT: I don't have this -- I've read it a  
8 couple of times. I do not have it memorized.

9 MS. ISSO: Okay.

10 THE COURT: I'm sure you guys probably do by now,  
11 but --

12 MS. ISSO: No. In -- in page 30 of the report, it  
13 says Mr. Shapiro reports difficulty with co-parenting because  
14 Nechole's controlling nature but states he wants to be able to  
15 co-parent for Ava's sake.

16 BY MS. ISSO:

17 Q What is -- what do you -- what do you want to tell  
18 the Judge about it?

19 A The Defendant is uncooperative. She has anger  
20 management issues. She -- it -- it's not possible to get  
21 along with her unless you basically do whatever she says. She  
22 is controlling. She is unwilling to compromise. I believe  
23 she is a bully. I believe she is a tyrant. I believe she is  
24 a liar who does not have moral integrity to be a prosecutor of

1 City of Henderson.

2 Q Okay. Okay. Look -- look at page 30 of the report.  
3 It says results from the PAI plus suggest that she is self  
4 assured, confident, and dominant and prefers to interact with  
5 others in situation -- situations over which she can exercise  
6 some measure of control. This is congruent with Mr. Shapiro's  
7 view of Nechole. He complains that she is controlling, my way  
8 or the highway. That personality trait seems to have served  
9 her well in her career as a city attorney. Her communications  
10 with the co-parent often sound like an interrogation or  
11 criminal investigation. Assuming the worst and challenging  
12 him on every detail of the story. That's page 30. What is --  
13 what do you want to tell the Judge about that?

14 A That is -- that's absolutely correct. I think Dr.  
15 Bergquist was spot on. And I did not tell that unlike the  
16 Counsel is trying to say. She got that from interviewing both  
17 of us in front an impression of the Defendant. The Defendant  
18 is absolutely impossible to deal with. She has anger issues.  
19 She goes from one to zero in a split of a second. She gets up  
20 -- constantly upset and that's why she would change the  
21 schedule that we have every few weeks. She would get upset  
22 with her mother for something her mother would say or do and  
23 then deny her mother -- her mother access to Ava. She did the  
24 same thing with me. She's controlling, she's aggressive, and

1 she's uncooperative most of the time. Only her way or the  
2 highway.

3 Q When she would argue with her mother, would she keep  
4 the child away from the mother?

5 A Yes, she would. She would -- she would change this  
6 -- again, the so called schedule instantly and would expect  
7 myself or my mother to be available to watch Ava which she  
8 were. Then she would not just deny her mother access to Ava,  
9 she would not speak to her mother. She would not return her  
10 phone calls, she would not return her texts, until she calm  
11 down. And it takes her awhile to calm down.

12 Q How old is her mother?

13 A She is 65.

14 Q Was she using her for babysitting as well?

15 A Yes, she was even though I -- I -- when Ava was born  
16 and after the Defendant went back to work after her maternity  
17 leave I asked to watch Ava every day but she insisted on her  
18 mother watching Ava twice a week.

19 Q When you would ask to see the child when the  
20 Defendant was not working, like see the child alone, would she  
21 allow you to?

22 MS. ROSENBLUM: Objection, foundation.

23 BY MS. ISSO:

24 Q The first two years of the child's life.

1           A     Nechole --

2           THE COURT: I'll allow that.

3           A     -- has limited my time with Ava since Ava was born.  
4 She decided when, how long, and how I can see Ava. That  
5 started from the moment the child was born. It escalated  
6 starting in December of 2019 and then January 2020 and  
7 throughout. It -- first she would limit my time with Ava on  
8 Fridays and did not allow me to see Ava on Fridays at all. I  
9 would ask every weekend and she would say no. then it became  
10 Fridays and Saturdays. And then eventually starting July 3rd,  
11 2020 she denied me access on Friday and Saturday and then only  
12 allowed me to see Ava in the park for 25 minutes when she was  
13 holding the child and I would have to follow them like a dog.

14                Even when I was watching the child at her home and  
15 when she was there, I was working her dog in the morning and  
16 then afternoon after she came back from work. In the morning,  
17 she would close the door to the child's bedroom so I cannot  
18 spend time with Ava. When she came back from work, she did  
19 the same thing.

20                When her mother was watching Ava, I would still come  
21 to the house because I took the dog to appointments. I give  
22 the dog cancer medicine. I bathed the dog. Okay. And -- and  
23 she would only allow me on those days would only allow me to  
24 see the child for like 45 minutes between 5:00 o'clock and the

1 time she came home. So this continued throughout the  
2 relationship and as soon as the child was born.

3 Q So she would only let you see the child when she was  
4 working.

5 A She -- it was years and was always at the time that  
6 she decided when, how, how long, when -- where and so on and  
7 so forth. That --

8 Q But she doesn't work on Friday, right?

9 A She does not work on Friday.

10 Q So that's why she didn't want you to see the child  
11 on Friday.

12 A That's correct. She hold --

13 Q She doesn't work -- she doesn't work on Saturday.

14 A She does not work on Saturday.

15 Q Well, you said on Sunday she would let you see the  
16 child at the park while she's holding the child.

17 A That was in the last -- in the last couple months  
18 before this case was filed. So between June -- I would say  
19 June 20 -- no, I -- I'm sorry. It was July 3rd and until we  
20 filed the case, if I recall. That was what was happened.  
21 Yes. No Fridays or Saturdays and -- and only -- and only a  
22 few minutes at the park when she was holding the child.

23 Q So when it financially benefitted her, she allowed  
24 you to watch the child.

1 MS. ROSENBLUM: Objection, leading, assumes facts  
2 not in evidence.

3 THE COURT: Sustained.

4 BY MS. ISSO:

5 Q So you were watching the child when she was working?

6 A That's absolutely correct. In fact, she calculated  
7 and told me when we're speaking about the child that --

8 MS. ROSENBLUM: Objection, move to strike.  
9 Non-responsive. Everything after yes.

10 THE COURT: Sustained.

11 BY MS. ISSO:

12 Q What did she tell you about that?

13 A She said that she calculated she would save \$10,000  
14 by -- by not putting the child in daycare because I could  
15 watch the child.

16 Q A month?

17 A A year.

18 Q A year. Okay. A year, sorry.

19 A Maybe some daycares.

20 Q Sorry. How would you describe the -- the mother --  
21 the grandmother that was babysitting the child?

22 A The grandmother is old. She's overweight. She has  
23 a lot of health issues. She has diabetes. She has anxiety.  
24 She has depression. She wore grip socks in the house because

1 she's afraid of falling.

2 Q Grip socks?

3 A Yes, grip socks. She was overbearing with Ava. And  
4 that is clear -- clear and can be seen on -- on a few videos  
5 that the -- the Defendant submitted of her -- of her camera.  
6 By the way, the camera was involved 24/7. And -- and she  
7 would watch that camera and then confront her mother about  
8 something that she did not like. Her mother was constantly in  
9 Ava's business. She would not allow her a second to be by  
10 herself. The grandmother cannot get down on the floor or get  
11 up from it without holding onto something. On those videos  
12 that they submitted, the grandmother can be seen almost  
13 falling on the floor following the child on her knees because  
14 she cannot get up.

15 Not -- not being able to figure out how the diaper  
16 pail works. If they can prefer -- but Ava wanders in and out  
17 of the -- she complained about her joints and she simply did  
18 not get along with the Defendant and yet the Defendant still  
19 insisted for -- for Mother to babysit.

20 Q Did you try to resolve this issue with -- this case  
21 with the opposing party before you filed a complaint?

22 A Oh, yes.

23 Q Tell me about --

24 A Oh, yes.

1 Q -- that.

2 A Anytime we had a disagreement and -- and try to  
3 figure things out I would state to her that if things don't  
4 work out I wanted joint custody of Ava, specifically in  
5 December of 2018, September 2019, and July of 2020 I told her  
6 that I want the joint custody of Ava. When -- on this  
7 instances when we discussed that, she would become very upset  
8 and told me she would never allow that and she would spend her  
9 last dollar to find -- to fight me in court. And when I  
10 mentioned child support, she said that the Judge would have to  
11 impose that on her. She would not be paying me child support.  
12 I would have to take her to court to do that. That's what she  
13 told me.

14 Q What do you do for a living, Eugene?

15 A I am a college educator. I teach music for CSN and  
16 NSC. I also perform music.

17 Q Look at Exhibit number 25.

18 A I'm going to need my laptop for --

19 Q Well, look -- look right there.

20 A Oh, over there. Okay.

21 THE WITNESS: Can I -- can I -- Your Honor, can I  
22 get my glasses, please?

23 THE COURT: Okay.

24 THE WITNESS: Okay. I think I can see that, but

1 just in case. Thank you. Yeah, I can see that. Oh, that  
2 would make it --

3 THE COURT: Just for the record, Ms. Isso, if you  
4 want to let us know which exhibit you're referencing.

5 MS. ROSENBLUM: Mine aren't paginated.

6 BY MS. ISSO:

7 Q Okay. Exhibit number 25. Do you know what this  
8 document is?

9 A Yes, that's part of the text message exchange  
10 between Defendant and myself.

11 Q On 0856, you're asking her to see the child on your  
12 own.

13 A Yes, that was during one of the weekends.

14 MS. ROSENBLUM: Objection. I -- I'm sorry, on what  
15 page is that?

16 MS. ISSO: 0856.

17 MS. ROSENBLUM: And what's the date on it?

18 BY MS. ISSO:

19 Q Do you know approximately when this text message was  
20 sent? This is between January -- these are between January  
21 and late December of 2019 and July 2020, but we have the  
22 complete text messages for the last three years we have  
23 submitted. That also has that part of the exchange.

24 A So you're asking her to see the child. And what

1 does she say?

2 Q She said no. She said I'm enjoying my time, but --  
3 oh, she says enjoy your day with your boys.

4 A And you asked to see the child why? Because you had  
5 your other children?

6 Q I'm asking to see the child because it's the weekend  
7 and I want to see my child and I want to see my child every  
8 day. And also that's what -- what my sons that also want to  
9 come and -- and spend time with -- with their -- with their  
10 sister because she limited my time with -- she limited their  
11 time with -- with my children too. Even when we visited she  
12 would -- would only allow them to stay for an hour because she  
13 could not tolerate my kids. She told me that she doesn't love  
14 my kids, doesn't want to live with them. In four years  
15 that --

16 MS. ROSENBLUM: Your Honor, I move to strike this  
17 testimony as unresponsive.

18 THE COURT: Sustained.

19 BY MS. ISSO:

20 Q Okay. Over here, you asked her to see the child on  
21 your own, correct?

22 A Yes, that's correct.

23 Q And she says enjoy your day with your boys.

24 A That's correct.

1 Q Which means you're not going to see the child, you  
2 have your other children.

3 MS. ROSENBLUM: Objection --

4 Q Correct?

5 MS. ROSENBLUM: -- Your Honor.

6 THE COURT: Sustained.

7 MS. ROSENBLUM: Counsel's testifying.

8 BY MS. ISSO:

9 Q And then what did you say to her?

10 THE COURT: Sustained though.

11 A I am enjoying my day with my boys. I would also  
12 like to see my daughter. I am respectfully asking to see her  
13 at the time that --

14 Q Did you end up seeing your child that --

15 A No.

16 Q -- day? Did you end up seeing your child that day?

17 A No.

18 Q No? Okay.

19 A No. If she said no, there's no way of -- it's my  
20 way or the highway. It's never been that she changed her  
21 mind. She changed her mind once in those -- when she --

22 MS. ROSENBLUM: Objection --

23 A -- she told me yes --

24 MS. ROSENBLUM: move to strike.

1           A     -- and then said --  
2           MS. ROSENBLUM:  Non-responsive.  
3           THE COURT:  Sustained.  
4           A     -- no.  
5           MS. ISSO:  No, he's permitted to say what he -- what  
6 he's dealing with.  
7           MS. ROSENBLUM:  There's no --  
8           MS. ISSO:  This is his own personal information --  
9 knowledge that --  
10          THE COURT:  He's going --  
11          MS. ISSO:  -- he has.  
12          THE COURT:  -- beyond -- he answered your question  
13 but he's going beyond what your question was, Ms. --  
14 BY MS. ISSO:  
15          THE COURT:  -- Isso.  
16 BY MS. ISSO:  
17          Q     Is that --  
18          A     Ms. Isso --  
19          Q     Is that typical --  
20          A     -- you can look at my --  
21          Q     Is that typical --  
22          A     -- notes over there.  
23          Q     -- of the --  
24          A     I'm --

1 Q -- Defendant to --  
2 A Go ahead.  
3 Q -- do that to you?  
4 A Say it again?  
5 Q Is that typical of her to do that to you?  
6 A Yes, absolutely.  
7 Q Tell the Judge about that.  
8 A Nechole is a tyrant. She decides when -- how things  
9 work and if it doesn't con -- she's extremely rigid. So if  
10 anything doesn't conform to her understanding of how things  
11 are but related to her, related to her relationship with the  
12 child, related to her relationship with me, related to her  
13 relationship with health professionals. Okay. Most of the  
14 time she's used to getting her way. If she doesn't get her  
15 way, the only way she knows how to do -- to -- what to do is  
16 to react, to become angry, to scream, and to deny any types of  
17 request whether it's myself, her siblings, her mother, her  
18 friends, or anybody like that.  
19 MS. ISSO: Okay. We move to admit Exhibit 25.  
20 MS. ROSENBLUM: I would object, Your Honor. Exhibit  
21 25 is, I don't know, thousands of text messages that I don't  
22 believe were produced in discovery.  
23 MS. ISSO: Everything was produced in discovery.  
24 THE COURT: Okay.

1 MS. ISSO: Everything --  
2 THE COURT: That's --  
3 THE WITNESS: Yes --  
4 MS. ROSENBLUM: -- with --  
5 THE WITNESS: -- they were.  
6 THE COURT: I don't believe -- I need to know  
7 whether you receive them or not and if they were if you're  
8 going to object on something else same as Ms. Isso. I would  
9 need a formal objection was filed with the court. If you  
10 didn't receive them, that's a legitimate --  
11 MS. ROSENBLUM: I would also indicate to the Court  
12 that the documents I received from Counsel are not Bate  
13 labeled. So I --  
14 THE COURT: They're not what?  
15 MS. ROSENBLUM: They're not Bate labeled.  
16 THE COURT: We -- we tried to contact your office  
17 yesterday. Did you get them Bates stamped? Because --  
18 MS. ISSO: I just got her a copy here. I fixed  
19 everything last night for her.  
20 THE COURT: Okay.  
21 MS. ISSO: And I have a copy for her here. So --  
22 THE COURT: Well, that would have been nice --  
23 MS. ISSO: -- I'm happy to give them to her.  
24 THE COURT: -- to probably given it --

1 MS. ISSO: She could have said something to me.  
2 THE COURT: -- to her at 9:00 a.m., but all right.  
3 THE WITNESS: All of our text messages were  
4 submitted timely.  
5 MS. ISSO: Here you go.  
6 MS. ROSENBLUM: I don't have a flash drive to even  
7 -- to even --  
8 MS. ISSO: Well, you provided your -- your documents  
9 on a USB.  
10 MS. ROSENBLUM: I have your USB, but your USB --  
11 THE WITNESS: We can hold --  
12 MS. ROSENBLUM: -- weren't --  
13 THE WITNESS: -- onto your computer.  
14 MS. ROSENBLUM: -- Bate labeled when I got them --  
15 MS. ISSO: Should have --  
16 THE COURT: Okay.  
17 MS. ISSO: -- said --  
18 THE COURT: Listen.  
19 MS. ISSO: -- something to me.  
20 MS. ROSENBLUM: -- three weeks ago.  
21 THE COURT: Procedurally, we contacted her  
22 yesterday. As soon as we saw that they were not Bates  
23 stamped, we required under the rule that she Bates stamp them.  
24 So if she's done that, particularly if there's thousands of

1 documents it probably took her quite some time to do that. So  
2 you don't have a USB on that --

3 THE WITNESS: I have an extra laptop if she wants to  
4 use it.

5 MS. ROSENBLUM: I do not --

6 MS. ISSO: No. No. No.

7 THE COURT: That --

8 MS. ISSO: We're using that.

9 THE COURT: -- device?

10 THE WITNESS: Okay.

11 MS. ROSENBLUM: -- have a USB on here.

12 THE COURT: No?

13 MS. ROSENBLUM: I do not have a USB on here, Judge.

14 MS. ISSO: We move to admit Exhibit 25.

15 MS. ROSENBLUM: I'm still -- I still have an  
16 objection pending. I would -- if Counsel knows where they  
17 were disclosed and can point me to it quickly --

18 THE COURT: Right. It would --

19 MS. ROSENBLUM: -- that would be super helpful.

20 THE COURT: Okay. It was --

21 MS. ROSENBLUM: I don't have the entire --

22 MS. ISSO: This needs to be coming --

23 MS. ROSENBLUM: -- file with me.

24 MS. ISSO: -- out of her time, okay?

1 THE COURT: Not if they were not filed it's not. So  
2 I need a -- a date like she gave you, the date that she showed  
3 you use or you filed with the Court.

4 MS. ISSO: February 28, 2021. These are number 25.  
5 We disclosed these like a year ago.

6 THE WITNESS: That's --

7 MS. ISSO: We --

8 THE WITNESS: -- right.

9 THE COURT: You seem to have if you're looking  
10 through them, Ms. Rosenblum=.

11 MS. ROSENBLUM: I have what she gave me as her trial  
12 exhibits. These are all of her trial exhibits.

13 MS. ISSO: Which I've given her a copy --

14 THE COURT: Okay.

15 MS. ISSO: -- weeks ago.

16 THE COURT: Do you have those ones that she's  
17 referring to, the Exhibit 25?

18 MS. ROSENBLUM: I have the exhibits in front of me.  
19 I'll stipulate to the admission -- I -- I guess we're  
20 admitting all of it. I would object on relevance. I'm not  
21 sure that all of the text messages are relevant, but --

22 THE COURT: Again, there was no objection filed like  
23 was the response with Ms. Isso's over her objection because  
24 there was not an objection filed with the Court. I'm going to

1 go ahead and --

2 MS. ROSENBLUM: I don't know --

3 THE COURT: -- allow it.

4 MS. ROSENBLUM: -- if that's accurate. Let me look.

5 (PLAINTIFF'S EXHIBIT 25, BATES 0856 ADMITTED)

6 BY MS. ISSO:

7 Q Take a look at Exhibit number 31. Do you know what  
8 this document is?

9 A Let me see a little bit more. It's pictures of --  
10 these are the pictures of Ava at my house.

11 Q Okay. And (indiscernible) when they were taken?

12 A The -- that's one of the last pictures that I was  
13 actually taking at my house with -- with Ava before she denied  
14 me access to Ava. This -- the -- the last time Ava was at my  
15 house. This is I believe June 22nd, 2020.

16 MS. ISSO: Move to admit.

17 MS. ROSENBLUM: No objection.

18 (PLAINTIFF'S EXHIBIT 31 ADMITTED)

19 BY MS. ISSO:

20 Q Tell the Judge about the denying access --

21 THE COURT: The last time she was at your house in  
22 2020?

23 THE WITNESS: That was before I filed --

24 THE COURT: Oh, okay.

1 THE WITNESS: -- before -- before the matter came to  
2 court, Your Honor.

3 THE COURT: Okay.

4 THE WITNESS: Because she denied me access to Ava  
5 after that for 33 days.

6 THE COURT: Okay.

7 THE WITNESS: Sorry if I wasn't clear.

8 THE COURT: No, that's okay.

9 THE WITNESS: Okay.

10 THE COURT: Listen, I have -- keep things clarified.

11 THE WITNESS: Yeah, the last time she was at my  
12 house before this whole issue happened was --

13 BY MS. ISSO:

14 Q What is number -- Exhibit number 39?

15 A Number 39 are pictures of Ava at my house with her  
16 siblings.

17 Q Do you know --

18 A That's --

19 Q -- approximately when these were taken, like a time  
20 frame?

21 A Between I would say November, September of 2020 and  
22 -- and today.

23 MS. ISSO: Move to admit.

24 MS. ROSENBLUM: No objection.

BY MS. ISSO:

Q Ava -- what is Ava doing in this --

THE COURT: All right.

Q -- picture?

THE COURT: You know what, after thinking about --  
was it Exhibit 31 or 25? If it's three years of text  
messages, I do need to limit it to the entries that are  
actually relevant that you're going referring to. I am --

MS. ISSO: That's going to --

THE COURT: -- not reading --

MS. ISSO: -- take us 10 -- that's going to take us  
14 days. We can't do that. No -- no --

THE COURT: I'm letting --

MS. ISSO: No Judge is making me --

THE COURT: Then --

MS. ISSO: -- do that.

THE COURT: Then we're going to have a gap between  
here and Friday then you'll let me know which pages. But I am  
not reading text messages between two people that -- that  
cover --

MS. ISSO: That's --

THE COURT: -- a span of --

MS. ISSO: That --

1 THE COURT: -- three years.

2 MS. ISSO: This was not -- that's not what it is.

3 It's not what -- I don't know why she's saying that. He's

4 disclosing them in different exhibits but that one wasn't a

5 span of three years. That -- that's not that long. That --

6 THE COURT: Okay.

7 MS. ISSO: -- was only a few pages.

8 THE COURT: All right. My misunderstanding.

9 MS. ISSO: Okay. So we move to --

10 MS. ROSENBLUM: No, Exhibit 25 is three -- it's text

11 messages. It's that many pages. My client is holding that.

12 It's this many --

13 MS. ISSO: Let me look at it.

14 MS. ROSENBLUM: -- pages of text messages.

15 MS. ISSO: I'll look at it in a second.

16 THE COURT: You will --

17 THE WITNESS: We have --

18 THE COURT: -- look at it --

19 MS. ROSENBLUM: It's --

20 THE COURT: -- because --

21 THE WITNESS: We have reference.

22 THE COURT: -- again for right now --

23 MS. ROSENBLUM: -- thousands of --

24 THE COURT: -- it will --

1 MS. ROSENBLUM: -- pages.  
2 THE COURT: -- it will be delayed. Then you let me  
3 know which pages you believe are --  
4 THE WITNESS: We have --  
5 THE COURT: -- relevant.  
6 THE WITNESS: Ms. Isso, we have -- if you look at my  
7 -- I made a list of the -- which are all current within the  
8 last year of her --  
9 THE COURT: I'm not --  
10 THE WITNESS: -- of her --  
11 THE COURT: -- going to require you to do it today.  
12 Again, you'll have a day in between now and --  
13 THE WITNESS: Yeah, we have --  
14 THE COURT: -- Friday --  
15 THE WITNESS: You can --  
16 THE COURT: -- when you come back --  
17 THE WITNESS: You can ask me about --  
18 THE COURT: -- Friday.  
19 THE WITNESS: -- those right now.  
20 THE COURT: It would be easier if you have page --  
21 or Bates -- a list of Bates pages that are referred to --  
22 THE WITNESS: I have that, Your Honor.  
23 THE COURT: -- that the Court will look at.  
24 MS. ISSO: Okay. Exhibit 39, move to admit.

1 MS. ROSENBLUM: No objection.

2 THE COURT: She -- she didn't object.

3 MS. ISSO: So you're saying for OurFamilyWizard I  
4 can't move to admit that because you want specific lines?

5 THE COURT: No, that's not incorrect. If you want  
6 the Court -- let's do it this -- this is how Court deals with  
7 OurFamilyWizard. Again, for purposes of trial, refer to the  
8 day and time, but we will go ahead and print out which will go  
9 up through today. My Court Clerk will get a copy and a  
10 custodian of records. That will be Court's Exhibit 2.

11 MS. ROSENBLUM: That's fine.

12 THE WITNESS: That's not -- just to correct you,  
13 that's not --

14 THE COURT: That -- I understand that's not  
15 OurFamilyWizard.

16 THE WITNESS: Yeah, that's --

17 THE COURT: She's talking about OurFamilyWizard.

18 THE WITNESS: Oh, okay. I'm sorry.

19 MS. ISSO: What -- what did I say wrong, Eugene?

20 THE WITNESS: You said OurFamilyWizard, but the  
21 communications --

22 MS. ROSENBLUM: Are text messages.

23 THE WITNESS: Exhibit 25 is text messages --

24 MS. ISSO: Oh, yeah, yeah, yeah.

1 THE WITNESS: -- between myself and the Defendant.  
2 MS. ROSENBLUM: Right.  
3 MS. ISSO: Exhibit 25 is only 68 pages. That's not  
4 three years of communications.  
5 MS. ROSENBLUM: My Exhibit 25 --  
6 MS. ISSO: It's only -- this --  
7 MS. ROSENBLUM: -- is --  
8 THE WITNESS: No, it starts -- Ms. Isso, it starts  
9 with that but then it goes I took -- I took -- this is all of  
10 the text messages. So it --  
11 MS. ROSENBLUM: It --  
12 THE WITNESS: -- start --  
13 MS. ROSENBLUM: -- starts with text messages from  
14 2018. It's this much plus.  
15 THE COURT: No, Ms. Isso. I am not going through  
16 it. Again, get me a list of the Bates --  
17 MS. ISSO: Oh, no. You're right.  
18 THE COURT: -- stamps --  
19 MS. ISSO: I'm sorry.  
20 THE COURT: -- of the pages --  
21 MS. ISSO: It's a thousand (indiscernible) --  
22 THE COURT: -- that are --  
23 THE WITNESS: We can talk --  
24 THE COURT: -- relevant --

1 MS. ISSO: Okay. Okay. You're right.  
2 THE COURT: -- for me --  
3 MS. ISSO: You're right.  
4 THE COURT: -- to consider --  
5 MS. ISSO: Okay. Okay.  
6 THE COURT: -- and I will look at them --  
7 MS. ISSO: Okay.  
8 THE COURT: -- when I take this matter. Listen, let  
9 me also be candid with both parties so you're not stressing  
10 through now and for -- you will not be getting a decision for  
11 weeks. The Court will take this matter under advisement. I  
12 will be looking at everything that's been admitted and then  
13 issue a decision. So hopefully that will take a little bit of  
14 stress out of today and Friday as well.  
15 BY MS. ISSO:  
16 Q Opposing party continues to say you have -- allege  
17 that you have ADHD. Did you go get tested for that?  
18 A Oh, yes. Absolutely.  
19 Q How many times?  
20 A Three times.  
21 Q And that you did that to appease her?  
22 A Yes.  
23 Q And what did the results show?  
24 A I do not have ADHD.

1 Q Okay.

2 A I never had it.

3 Q Exhibit number 55 is -- is videos. This is 50 -- I  
4 -- do you know approximately when these videos were taken?

5 A It depends on which videos. There are some videos  
6 that I took with my camera at Defendant's house when I was  
7 babysitting from her birth and on. And then there are also  
8 recent videos that are taken at my house in the last eight  
9 months, I would say.

10 Q So these are Exhibit number 55. Let's look at the  
11 one title Ava and Daddy at Nechole's new house, July 13, 2020.

12 A Okay.

13 MS. ISSO: We can't hear the sound.

14 THE WITNESS: There is no sound. There is a sound  
15 on my recording.

16 Q Did you take that video, sir?

17 A Yes, I did.

18 Q And what was Ava doing in that video?

19 A Oh, Ava was playing and she was saying words and I  
20 would sing to her. And I -- I mean, I have -- I would have to  
21 watch it to -- to see what -- but usually I would try to make  
22 her say things and I would sing to her and she would repeat it  
23 to me. I mean, and I was trying -- these videos were actually  
24 taken to give to the Defendant because she was working and I

1 was giving her minute-by-minute progress of what I was doing  
2 with the -- with -- with the child.

3 Q So she was demanding a progress report from you when  
4 you were baby sitting -- when you were watching child?

5 MS. ROSENBLUM: Objection, misstates --

6 THE COURT: Sustained.

7 MS. ROSENBLUM: -- testimony.

8 THE COURT: That's not what he said.

9 BY MS. ISSO:

10 Q But was she requesting that from you?

11 A She was requesting it. I was also providing it --  
12 provide -- I thought it would be a good thing to do.

13 Q What's going on in this video? Oh, this is not  
14 showing. Oh, my God. I'm not playing the videos.

15 A Some of those videos Ms. Isso are very short, the --  
16 the videos that I do.

17 MS. ISSO: Could -- could the Clerk play them for  
18 us? Because the sound is not playing here. It's -- I hate to  
19 connect to the screen share. Earlier your -- your staff told  
20 me Your Honor just to do it through BlueJeans, but I had a  
21 concern that the video wouldn't play the sound. I hate to do  
22 screen share monitoring. Hold on. Hold on.

23 THE COURT: What is -- what is the date of that  
24 video, Ms. Isso?

1 MS. ISSO: What -- what is -- it says what is the  
2 AirPlay password for Courtroom 24. I don't know why it's  
3 asking for a password. Whenever I do this in the other  
4 courtroom, it's -- do you guys have your screen share  
5 monitoring on, the mirror -- the mirror program? No one's  
6 going to respond to me.

7 THE COURT: Oh, I was -- do you know what she's  
8 referring to, Hilary?

9 THE CLERK: I have no idea.

10 THE WITNESS: Does that TV have HDMI?

11 THE CLERK: I have the videos --

12 THE WITNESS: Because we --

13 THE CLERK: -- that were --

14 THE WITNESS: -- can play it --

15 THE CLERK: -- submitted --

16 THE WITNESS: -- from --

17 THE CLERK: -- electronically --

18 THE WITNESS: -- from the laptop --

19 THE CLERK: -- but I don't know how to --

20 THE WITNESS: -- to HDMI.

21 THE CLERK: There's several of them marked 55, like  
22 55 dash -- there's --

23 MS. ISSO: Could --

24 THE CLERK: -- 48 of them.

1 MS. ISSO: Could you play the second one; if you  
2 don't mind?

3 THE CLERK: What's it called?

4 MS. ISSO: Just the second one on -- on -- that --  
5 that shows up on your list.

6 THE CLERK: Blue rink?

7 MS. ISSO: Sure.

8 11:31:07

9 (VIDEO PLAYS IN COURTROOM)

10 THE CLERK: I don't know how to share this.

11 MS. ROSENBLUM: I don't know how to see it.

12 11:31:24

13 THE COURT: Is that the one?

14 MS. ROSENBLUM: We can't see it though.

15 THE CLERK: Yeah, I don't know how to share it.

16 MS. ROSENBLUM: There --

17 THE COURT: Okay.

18 MS. ROSENBLUM: -- should be --

19 THE COURT: We'll have to -- listen, we might have  
20 to ask IT how that happens. We'll do that at noon when we  
21 take a break.

22 MS. ISSO: Okay. We'll come back. Could you call  
23 them and have IT here at noon, please?

24 MS. ROSENBLUM: There -- there should be like a --

1 MS. ISSO: You --

2 MS. ROSENBLUM: -- button at the top that says to  
3 share screen.

4 MS. ISSO: And I already have it on my program here.  
5 I've done -- I just did it in Department F. So --

6 MS. ROSENBLUM: I just (indiscernible).

7 MS. ISSO: So if we can have IT here at noon,  
8 please. Hello?

9 THE COURT: We will, but go -- go -- continue on  
10 because --

11 MS. ISSO: Okay.

12 THE COURT: -- again, I don't want you --

13 MS. ISSO: Okay.

14 BY MS. ISSO:

15 Q So in this case, what did you request from the  
16 beginning in your complaint?

17 A I requested joint custody, joint physical, and --

18 Q And you --

19 A -- legal and physical custody.

20 Q And you heard today that on -- on the record the  
21 opposing party has agreed to joint physical custody, correct?

22 A Yes, I have.

23 THE COURT: You know --

24 Q And I --

1 THE COURT: -- just ending it on the -- I'm not --  
2 let's just get it so we don't have to keep asking it over and  
3 over. That's agreed to, correct? It is joint legal, joint  
4 physical custody as it -- I realize both parties would like to  
5 switch the days and times around but there is no --

6 MS. ROSENBLUM: No, we don't --

7 THE COURT: -- controversy regarding joint legal and  
8 joint physical custody.

9 MS. ROSENBLUM: Your Honor, our request is not to  
10 change the schedule at all.

11 THE COURT: I understand that, but I -- theirs --  
12 they want to change the schedule. I realize you don't. Right  
13 now that is a joint physical custody schedule. So we have the  
14 agreement for joint physical custody, correct?

15 MS. ROSENBLUM: The Court has --

16 THE COURT: So really what we're --

17 MS. ROSENBLUM: We're talking about --

18 THE COURT: -- going --

19 MS. ROSENBLUM: -- visitation.

20 THE COURT: -- for two days about is to figure out a  
21 time schedule.

22 MS. ROSENBLUM: Correct.

23 THE COURT: All right. Okay, Ms. Isso? So you --

24 MS. ISSO: All right.

1 THE COURT: -- don't need to --

2 BY MS. ISSO:

3 Q Eugene, you know -- are -- are you seeking  
4 attorney's fees?

5 A Yes, I am.

6 THE COURT: Well, let me cut -- and I do this to  
7 everybody. Feel free to come to my court in every trial. I  
8 do not deal with attorney's fees at trial. Once the final  
9 order is done pursuant to NRCP 54, either or both sides can  
10 file a motion for attorney's fees and place it on this Court's  
11 chamber calendar.

12 MS. ISSO: Oh, okay.

13 THE COURT: I know both of you have done it. I've  
14 -- I've done attorney -- you've never done attorney's fees in  
15 mine?

16 MS. ROSENBLUM: Yes.

17 MS. ISSO: No, I think this is my first trial --

18 THE COURT: Okay.

19 MS. ISSO: -- before you.

20 THE COURT: All right. So --

21 MS. ISSO: Sorry.

22 THE COURT: It's all right.

23 THE WITNESS: It means more expense for me.

24 BY MS. ISSO:

1 Q Are you seeking reimbursement though for the custody  
2 evaluation?

3 A Yes, I am. In fact, the Judge mentioned that he  
4 would consider that.

5 Q If it came out in your favor.

6 A Correct.

7 Q And Dr. Bergquist recommended joint physical, joint  
8 legal, correct?

9 A Yes, she has.

10 Q Can you tell the Judge how much you spent on the Dr.  
11 -- Dr. Kathleen Bergquist --

12 A I paid Dr. Kathleen Bergquist \$3,000 per Judge's  
13 order and I paid her seventy hundred -- \$750 for her witness  
14 fee.

15 Q And you had obtained an expert in this case as well,  
16 right?

17 A That is correct.

18 Q A rebuttal expert?

19 A That is correct.

20 Q And how much did you pay that expert?

21 A I paid Dr. Carter \$2,000.

22 Q How much did you spend like on depositions and stuff  
23 like that?

24 THE COURT: Again, Ms. Isso, I'm -- everything --

1 all of --

2 MS. ISSO: Okay.

3 THE COURT: -- the attorney's fees and costs.

4 MS. ISSO: Okay.

5 THE COURT: Everything will come in subsequently.

6 Q When --

7 THE COURT: Let me just remind both sides because  
8 I'm actually -- nevermind. Go ahead.

9 MS. ISSO: Okay.

10 Q The opposing party complained in her pleadings that  
11 you didn't baby proof the home -- your home. Could you tell  
12 your Judge -- tell the Judge the response to that?

13 A That is simply a blatant lie. I have baby proofed  
14 my house between November of 2019 and March of 2020. In fact,  
15 Ava has been at my house as that exhibit just showed as late  
16 as June 22nd, 2020.

17 Q So tell the Judge what happened with that. Did you  
18 provide photos, things of that sort?

19 A After we broke up and I tried to negotiate with the  
20 Defendant and reach an agreement, which I could not, she  
21 stated that she changed the keys to her house and would not  
22 allow me to come and see my daughter there and she stated --  
23 on August 2nd of 2020, she stated that she would allow me to  
24 see Ava for whichever hours she wanted me to see Ava but

1 demanded baby proofing and to which I told her that my house  
2 is baby proofed. She demanded to see pictures. I texted her  
3 on August 20th 17 pictures of baby proofing. But she kept  
4 saying my house is not baby proofed and physically -- demanded  
5 physically to come and inspect my house.

6 Q Which baby proof items did you purchase and which  
7 ones did you put in the house?

8 A My house is baby proofed to all the standards that  
9 are described on any websites or what pediatricians recommend.  
10 It's doorknobs, it's latches to not have the drawers open.  
11 It's protections for -- for the -- for the corners. I mean,  
12 any -- any -- you name it. I mean, it -- it's every --  
13 everything is -- is done the way it should be.

14 Q Okay. Did she make any recommendations to you after  
15 you showed her those pictures of any additional baby proofing  
16 techniques you should implement in your house?

17 A No, she just kept saying she wanted more even though  
18 again Ava was at my house since March of 2019 when the  
19 Defendant went back to work after her maternity leave. That  
20 is when the so called -- her schedule started and that's when  
21 Ava was taken to my house and that continued between March of  
22 2019 and June of 2020. And all of that time Ava was coming to  
23 my house and all of that time -- and when Ava reached the age  
24 where she was mobile the -- I -- I started baby proofing my

1 house. I bought items on eBay. I bought items at Walmart. I  
2 installed them and so on and so forth and gradually baby  
3 proofed my house. Ava was at my house until June 22nd, 2020.

4 Q And in fact during the deposition we took of Nechole  
5 Garcia, we asked her do you want to inspect your home,  
6 correct?

7 A That is correct.

8 Q And what did she say?

9 A She said no.

10 Q In discovery we requested medical records from the  
11 opposing party, right?

12 A That is correct.

13 Q Did she provide them to us?

14 A No, she has not.

15 Q What happened? Tell the Judge what happened.

16 MS. ROSENBLUM: Objection, relevance.

17 THE COURT: Sustained. If they have any -- again,  
18 listen. And this is not just you guys. It gets so tiresome.  
19 When we come to court, we're at trial, and there is an  
20 indication there was non response to discovery request. This  
21 case has been going on for, what, over two years? That's the  
22 purpose of the Discovery Commissioner. So the Court's not  
23 going to take that into consideration.

24 MS. ISSO: No, Your Honor. We -- we finally got the

1 records. So that's not what we're trying to do right now.  
2 We're just trying to show that she didn't cooperate during  
3 this litigation.

4 MS. ROSENBLUM: I'm going to argue relevance.

5 THE COURT: Overruled.

6 BY MS. ISSO:

7 Q So did she give us those medical records that --

8 THE COURT: Or --

9 Q -- that we requested?

10 THE COURT: Or sustained. I'm sorry.

11 MS. ISSO: Okay.

12 MS. ROSENBLUM: Thank you.

13 THE COURT: The objection's sustained.

14 THE WITNESS: Yes, she gave us the medical  
15 records --

16 MS. ROSENBLUM: Objection --

17 THE WITNESS: -- after we --

18 MS. ROSENBLUM: -- Your Honor.

19 THE WITNESS: -- subpoenaed them.

20 MS. ROSENBLUM: Relevance.

21 THE COURT: The objection is sustained.

22 MS. ISSO: No, she didn't give them to us. We  
23 subpoenaed --

24 A Subpoenaed. That's what I just said.

1 MS. ROSENBLUM: Move to strike.

2 THE COURT: Sustained. Granted.

3 BY MS. ISSO:

4 Q Did Dr. Kathleen Bergquist observe the child at your  
5 home?

6 A Yes, she has.

7 Q Did she make any complaints to you about the baby  
8 proofing?

9 A No, she has not. She was very happy with the baby  
10 proofing. In fact, I showed her every item and they actually  
11 have to explain it to her because -- because she said she  
12 hasn't had younger children in awhile. So I explained  
13 everything and showed her everything and -- and told her she  
14 can stay at my house for as long as she wanted to.

15 (COURT AND CLERK CONFER BRIEFLY)

16 THE COURT: Sorry.

17 THE WITNESS: No problem. Would you like me to  
18 repeat what I said, Your Honor?

19 THE COURT: You can't do it during trial.

20 THE CLERK: That's IT.

21 THE COURT: That's IT. I -- I'm not stopping the  
22 trial. So we're going to go at least until noon or 12:15 or  
23 12:30 before we take a lunch break. What?

24 MS. ROSENBLUM: Noon, we -- I have to use the

1 restroom.

2 MS. ISSO: We can just stop now since they're here

3 because I -- I need a break too.

4 THE COURT: All right.

5 MS. ROSENBLUM: Yeah, I really need --

6 THE COURT: (Indiscernible), you want to go grab

7 them real quick.

8 MS. ROSENBLUM: The restroom would be fantastic.

9 MS. ISSO: Stop our --

10 THE COURT: We'll go ahead and --

11 MS. ISSO: -- time.

12 THE COURT: -- take a break.

13 MS. ISSO: Stop our time.

14 THE COURT: Break is 11 -- 11:40.

15 MS. ROSENBLUM: How long, Judge?

16 THE COURT: I -- if they're going to take more than

17 10 minutes --

18 MS. ROSENBLUM: Okay.

19 THE COURT: -- we'll have them come back. So for

20 right --

21 (COURT RECESSED AT 11:40 AND RESUMED AT 11:54)

22 THE COURT: We're back on the -- hold on a second.

23 MS. ISSO: Oh, I'm sorry.

24 THE COURT: Okay.

1 THE CLERK: We're back on.

2 THE COURT: We're back on the record.

3 MS. ISSO: Okay.

4 BY MS. ISSO:

5 Q So after Dr. Bergquist observed you and the child in  
6 your home, did she make any complaints to you about anything  
7 that she witnessed?

8 A She has not.

9 Q Did she ask you for additional time to observe you  
10 and the child?

11 A No, she has not.

12 Q Did she report you to CPS?

13 A No, she has not.

14 Q You're able to subpoena some medical records of the  
15 Defendant, correct?

16 A That is correct.

17 Q And which record did you subpoena?

18 A We subpoenaed the records of her therapist, Megan  
19 Carp (ph).

20 Q Let's look at Exhibit number 49. What do the  
21 records show?

22 MS. ROSENBLUM: Objection, Your Honor.

23 THE COURT: Did you file an objection, Ms.  
24 Rosenblum?

1 MS. ROSENBLUM: No. No. Hold on.

2 THE COURT: If -- and if you need it sealed, we will  
3 seal it, but as far as --

4 MS. ROSENBLUM: No, it's not that. I'm -- I guess  
5 -- so the question is objection, what do the records show, I  
6 guess it's vague and ambiguous. I guess that's my objection.  
7 The question itself is vague and ambiguous.

8 BY MS. ISSO:

9 Q Look at Exhibit number 49. Are those the medical  
10 records you subpoenaed?

11 A I do not see it currently on the screen  
12 unfortunately.

13 Q Hold on.

14 A I'm happy to look at that.

15 Q Okay. You don't have to get up. Just  
16 (indiscernible).

17 A Okay.

18 Q Are these the records that we subpoenaed?

19 A Yes.

20 Q Exhibit 49? Okay.

21 A Yes.

22 Q Are they true and accurate copies?

23 A Yes.

24 Q Do they contain a certificate of custodian?

1           A       Yes, they do.

2           MS. ISSO: Move to admit.

3           MS. ROSENBLUM: I would object, Your Honor, as to  
4 relevance. I believe we did file a written objection with  
5 regard to these documents.

6           MS. ISSO: Parent's mental and physical health of  
7 the parties is a factor.

8           THE COURT: It is a factor. I -- and I don't look  
9 at stuff before so I don't know what's contained in it and  
10 I'll just simply give it its due weight.

11          MS. ISSO: So it's admitted before I start talking  
12 to him?

13          THE COURT: It's not submitted yet because I don't  
14 know what's in it.

15          MS. ISSO: It's the medical records.

16          THE COURT: I still -- I don't know what's in it.

17          MS. ISSO: It's her med --

18          THE COURT: I don't look at -- I don't look at  
19 exhibits beforehand.

20          MS. ISSO: Okay. But we're moving to admit them.  
21 They're her medical records, her therapy records.

22          THE COURT: And I don't know what's in them. It  
23 might be correct. It might -- might not be relevant. I mean,  
24 there might --

1 MS. ISSO: It goes to her mental health. It's  
2 relevant.

3 THE COURT: Okay. Go ahead and go off the record,  
4 Madam Clerk, while you fix that.

5 THE CLERK: It was on that and then they said that I  
6 changed something when I came in but I didn't -- I don't know  
7 what it was that it was --

8 THE COURT: When you guys were in here, it was  
9 playing up on there.

10 THE CLERK: Oh.

11 THE COURT: It just didn't have any sound.

12 THE CLERK: And that's not the file that she wants  
13 to share apparently. So -- I don't know what's --

14 MS. ISSO: So I just go over here. I click share  
15 screen.

16 UNIDENTIFIED VOICE: Oh, it's frozen. That's what  
17 it looks like.

18 MS. ISSO: Well, it wasn't like that when she  
19 touched the --

20 UNIDENTIFIED VOICE: No, it looks like it kind of  
21 just froze up.

22 MS. ISSO: So when we played a video, I need the  
23 sound to be playing too.

24 UNIDENTIFIED VOICE: Oh, it should play the sound

1 but it looks like it just kind of froze up.

2 MS. ISSO: Okay.

3 UNIDENTIFIED VOICE: Let me (indiscernible).

4 THE COURT: Ms. Rosenblum, since we're still  
5 apparently on the record, what date did you file the  
6 objection?

7 MS. ROSENBLUM: Because there's been a number of  
8 them filed so I would have to look at what disclosure this was  
9 and when the objection was filed. I'll look at -- the thing  
10 froze up. It was -- wasn't something I did, just so you know.

11 THE COURT: Okay.

12 MS. ROSENBLUM: It just froze up.

13 MS. ISSO: Two, four, two, four, right?

14 (PAUSE)

15 MS. ROSENBLUM: It's -- we filed that objection on  
16 September 2nd. It was their document disclosure 42. And that  
17 objection was filed September 2nd.

18 UNIDENTIFIED VOICE: There's no sound.

19 MS. ROSENBLUM: Again, it's like you can either get  
20 one or the other and you can't get both. It's either sound or  
21 video or not --

22 12:01:02

23 (VIDEO PLAYS IN COURTROOM)

24 12:01:08

1 MS. ROSENBLUM: Oh, here we go.

2 THE COURT: All right. Are you guys -- are you guys  
3 ready to resume now that the video is up? Okay. We're back  
4 on -- did we go off the record are we still doing the --

5 MS. ROSENBLUM: We're still on.

6 THE COURT: All right. Were -- can you do it? Who  
7 plays it? You or the Clerk?

8 MS. ISSO: Move to admit that exhibit.

9 THE COURT: I'm sorry?

10 MS. ISSO: Move to admit the exhibit that we were  
11 just talking about.

12 THE COURT: I'm not going to -- I have not looked at  
13 it. I don't know what it contains. It would have to be --

14 MS. ISSO: You can't look at it --

15 THE COURT: -- something of a --

16 MS. ISSO: -- until we admit it.

17 THE COURT: -- mental health diagnosis that would  
18 affect someone's ability to raise a child. If it's just her  
19 and her therapist talking, I don't know it.

20 MS. ISSO: She's alleged that he has ADHD and he  
21 can't raise a child. So we can't --

22 THE COURT: I don't --

23 MS. ISSO: -- bring up --

24 THE COURT: -- know --

1 MS. ISSO: -- her issues?

2 THE COURT: -- until the -- again, we'll wait until  
3 we get to that point. Let's do the --

4 MS. ISSO: Okay.

5 THE COURT: -- video and then --

6 MS. ISSO: Let's look at this.

7 THE COURT: -- get to that exhibit. And if it's --  
8 they -- it's not relevant, it's not relevant.

9 BY MS. ISSO:

10 Q Okay. So let's look at this video which I labeled  
11 as 55-3. This is part of Exhibit 55. So 55-3. I labeled  
12 these all yesterday. And this is a video of -- of what?

13 A You -- you have to play it, Mrs. -- I --

14 Q Well, look at the top of the title.

15 A I wish I could see.

16 MS. ROSENBLUM: I cannot even see that part.

17 A Oh, this is --

18 Q Oh.

19 A -- Ava and speaking Russian.

20 Q Okay.

21 A Speaking Russian.

22 Q Okay. And approximately when was this video taken,  
23 like month and year?

24 A I have to watch it. I'm not sure.

1 12:02:30

2 (VIDEO PLAYS IN COURTROOM)

3 12:03:02

4 A So I would say that's November of last year  
5 approximately.

6 MS. ISSO: Okay. I move to admit this video.

7 MS. ROSENBLUM: No objection.

8 (PLAINTIFF'S EXHIBIT 55-3 ADMITTED)

9 THE COURT: I -- I have already stipulated to the  
10 videos being admitted.

11 MS. ISSO: Offer 55.

12 THE CLERK: Just that one or all of them? Because  
13 55 --

14 MS. ISSO: They're all just videos of the child.  
15 They're not like anything --

16 THE COURT: Listen, I am not watching what could end  
17 up being hours and hours --

18 MS. ISSO: I know. So we're going to move to admit  
19 -- we're not going play each -- all -- play all of them.

20 THE COURT: Okay.

21 MS. ISSO: We're just going to play a couple.

22 THE COURT: So -- so that particular one then,  
23 correct? Okay.

24 MS. ISSO: No, all of them. I thought we said --

1 MS. ROSENBLUM: Yeah.

2 MS. ISSO: -- all of them.

3 MS. ROSENBLUM: No, I'm objecting to all of them  
4 being admitted.

5 THE COURT: I'm sorry.

6 MS. ROSENBLUM: I would object to all of the videos.

7 THE COURT: They're being cumulative. I'm not  
8 watching half a child's life that's been placed on video, Ms.  
9 Isso. Again, I'll watch a few of them, a few select ones, but  
10 I am not watching all of them. The same thing as your text.

11 THE WITNESS: This is a video of me watching Ava at  
12 the Defendant's house where I was teaching her how to -- how  
13 to play the keyboard.

14 MS. ISSO: Move to admit this one, 55 --

15 THE COURT: They are --

16 MS. ISSO: -- 17.

17 THE CLERK: Which one is it?

18 MS. ISSO: 55-17.

19 (PLAINTIFF'S EXHIBIT 55-17 ADMITTED)

20

21 MS. ISSO: Now it's not working. 6 --

22 BY MS. ISSO:

23 Q Is -- is Ava bilingual?

24 A Yes, she is.

1 Q Does she understand Russian?

2 A She -- not only that she understands, she speaks  
3 Russian. I mean, she knows at this point over 300 words  
4 combined in both English and Russian.

5 Q What is this video? Oh, it's not playing but it's  
6 playing on my computer. It's playing here but not the --

7 A This is myself and Ava and my kids Eric and Adam at  
8 the Pumpkin Patch last year.

9 MS. ISSO: Do I have to go back on or something?

10 UNIDENTIFIED VOICE: (Indiscernible).

11 Q While we're waiting for that, has Nechole ever  
12 committed domestic violence against you?

13 A She has been violent towards me, yes.

14 Q Tell the Judge about that.

15 A She has physically pushed -- pushed me out of the  
16 house several times at her new house when I wanted to stay and  
17 spend time with her and Ava which when first time with Ava is  
18 when she was at her old house. She -- every time she would  
19 get upset with me she would kick me out of the house. She  
20 screamed at me, cursed at me, and give -- would give me the  
21 silent treatment for weeks.

22 Q Other than push you, did she do anything else?

23 A Scream, curse me out.

24 Q No, anything else physically?

1           A     No.

2           Q     About how many times did she push you?

3           A     I remember at least three to four incidences that  
4 that happened.

5           Q     And then how -- how strong were the push and were  
6 they like a light push or a very forceful push?

7           A     Oh, it was a forcible push.

8           Q     Would you step back after she pushed you?

9           A     Yeah, I would just leave. I -- I don't fight and --  
10 and I don't --

11          Q     Yeah, well, my question is when she pushed you, did  
12 your body go back, what -- did you step backward or did you  
13 re --

14          A     Yes, somewhat. Uh-huh (affirmative).

15          Q     I'm sorry, yes or no?

16          A     Yes.

17          Q     We went to a settlement conference in this matter,  
18 right?

19          A     That's correct.

20          Q     And what happened there?

21                MS. ROSENBLUM: Objection, Your Honor.

22                THE COURT: Sustained.

23                MS. ROSENBLUM: Confidential settlement  
24 negotiations.

1 MS. ISSO: We're not going to talk about the terms.  
2 We're going to show the bad faith. That's why I filed --

3 THE COURT: Sustained.

4 BY MS. ISSO:

5 Q Did you guys come to an agreement?

6 MS. ROSENBLUM: Objection, Your Honor.

7 THE COURT: Sustained.

8 MS. ISSO: Because I have to go there and do it.  
9 That doesn't work.

10 BY MS. ISSO:

11 Q Have there been any issues with guns on the  
12 Defendant's side of the family?

13 A Yes, there were.

14 Q And tell the Judge about that.

15 A Her brother --

16 MS. ROSENBLUM: Obje -- I -- Judge, I'm going to ask  
17 for an offer of proof as to how this is relevant.

18 MS. ISSO: Well, first and foremost, her grandma --  
19 the grandma watches the child and in the grandma's household  
20 there's been shootings where the brother shot himself and his  
21 wife has shot him. There's violence on that side of the  
22 family.

23 THE COURT: The objection's sustained.

24 12:08:47

1 (VIDEO PLAYS IN COURTROOM)

2 12:0852

3 MS. ISSO: Hold on. How do I stop this for a  
4 second?

5 BY MS. ISSO:

6 Q So tell the Judge about that.

7 MS. ROSENBLUM: Objection, Your Honor.

8 MS. ISSO: Oh, sustained?

9 THE COURT: It's sustained.

10 MS. ISSO: Okay.

11 BY MS. ISSO:

12 Q So this video -- tell the Judge about this video.

13 A This is the video of last year when we went to  
14 Pumpkin Patch. It's myself, Ava, and two of my kids. My  
15 oldest was filming his -- he's doing -- he's midyear in -- in  
16 middle school. So they do projects. So he liked doing this  
17 project. So he's the one who's taking the video and my middle  
18 son Adam is in -- in this video too. There are a series of  
19 videos that we took.

20 MS. ISSO: It froze again. This never happened in  
21 my other court -- in the other courtroom I was in. Just okay.

22 Q And then how would you describe the -- the  
23 Defendant's relationship with her immediate family members?

24 A The Defendant doesn't get along with anybody

1 including her family members. She does not have an  
2 established relationship with her siblings. She has a sister  
3 and two brothers. They only see each other pretty much during  
4 the holidays, Thanksgiving, and -- and Christmas. She maybe  
5 talks to her sister Stephanie twice a year. She does not talk  
6 to her brother, Caesar Jr. (ph) at all. In fact, they just  
7 simply don't get along. And maybe talks three to four times a  
8 year with her brother Christopher. She does not get along  
9 with her mother, constantly gets upset at anything the mot --  
10 the -- the mother would say about her. And when that happens,  
11 she basically limits time with Ava and tells her not to come  
12 to babysit anymore.

13 Q So the Judge wants to know what's in the -- the  
14 medical records that I tried to admit. You want to see --  
15 like I don't know, I don't know what's -- I can't see them.  
16 We can't see them until they're admitted, Your Honor. So tell  
17 the Judge what's in those medical records.

18 A The medical records show that Nechole has what's  
19 called adjustment d/o.

20 MS. ROSENBLUM: Your Honor, I would object that this  
21 is outside the scope of --

22 THE COURT: If there is a medi -- if the -- she is  
23 correct in that there is a mental health component under the  
24 statute, Ms. Rosenblum. And if there is something diagnosed

1 that might affect her ability as a parent, I have to -- it is  
2 relevant. So your objection regarding relevance would be  
3 overruled. I don't know. I don't look at them beforehand so  
4 I don't get tainted in that way. But if she's got documents  
5 that says she's diagnosed with something that might affect, I  
6 have to let it in.

7 MS. ISSO: Sir -- sir, why did the -- oh, you're  
8 fixing it?

9 UNIDENTIFIED VOICE: Yeah, every time it  
10 (indiscernible).

11 MS. ISSO: So you're going to stay here, right?

12 UNIDENTIFIED VOICE: Yeah, I'll --

13 MS. ISSO: Cool. Thank you.

14 BY MS. ISSO:

15 Q So what -- so what do the medical records show?

16 A The medical records shows that she has adjustment  
17 disorder with -- with anxiety. It talks about her being  
18 anxious about her relationship with her mother. It -- they --  
19 the records talk about her need to control her mother and  
20 myself. The records show one of the billing codes that she  
21 has for the generalized anxiety disorder is what's called  
22 psychosocial dysfunction.

23 THE COURT: If there's diagnosis contained in the  
24 reports, it will come in. Again, I will seal it for -- so no

1 one can access it at all from the public. I don't know how  
2 you do that, Madam Court Clerk, for that particular exhibit.  
3 I don't think the public can really get the exhibits anyway,  
4 but just I want to be overly cautious that your personal stuff  
5 does not get out.

6 MS. GARCIA: Thank you.

7 (PLAINTIFF'S EXHIBIT 49 ADMITTED)

8 THE COURT: And there will be an admonishment to the  
9 Plaintiff, Counsel, as well as the Plaintiff that those  
10 records are not to be disseminated to anybody.

11 MS. ISSO: We wouldn't do that --

12 THE WITNESS: Absolutely.

13 MS. ISSO: -- Your Honor.

14 THE WITNESS: Absolutely.

15 MS. ISSO: Okay. So that's admitted, right?

16 THE CLERK: So which exhibit is being sealed?

17 MS. ROSENBLUM: 49.

18 BY MS. ISSO:

19 Q And those medical records, they also talk about her  
20 suffering from depression, correct?

21 A That's correct.

22 Q And we'll come back to that. How would you describe  
23 Ava?

24 A Ava is a wonderful child. I -- Ava means everything

1 to me. She's smart. She's bright. She has wonderful sense  
2 of humor. She is extremely talented. She has an amazing  
3 memory. She remembers books by heart in both Russian and  
4 English. Different books at my house and I hear also  
5 Defendant's house. In fact when we started ABA treatments,  
6 the RBTs that we have saw that Ava already knows to read which  
7 actually at this point she just started. But at that point  
8 she wasn't and they all thought that Ava knows how to read  
9 because she memorizes the content of books by -- by just  
10 reading it once or twice when I read it to her she remembers.  
11 She has an amazing musical talent. That is my area of  
12 expertise. I do have master's degree in music and have been  
13 in music myself since I was seven years old and have taught at  
14 CSN for over 21 years.

15 And I can tell you that Ava has perfect pitch --  
16 near perfect pitch, amazing musical memory, exceptional sense  
17 of rhythm and a very beautiful voice. I have no doubt that  
18 she has what it takes to become a very talented musician or a  
19 singer and that is something that I've been nurturing since  
20 she was born and will continue to nurture.

21 Q What is it like a typical day for you and the child?

22 A Before Ava started school, and this is just recent  
23 because she just started the school this Monday, but typically  
24 we'll wake up in the morning and I help her dress up. I brush

1 her hair. I brush her teeth. And then we have breakfast.  
2 After that, we typically go out for either a walk or to the  
3 park. Then we come back and I work with her on the techniques  
4 that were introduced by the RBT technicians as well as the  
5 speech therapist or -- and occupational therapist. In fact,  
6 every minute of my day is dedicated towards helping Ava with  
7 her condition. We play games. We take turns doing preferred  
8 and non preferred activities. We read books in English and  
9 Russian. We try to memorize different words. We sing. We  
10 play.

11 Q What kind of food does she eat?

12 A Ava is a picky eater. At my house she eats  
13 Beech-Nut strawberry fruit bars. She eats Gerber organic  
14 fruit and vegetable bars, date and carrots specifically. She  
15 eats Cheerios. She cereal, a fruit snack. She eats sun  
16 butter -- sunflower butter sandwiches. She drinks juice,  
17 diluted juice, which was one of the recommendations that TMG,  
18 the early intervention recommended that the Defendant actually  
19 refused to implement. We are working currently with RBTs on  
20 introducing the chicken to her.

21 Q Did the Defendant ever tell you that she stopped  
22 breastfeeding the child?

23 A Yes, she has.

24 Q When did she tell you that she stopped

1 breastfeeding?

2 A She told me in May of 2020 even prior to that at our  
3 first appointment of Ava's one year well visit our  
4 pediatrician at the time from Anthem Hill Pediatrics Dr.  
5 Miller (ph) advised the Defendant to wean Ava from the breast  
6 stating that --

7 MS. ROSENBLUM: Your Honor, I would object to the  
8 hearsay statements.

9 THE COURT: Sustained.

10 BY MS. ISSO:

11 Q Just don't say what the doctor said.

12 A She was advised to stop breastfeeding and she  
13 didn't. She told me in May of 2020 that she's done  
14 breastfeeding.

15 Q Has the Defendant informed you that she started  
16 potty training the child?

17 A No, she hasn't. She refused to do that last year  
18 even though it was recommended by Dr. Hutchings. And even now  
19 when the potty training has started by Firefly Behavior  
20 Services, she failed to inform me about that. I actually  
21 found out from RBTs. In fact, what I was told is that she  
22 didn't even have a potty at her house. And the first time  
23 they tried, they had to hold Ava over the toilet which wasn't  
24 very comfortable for her. I still do not know if she has a

1 potty at her house or not.

2 Q You ended up buying a potty, right?

3 A I bought the potty last year.

4 Q And you informed the Defendant?

5 A Yes, at our appointment with Dr. Hutchings last year  
6 I have informed the Defendant and -- and asked Dr. -- the  
7 doctor for the advise.

8 Q Tell the Judge about the situation related to the  
9 potty.

10 A I -- it was a well visit. It was her two year well  
11 visit with Dr. Hutchings. And after he was done with the  
12 regular routines for the well visit he asked if we had any  
13 questions. And I told Dr. Hutchings that what -- what his  
14 opinion is on -- on potty training. And I told him that I  
15 have a potty for Ava and would it be a good time to introduce  
16 the potty to Ava. He said yes, absolutely. And he  
17 recommended that. And then the Defendant after that emailed  
18 me through OurFamilyWizard trying to sound like I started  
19 potty training Ava without telling her. I did not.

20 I bought a potty for her so she can get used to it  
21 in the room and I was waiting for an advice. And Dr.  
22 Hutchings did recommend having Ava play with it, go around it,  
23 and so and so forth. Because the Defendant refused to potty  
24 train, I waited until this year to start it when she finally

1 realized that it was time for Ava to get potty trained.

2 Q You told her that the child sat on the potty with a  
3 diaper, right?

4 A Yes, Ava would play with the -- around the potty and  
5 would sit on it for -- for a few seconds. I have never  
6 removed her pants. I have never removed her diaper. Nothing  
7 like that. She was just treating it as a toy which again Dr.  
8 Hutchings informed us that that's actually a very good idea to  
9 let them get used to something in their --

10 Q And what was the Defendant's response to that? What  
11 did she say and what did she do?

12 A She accused me of potty training. She said that I  
13 started potty training without informing her.

14 Q And she got upset?

15 A Yes, she got very upset and emailed me several times  
16 trying to -- trying to make it sound like I did not share that  
17 with her which again I did not start potty training.

18 Q So the opposing party is accusing you of not being  
19 attentive towards your child. What's your response to that?

20 A Again, that is just a blatant lie. That is  
21 absolutely not true. Ava -- Ava means everything to me. And  
22 I have -- her needs are the most important needs to -- to --  
23 in fact, that's why I started the RBT training myself. I am  
24 currently 80 percent down into -- into the -- finishing the 40

1 hour RB -- RBT class to become myself a registered behavior  
2 tech -- behavior technician so I can help my daughter. I have  
3 implemented every advice that was given since -- since she was  
4 born, specifically including every treatment we received from  
5 all -- any advice received from the early intervention TMG or  
6 Therapy Management Group.

7 I have worked with Ava on speech, occupational  
8 therapy, on the feeding therapy. I have participated in every  
9 appointment whether it was via Zoom or in person. I have  
10 participated in every ABA appointment since we choose Firefly  
11 to -- to be our ABA therapy company. I have sat with RBT  
12 technicians and work with them together on using those  
13 techniques to teach her how to use -- prefer to not rotate  
14 between preferred and non-preferred activities. I have  
15 participated in parental training with Heather Tod -- Todgin  
16 (ph) and I -- as I said before started an RBT class and almost  
17 finished with it and after that will undergo supervision by  
18 another BCBA.

19 I, in fact, emailed the Defendant via family --  
20 OurFamilyWizard as soon as Ava was diagnosed and stated in  
21 laid out my principles of what the ABA treatment should be and  
22 how I see it. So I -- the -- the statements are blatant lies  
23 of the Defendant.

24 Q Is -- is -- do you know if -- is Ava's room baby

1 proofed in Nechole's house?

2 A She -- the room is completely baby proofed in -- in  
3 Nechole's house which can be seen on some of those videos.

4 Q And there's a gate at the threshold?

5 A There is no gate but we would close the door if we  
6 didn't want her to get out.

7 Q Is there anything else you want to tell the Judge?

8 A Regarding --

9 Q Anything else you want to tell the Judge?

10 A Yes. I would like to talk about the temporary  
11 schedule to explain to Your Honor what that is and how that  
12 reflects what's happening. And first of all, I'm very  
13 grateful to Your Honor for the holiday schedule because if it  
14 wasn't for that, I would not see Ava on most of the holidays.  
15 The Defendant's offer to me last year around Christmas was  
16 four hours on Christmas Day and four hours New Year's Day.  
17 That was it. She vehemently -- both her and her attorney have  
18 vehemently fought me getting -- get -- getting overnights, me  
19 getting weekends, me getting holidays.

20 So if it wasn't for that order -- as an example,  
21 last weekend was one of the few weekends when I had all three  
22 of my children together because of the Nevada Day/Halloween.  
23 And it was wonderful. It was absolutely wonderful.

24 However, I feel that the temporary schedule that was

1 imposed is extremely unfair and tilted heavily towards the  
2 Defendant. I feel that the Defendant has been treated  
3 throughout this with kid gloves. Both her and her attorney  
4 vehemently lied and played games since this started, lying  
5 sometimes to -- to the Judge's face during the hearing. Ms.  
6 Rosenblum lied to the Judge saying that I am unemployed during  
7 one of those hearings. That is a blatant lie.

8 Ms. Rosenblum during her deposition laughed when I  
9 said that Ava is a picky eater and then had chutzpah to bring  
10 the fact that she has other clients that might have a similar  
11 problem. That is just very concerning to me as -- as a mother  
12 that cannot empathize with another parent. Obviously she has  
13 no idea what it's like to have a child that has feeding  
14 issues.

15 The Defendant had lied throughout the beginning of  
16 this procedure saying that I have not established the  
17 relationship with Ava when I have seen Ava every day since she  
18 was born unless denied by the Defendant. And so the current  
19 schedule was imposed.

20 First, before March of this year I have not had any  
21 overnights and Ava was dragged between both houses for six  
22 months. I do not think that's in the best interest of Ava. I  
23 do think it's in the best interest of the Defendant. And then  
24 when -- since the report came out and it came out in February,

1 only then through objections of the Defendant and her Counsel  
2 was I awarded two overnights. The schedule is still heavily  
3 tilted towards the Defendant. It is -- on the weekends, it's  
4 a -- it's an 80/20 schedule because it's not -- it's not  
5 sharing weekends. It's me having two Sundays a month and the  
6 Defendant having the rest. And the way it affects me as a  
7 parent and the way it affects Ava's relationship with her  
8 older siblings to me is just cruel. The same goes with the  
9 rest of the schedule. I only have two full days a month -- a  
10 -- a week, I'm sorry, and then one partial day. So that is  
11 still a 70/30 split which I think is extremely -- extremely  
12 unfair.

13 On top of that, I want the Judge to know that the  
14 Defendant has not paid a penny of child support. In fact, she  
15 has been receiving Biden Administration child payments. But  
16 her salary of a hundred and nine thousand dollars. She still  
17 receives \$300 a month. She's been receiving that since July  
18 of -- of this year. I have seen exactly zero from that. So I  
19 just wanted Your Honor to know.

20 I have -- I think Ava deserves the best and Ava's  
21 best interests met when she has equal timeshare with both  
22 parents. In fact, I have never had problems sharing Ava with  
23 the Defendant. It was always the other way around. And when  
24 this case is settled, I will invite the Defendant to

1 participate with the activities that we have. I have no  
2 problems with that whatsoever. I will advise her to -- when I  
3 have Ava for birthdays, when we go out, I have absolutely no  
4 issues with that whatsoever. It has always been the other  
5 side. It has always been the Defendant.

6 Q So this is the video we were talking about earlier.  
7 This is you said the video with the Pumpkin Patch --

8 A Yes.

9 Q -- with the siblings?

10 12:2805

11 (VIDEO PLAYS IN COURTROOM)

12 A It's lagging.

13 MS. ISSO: Let's go forward to the part where it  
14 says (indiscernible) --

15 Q The child is taking the video, right?

16 12:28:31

17 A One of my children, Eric is taking the video. The  
18 other one, Adam, is like in and out of the frame.

19 MS. ISSO: So we want to move 55-9. Is this the one  
20 with the child in it?

21 THE COURT: Here --

22 THE WITNESS: This is just me with activities tak --

23 THE COURT: Hold on one second.

24 THE WITNESS: Yes.

1 THE COURT: Here -- listen, so you also don't have  
2 to use your -- your time at -- at trial, Ms. Isso. Here's  
3 what I'm going to do because if these are just -- listen. I  
4 love nothing better than to just watch stuff like this all day  
5 long. And it's the only good thing we get to do is the warm  
6 fuzzy stuff.

7 MS. ISSO: Yeah.

8 THE COURT: We get it all the time. I'm sure you  
9 both submitted in all your cases. So just kind of give a  
10 touch of how things really are, having a good time. And,  
11 again, I -- I know that you have photos or videos of your own.  
12 I will both allow you to submit five -- no longer than five  
13 minute videos and up to 30 pictures of -- if you've got them  
14 as proposed exhibits. If there's -- if they're submitted for  
15 other things like child abuse or something of that nature,  
16 that's different. But these -- what I call the warm fuzzy  
17 stuff I --

18 MS. ISSO: Yeah.

19 THE COURT: -- am going to limit. I am not watching  
20 all those videos just --

21 MS. ISSO: These are the warm fuzzies. So we wanted  
22 to admit -- admit 55-43 and the two that are just --

23 THE COURT: Wait, hold on. If you're going to give  
24 me the -- if you've already picked them out, go -- give me a

1 second to write them down. Go ahead.

2 MS. ISSO: Well, I don't know if you've ever  
3 admitted. So 55-39.

4 THE COURT: 55-39.

5 MS. ISSO: Well, which are the other two that I  
6 already admitted.

7 THE CLERK: 55-3 is already admitted.

8 MS. ISSO: 55-3. Is there another one, Eugene, that  
9 you want me to really focus on?

10 (COUNSEL AND CLIENT CONFER BRIEFLY)

11 MS. ISSO: Okay. It kicked me out again. 55,  
12 that's your house, yeah, right? Yeah.

13 THE WITNESS: That's my house.

14 MS. ISSO: That's -- got to show that one. They  
15 kicked me out again. 55-37. They kicked me out again Your  
16 Honor which is -- this doesn't typically happen just so you  
17 know.

18 THE COURT: Again, I'm -- I'm reiterating. You can,  
19 but you're suing your time. I will absolutely watch it before  
20 I render a decision. If you want to play it in court, that's  
21 up to you, Ms. Isso.

22 MS. ISSO: This is ridiculous. It constantly kicks  
23 me out.

24 (COURT AND CLERK CONFER BRIEFLY)

1 THE COURT: What's -- I'm sorry?  
2 MS. ISSO: I'm just going to play this other video.  
3 It's --  
4 THE COURT: That -- you're fine.  
5 MS. ISSO: It kicked --  
6 THE COURT: You're fine.  
7 MS. ISSO: It kicked -- it kicked me out again.  
8 THE COURT: I'm just affording you the opportunity  
9 if you don't want to --  
10 MS. ISSO: I'm sorry, what opportunity is it?  
11 THE COURT: I absolutely will watch it because it's  
12 going to be an admitted exhibit.  
13 MS. ISSO: Okay. The --  
14 THE COURT: If you don't want to use your six hours  
15 of time playing it for the Court since I'm going to watch it  
16 anyway, it's up to you. I'm not going to dictate --  
17 MS. ISSO: There's --  
18 THE COURT: -- how you --  
19 MS. ISSO: -- (indiscernible) a couple more and  
20 we're done at this time. Just a couple more.  
21 THE COURT: That's fine.  
22 (PLAINTIFF'S EXHIBITS 55-9, 55-37, 55-39, 55-43 ADMITTED)  
23 MS. ISSO: Eugene? Eugene?  
24 THE WITNESS: Yes?

1 MS. ISSO: How much -- what time am I at right now?

2 THE COURT: I took 21 minutes off of the prior where  
3 they were assisting you. At this point if you are insistent  
4 on having them fix it and play it in court, this is going to  
5 be allocated towards your time. Prior to the break it was 58  
6 minutes and then we started again at 12:01 minus those 20  
7 minutes. So I haven't added that up yet.

8 MS. ISSO: Are we on? Are we on? Just so you know,  
9 the extra time is because the computer's freezing up. The  
10 technology computer of the courtroom is freezing up. I don't  
11 feel like it should be subtracted from our time, but -- what  
12 number was I just looking at? 55 what? Which one was it?  
13 I'm at your house.

14 (COUNSEL AND CLIENT CONFER BRIEFLY)

15 12:33:58

16 (VIDEO PLAYS IN COURTROOM)

17 BY MS. ISSO:

18 Q That's your house, right?

19 A Uh-huh (affirmative).

20 Q Okay. So here's -- go ahead and go back up there.  
21 So this is 55-36.

22 MS. ISSO: I want to move to admit this video.

23 (PLAINTIFF'S EXHIBIT 55-36 ADMITTED)

24 BY MS. ISSO:

1 Q Eugene, tell the Judge what is this a video of.

2 A This is me paying with Ava, reading her books. It  
3 looks like her crib, playing the keyboard. This is earlier in  
4 terms of -- this -- I believe this is maybe the beginning of  
5 this year. Oh, it says -- I'm sorry. October --  
6 12:34:37

7 Q Oh, here it is. This -- is this her bedroom?

8 A Yes.

9 Q She has a crib?

10 A She has a crib, yes.

11 Q What else does she have in her bedroom?

12 A She has drawers there for her clothes and you cannot  
13 see in the video but she has shelves with books and -- and her  
14 toys.

15 MS. ISSO: I move to admit 55-37.

16 Q Who -- who do you live with, Eugene?

17 A I live with Ava and my sons Eric and Adam.

18 Q And does each child have their own room?

19 A My kids, Eric and Adam, my sons have their -- the  
20 room that they share and then Ava right now this is the  
21 biggest bedroom in the house. Right now I -- Ava's crib is in  
22 my bedroom so I can tend to her which is very helpful. And  
23 then when she gets older around five or six if -- if I'm still  
24 in the same house that's going to be her main bedroom and I

1 have a third bedroom. My house is 1100 square feet three  
2 bedroom house. And so my office will become my bedroom if I'm  
3 still in the same house.

4 Q And do you have a backyard?

5 A I do have a huge backyard because the house was  
6 built back in the 80s and these other houses that it's old  
7 Henderson by Skyline Casino just to give you an idea. And the  
8 -- the backyards are bigger than what they build now for the  
9 houses that are worth half a million dollars. So huge  
10 backyard. I have a lot of toys there for Ava, a lot things  
11 that she loves to do. I have a swing. I have a slide. I  
12 have a basketball hoop there and -- and so on and so forth.  
13 Soccer gates and many other things.

14 Q Have you taken any other certificates or classes or  
15 anything like that?

16 A Yes, I have. I have -- I have taken the parenting  
17 case right away as -- as Dr. Bergquist's report came out. I  
18 love taking classes. I love learning. I mean, I'm an  
19 educator. That's my -- that's what I do for a living. So I  
20 love taking classes so I took a 10 hour class to -- to -- and  
21 -- and I -- I -- it's excellent. And like I said right now, I  
22 -- was my decision to immediately to start being certified  
23 towards becoming an RBT registered behavior technician myself  
24 so that I can give the most to my daughter.

1 Q Were there ever times that you got the child back  
2 from the Defendant and where she had a rash or anything like  
3 that?

4 A Oh, yeah. There were many instances like that.

5 Q Tell the Judge about that.

6 A There are exhibits where Ava comes to my house and  
7 she -- and she -- she has diaper rash, some severe. The --  
8 the thing about Nechole is that she is extremely strict and  
9 rigid in many areas but she -- then she's laissez-faire with  
10 other stuff. One of them is a dog. She had a dog at her  
11 house and they --

12 MS. ROSENBLUM: Your Honor, I move to strike his  
13 testimony as non-responsive.

14 THE COURT: Sustained.

15 MS. ROSENBLUM: The question was about diaper rash.

16 THE COURT: Regarding the dog stuff, the --

17 MS. ISSO: Okay. Well -- okay.

18 THE COURT: The --

19 BY MS. ISSO:

20 Q Let's just talk about --

21 THE COURT: -- statement --

22 Q -- the diaper.

23 THE COURT: -- regarding the diaper rash --

24 A The diaper rash --

1 THE COURT: -- will be omitted.

2 A -- was because Nechole refused to put Ava in a  
3 bigger diaper. She doesn't -- she's very square in terms of  
4 understanding things. So to her the -- the diapers have to go  
5 only by weight of the baby but not of the si -- because of the  
6 size of the baby. So when I got Ava on those instances in the  
7 exhibits that were submitted that she had diaper rash, it was  
8 clear to me that she -- she's constricted in the diaper that  
9 she was using. She was using a smaller size diaper. And then  
10 when I confronted her on my -- OurFamilyWizard, she would say  
11 but that's -- that's a right size of the diaper and I even  
12 forward her -- forwarded her a couple of articles that talked  
13 about parents and -- and health professionals, medi -- medical  
14 professionals stating that the diaper does not just go by the  
15 baby's weight, it goes by the baby's side -- size, I'm sorry.

16 MS. ISSO: So Your Honor, we have pictures of the  
17 child's private area with the rashes, but I don't know how --  
18 I've never had to disclo -- you know --

19 THE COURT: They'll be sealed from the public, Madam  
20 Clerk.

21 MS. ISSO: Exhibit 40. We will move to admit  
22 Exhibit 40 which has those pictures. I don't want to play  
23 them because it shows her whole private area.

24 MS. ROSENBLUM: So we're offering to admit them but

1 we're sealing them, I guess? Is that what --

2 THE COURT: From the public. Yeah, again, I don't  
3 know what they would have acc -- I'm just being overly  
4 cautious, again, with her medical records, with pictures of a  
5 young child's genital --

6 THE WITNESS: Absolutely.

7 THE COURT: I know that I've seen other cases where  
8 exhibits admitted at trial have been sealed, you know, in case  
9 anybody goes to review them. But --

10 MS. ROSENBLUM: This is a fundamental --

11 THE COURT: Listen, can -- they are what they --  
12 stuff --

13 MS. ROSENBLUM: Right.

14 THE COURT: -- like that --

15 MS. ROSENBLUM: I mean --

16 THE COURT: -- comes in. Is it relevant?

17 MS. ROSENBLUM: -- I will stipulate --

18 THE COURT: Yes.

19 MS. ROSENBLUM: -- to their admission. The Court  
20 I'm sure will give it the weight it is entitled to.

21 THE COURT: Okay.

22 MS. ISSO: So Exhibit 40 is admitted, Madam Clerk,  
23 right?

24 (PLAINTIFF'S EXHIBIT 40 ADMITTED)

1 MS. ISSO: Okay. I don't want to even -- I don't  
2 want to even -- I don't want to play them because I just don't  
3 want to look at them.

4 BY MS. ISSO:

5 Q So let's go to --

6 THE COURT: Do you have anymore videos so -- so we  
7 don't have to keep --

8 MS. ISSO: How many videos --

9 THE COURT: -- IT --

10 MS. ISSO: -- did I --

11 THE COURT: -- in here forever?

12 MS. ISSO: How many videos did I play already?

13 THE COURT: I'm sorry?

14 MS. ISSO: How many videos that I admit? I lost --

15 THE COURT: Mad -- Madam Clerk?

16 THE CLERK: There were -- after you talked about the  
17 five, you had mentioned 55-3 which was already admitted,  
18 55-39, -37, and then -36 was that last one that --

19 THE COURT: So that's four?

20 THE CLERK: Yeah.

21 THE COURT: So it would be one more.

22 THE CLERK: So then 40 was the photo.

23 MS. ISSO: So there should be one more?

24 THE COURT: I said you can -- you're not -- you

1 don't have to but you could.

2 MS. ISSO: So Exhibit 55, is that already admitted?  
3 That was the one that we just got admitted, the one with the  
4 pictures, right? 55?

5 THE COURT: 55 is all the pictures; is that correct?

6 MS. ISSO: Yeah.

7 THE COURT: Madam Clerk?

8 THE CLERK: 55 is all the videos.

9 THE COURT: Right. So it's not all of 55.

10 MS. ISSO: Oh, okay.

11 THE COURT: She just read the sub ones that were  
12 admitted.

13 MS. ISSO: Okay. So here's some pictures that we  
14 have too for 55.

15 THE WITNESS: These are the pictures that are going  
16 to show Ava's Ava came --

17 MS. ISSO: So just hold on.

18 THE WITNESS: -- how Ava came --

19 MS. ISSO: Hold on.

20 THE WITNESS: -- to me.

21 MS. ISSO: That -- that contains some of the private  
22 stuff. Hold on.

23 THE WITNESS: Ava --

24 MS. ISSO: I want to see if there's anything else.

1 Okay. So which one did we just admit with the -- with the one  
2 that's sealed? Which one did we just admit?

3 THE COURT: That was 40.

4 MS. ISSO: That was 40? Okay. Yeah, okay. Those  
5 were duplicate. Okay. And then we're just going to -- so  
6 Exhibit 6, 7, 10, 11, 13, 22, 24. Those are -- let me see.  
7 These are how you contributed financially to the child. Do  
8 they stipulate to admit those? They just -- they just talk  
9 about how much money they spent.

10 THE COURT: Ms. Isso, let's finish with the last  
11 video. Do you have any other videos you --

12 MS. ISSO: Oh, yeah.

13 THE COURT: -- want to admit so we can let IT go?

14 MS. ISSO: Okay.

15 BY MS. ISSO:

16 Q Is there any other videos particularly you want me  
17 to show --

18 A You can just pick another random one if you want to  
19 say -- say something else or whatever you prefer. Something  
20 at my house. And they're all good videos, but obviously I'm  
21 not going to ask the Judge to sit down and watch movie. I  
22 understand that.

23 Q Which one -- which one's at your house? Do you see  
24 when it was dated there?

1 A (Indiscernible).

2 Q I thought this is the -- we'll do 55-43.

3

4 12:43:01

5 (VIDEO PLAYS IN COURTROOM)

6 12:43:19

7 MS. ISSO: Move to admit that one.

8 THE COURT: Okay. And which one is that for the  
9 Court Clerk?

10 MS. ISSO: That was 55-43.

11 THE COURT: All right.

12 THE CLERK: 43?

13 MS. ISSO: Yes.

14 BY MS. ISSO:

15 Q When there was issues with -- did you purchase a  
16 humidifier for the child?

17 A Yes, I have.

18 Q Okay. Exhibit number 6 is -- well, let's look at  
19 number -- 6 and number 8. Those are purchases you made.

20 A Yes, some of them are purchases that show that I got  
21 baby proofing.

22 Q So this is a baby proofing --

23 A Yeah, some of -- yeah, some of that you can see  
24 right there is baby proofing and that's back in November --

1 wait, that's June.

2 Q So you went and bought these items?

3 A Yeah, so I -- I gradually -- yeah, these are items  
4 that some of -- some of the items that I --

5 MS. ISSO: Okay.

6 A -- bought.

7 MS. ISSO: I move to admit Exhibit 8.

8 THE COURT: Any objection?

9 MS. ROSENBLUM: No objection.

10 THE COURT: It'll be admitted.

11 (PLAINTIFF'S EXHIBIT 8 ADMITTED)

12 BY MS. ISSO:

13 Q So Exhibit number 10, these are Walmart receipts.  
14 What are these about?

15 A These I -- I would buy things for the Defendant and  
16 cook for her. Some of it I bought for her dog given to --  
17 chicken to -- so -- so that her dog can eat chicken. Some of  
18 them are food that I cooked for us and so and so forth. And,  
19 again, that's only partial because I was just entering them  
20 into the phone.

21 MS. ISSO: Move to admit Exhibit 10.

22 THE COURT: I didn't hear anything regarding the  
23 child. I heard the dog, I heard the --

24 MS. ISSO: Okay.

1 THE COURT: -- Defendant, I heard him --

2 MS. ISSO: That was him contributing to the child's  
3 household.

4 THE COURT: But I'm saying from what he just said on  
5 the stand regarding that particular exhibit I didn't hear  
6 anything regarding the child.

7 MS. ISSO: He said he -- food he got for the child  
8 and for the Defendant.

9 THE WITNESS: No, you started talking about the  
10 humidifier.

11 THE COURT: Right.

12 THE WITNESS: That's where the --

13 THE COURT: That's --

14 THE WITNESS: -- dog comes in.

15 THE COURT: That was already admitted. And you  
16 started referencing another exhibit. He then said he bought  
17 chicken and other stuff and food for the Defendant. He didn't  
18 say anything about the child.

19 MS. ISSO: Oh, okay.

20 BY MS. ISSO:

21 Q Well, let's -- let's talk about the dog.

22 A Yes.

23 Q Tell the Judge about the issue with the dog.

24 MS. ROSENBLUM: Objection --

1           A     So --

2                   MS. ROSENBLUM:  -- Your Honor.  I got to ask that

3 there be some foundation or background or something.

4                   MS. ISSO:  There's a dog.  What foundation do you

5 need?

6 BY MS. ISSO:

7           Q     Okay.  Tell the Judge -- the --

8                   MS. ROSENBLUM:  Whose dog?

9           Q     -- Judge about the dog at the Defendant's house.

10          A     The Defendant has a dog --

11                  THE COURT:  I have to --

12          A     -- named Athena.

13                  THE COURT:  -- see if there's an issue with the dog.

14 A dog comes up a lot of times, if a dog bites, if a dog causes

15 allergies, if the dog did this or that --

16                  THE WITNESS:  That's exactly --

17                  THE COURT:  -- Ms. Rosenblum.

18                  THE WITNESS:  -- what this is.

19                  THE COURT:  I have to allow it in.

20                  THE WITNESS:  So the Defendant had a dog, Athena,

21 wonderful animal.  But the dog was -- Ava was diagnosed in

22 January of 2020, was di -- was diagnosed with multiple

23 allergies.  She's allergic to soy.  She's allergic to dairy.

24 She's allergic to nuts, any kind of nuts.  She's allergic to

1 eggs. And then the last one she's allergic to dogs. We were  
2 both at that appointment that -- when Ava was diagnosed  
3 with --

4 THE COURT: Could we let IT go? Are you -- we're  
5 done with the videos, correct?

6 MS. ISSO: Okay. Thank you. You can go now. Thank  
7 you.

8 THE COURT: Sorry.

9 UNIDENTIFIED VOICE: I'll just wait because there's  
10 like something -- like my phone is where i left it and --

11 THE COURT: Oh, okay.

12 THE WITNESS: Thank you.

13 THE COURT: I just want to make sure.

14 THE WITNESS: The Defendant was at that appointment  
15 when Ava was diagnosed and --

16 BY MS. ISSO:

17 Q Okay. Eugene, start over. Say that again?

18 A Okay. So the Defendant had a dog in her and the --  
19 Ava was diagnosed in -- in January of 2020 with multiple  
20 allergies and one of tho -- those allergies was allergies for  
21 a dog. But she would not remove the dog. And the dog was  
22 there until I believe she put him -- put the dog down until --  
23 which was if I remember correctly in maybe October, November  
24 of last year. So she refused to remove the dog. In fact,

1 wouldn't tell her mother that Ava has been diagnosed with --  
2 with allergies because she knew her mother didn't like the  
3 dog. Her mother would say the dog smells and only tolerated  
4 the dog because she wanted to keep a relationship with her  
5 daughter. But the dog remained there.

6 Another issue with the dog is that she herself  
7 admitted to me that she was afraid that -- because at one  
8 point her dog became a little bit aggressive towards Ava and  
9 she was -- she was concerned about that. But yet the dog was  
10 not removed. I bought the humidifier because it showed --  
11 because that was one of the things that they recommended to  
12 do. But she never -- she never used it and -- and told me  
13 that, oh, it was too small or -- no, I'm sorry. She -- she  
14 said she didn't know where to put it in her room. So I went  
15 and -- and returned it and then gave her money to buy a  
16 humidifier.

17 She never did and then she lied, blatantly lied on  
18 -- of -- OurFamilyWizard when I brought up the issue later  
19 saying that she had humidifiers in her home in -- while we  
20 were still together which is just a blatant lie.

21 And I asked her if that's the case, please provide  
22 receipts for the humidifiers that she bought showing the time  
23 when we were still together. Nothing was provided as I  
24 provided pictures that were taken with a timestamp that shows

1 that you have humidifiers in the house while we -- we were  
2 still in a relationship. Nothing like that was ever provided.

3 Q So the child was diagnosed with -- of being allergic  
4 to dogs and she refused to move the dog out of her house?

5 A That is correct.

6 Q The Defendant?

7 A That is correct.

8 Q And she didn't inform the -- the maternal  
9 grandmother, right?

10 A She did not.

11 Q And even though the maternal grandmother was  
12 babysitting the child.

13 A That is correct.

14 Q And the dog was still present in the house.

15 A That is correct.

16 Q Okay. When they took your deposition, when opposing  
17 party took your deposition, did they ask you any questions  
18 regarding custody?

19 A No, most of their questions were 90 percent if I  
20 recall --

21 MS. ROSENBLUM: Objection, Your Honor. Move to  
22 strike everything after no.

23 THE WITNESS: All the questions were about my --  
24 income.

1 THE COURT: I don't even know --  
2 MS. ROSENBLUM: You're --  
3 THE COURT: -- what the --  
4 MS. ISSO: I'm asking about the -- the deposition  
5 they took. They didn't ask about custody. They only asked  
6 about child support.  
7 MS. ROSENBLUM: Relevance, Judge.  
8 MS. ISSO: It is relevant.  
9 MS. ROSENBLUM: Why?  
10 MS. ISSO: Because if there were issues with  
11 custody --  
12 MS. ROSENBLUM: It's our --  
13 MS. ISSO: -- they were questions.  
14 MS. ROSENBLUM: -- deposition.  
15 THE COURT: It's their -- they can ask --  
16 MS. ROSENBLUM: We're allowed to ask --  
17 MS. ISSO: And I can --  
18 THE COURT: If that's all --  
19 MS. ROSENBLUM: -- whatever question --  
20 MS. ISSO: -- ask about it.  
21 MS. ROSENBLUM: -- we want.  
22 THE COURT: No.  
23 MS. ISSO: I can ask about it in this trial. I'm  
24 permitted to do that.

1 THE COURT: It's not --  
2 THE WITNESS: They have not.  
3 THE COURT: -- re -- it's not relevant.  
4 MS. ISSO: It is relevant. We're talking about  
5 child support and custody. They're both relevant and part of  
6 this case.  
7 THE COURT: Listen.  
8 MS. ISSO: This is what this case about.  
9 THE COURT: Let me start with what Ms. Rosenblum  
10 even started this whole trial with, that they're both great  
11 parents and they love this child. All right. And if she has  
12 a deposition just regarding your -- your client's income,  
13 that's not to be held against them.  
14 MS. ISSO: Well --  
15 THE COURT: It's not --  
16 MS. ISSO: -- I'd -- I'd --  
17 THE COURT: -- relevant.  
18 MS. ISSO: -- like to differ.  
19 THE COURT: That means they're -- that --  
20 MS. ISSO: Our entire deposition was about custody.  
21 THE COURT: I don't --  
22 MS. ROSENBLUM: They --  
23 MS. ISSO: And their entire deposition was about  
24 money because it's all this case is about is money. So it is

1 relevant. Okay.

2 MS. ROSENBLUM: Your -- Your Honor --

3 MS. ISSO: That's one of the factors.

4 MS. ROSENBLUM: I would --

5 MS. ISSO: And that's in the statute.

6 MS. ROSENBLUM: -- ask for a ruling, Your Honor.

7 MS. ISSO: And ask --

8 MS. ROSENBLUM: Please in -- instruct --

9 THE COURT: It was --

10 MS. ROSENBLUM: -- Counsel not to testify.

11 THE COURT: Your objection was sustained. It's not

12 relevant. Ms. Isso, I need to know for my Clerk purposes how

13 much longer you're going to have your client on the stand.

14 Because if we're going to go ahead and take our half lunch

15 if --

16 MS. ISSO: Let's take the half hour. I need to eat

17 something. And then I'll probably --

18 THE COURT: All right.

19 MS. ISSO: -- just have --

20 THE COURT: It is 1:50. Let me give -- let me give

21 you a total of where we're at.

22 MS. ISSO: Okay.

23 MS. ROSENBLUM: 12:50.

24 THE COURT: I mean --

1 MS. ROSENBLUM: 12:50.  
2 THE COURT: -- 12:50.  
3 MS. ROSENBLUM: Yeah.  
4 THE COURT: 12:51.  
5 MS. ROSENBLUM: 1:20, Judge?  
6 THE COURT: Hold on one second.  
7 MS. ISSO: Is the food thing open upstairs?  
8 MS. ROSENBLUM: No, I don't think so. I don't think  
9 he's been open for a minute.  
10 THE COURT: Ms. Rosenblum used 70 minutes. I -- and  
11 you have used a hundred and it looks like 37. All right.  
12 We'll be in recess for a half hour. If you are leaving  
13 anything in here -- are you locking the door Torrey (ph) or --  
14 THE MARSHAL: Yes, we are.  
15 THE COURT: You may need to take it out to the  
16 ancillary room and then, again, we'll start at 1:20.  
17 THE MARSHAL: Okay.  
18 MS. ISSO: -- be on -- does a deposition --  
19 THE COURT: Right. So as far as the actual one  
20 sealed, yeah, you can give those to my Court Clerk. It's  
21 the --  
22 MS. ISSO: Okay. Well -- well, we'll bring ours too  
23 then.  
24 THE COURT: The -- you're not -- I mean, you're not

1 required. I mean, she just has them here doing it old school  
2 wise.

3 MS. ROSENBLUM: I don't know what the --

4 THE COURT: I -- listen.

5 MS. ROSENBLUM: Half a day argument across the  
6 hallway on whether originals are required and --

7 MS. ISSO: They're not.

8 MS. ROSENBLUM: -- whether --

9 MS. ISSO: The rule changed. I checked with my --  
10 one of my partners --

11 MS. ROSENBLUM: I mean, it's --

12 MS. ISSO: -- that does personal injury. The rule  
13 changed.

14 MS. ROSENBLUM: It just --

15 MS. ISSO: You don't -- you don't need the sealed  
16 ones anymore. (Indiscernible) --

17 MS. ROSENBLUM: Just telling you what I went through  
18 across the way in a seven day --

19 MS. ISSO: Because I mentioned --

20 MS. ROSENBLUM: -- trial all the time.

21 MS. ISSO: -- that and he started laughing at me.

22 He's like you don't need that anymore. The --

23 MS. ROSENBLUM: I --

24 MS. ISSO: -- rule changed.

1 MS. ROSENBLUM: -- didn't think you did, but --  
2 MS. ISSO: Do we -- well, tell us. Do you require  
3 it here?  
4 MS. ROSENBLUM: Every --  
5 MS. ISSO: If not, I'll have to go --  
6 MS. ROSENBLUM: Apparently --  
7 MS. ISSO: -- get them.  
8 MS. ROSENBLUM: -- every judges are doing it --  
9 MS. ISSO: Okay.  
10 MS. ROSENBLUM: -- in a different way.  
11 THE COURT: As far as published when we start  
12 referring to the deposition, I'll start referring to some  
13 specifics because people under the -- go ahead and go off the  
14 record, Madam --  
15 (COURT RECESSED AT 12:53 AND RESUMED AT 1:23)  
16 THE CLERK: We're on the record.  
17 THE COURT: All right. Going by the JAVS clock,  
18 we'll -- I'll use 1:24 since we're almost there. So far Ms.  
19 Isso's used two hours and 17 minutes, Ms. Rosenblum one hour  
20 and 10 minutes. So we're kind of staying on track. We'll be  
21 done by Friday. Done by Friday.  
22 MS. ROSENBLUM: Yeah.  
23 THE COURT: Ms. Isso?  
24 MS. ISSO: Okay.

1 BY MS. ISSO:

2 Q Mr. Shapiro, the opposing party says that they have  
3 a video of you where you put your head down in the room when  
4 you're watching the child. Tell the Judge about that.

5 A I was watching Ava in her room which is fully baby  
6 proofed with the door closed. I had a headache and I had to  
7 lay down for a few minutes. I was watching Ava through the  
8 peripheral vision of my eye.

9 Q Your what?

10 A Peripheral vision.

11 Q Peripheral? Okay.

12 A I -- I am not unlike the Opposing Counsel says. I  
13 am -- I was not unconscious. That is a lie. And I -- in that  
14 video I also checked my watch. I checked my phone. So I knew  
15 where Ava was. And, again, the room is fully baby proofed.  
16 And just -- just to state that I said that earlier, but the  
17 Defendant had thousands of hours. She had -- she had cameras  
18 all over the -- all over the house. That -- and she was --  
19 she -- she filmed her mother, filmed anybody, and then looked  
20 at it and then called her mother and confront her. We have  
21 asked for the -- for the evidence. It was never submitted.

22 Q We asked for the additional videos that were --

23 A Yes.

24 Q -- not submitted.

1           A     She -- all she submitted was like maybe seven days  
2 but even that shows that her -- that even those videos show  
3 that the mother cannot take care of the child.

4           Q     Okay. And then you raised your head after a couple  
5 minutes, right?

6           A     Yes, I did. Yes, absolutely.

7           Q     Okay. And then they say they have another video  
8 where the child was in the room by herself. Tell -- tell the  
9 Judge about that.

10          A     Absolutely. So in that video that -- that -- what  
11 happened was that I had to go to the bathroom. Again, I  
12 closed Ava's door. Ava's room is fully baby proofed, has been  
13 baby proofed be -- before Ava was even born. And I was in the  
14 bathroom which is adjacent to -- to the child's bedroom. And,  
15 again, we asked for the blueprints of the house which were  
16 never submitted. But that -- but by bathroom as right as you  
17 ex -- exit the door of -- of Ava's bedroom is right to the  
18 left, immediately to the left.

19                So I was in the bathroom. I -- and I was using the  
20 baby monitor. She has a baby monitor. She has a monitor in  
21 -- in Ava's bedroom that shows what Ava is. In fact, if you  
22 watch that video, only I know that because I'm the only one  
23 who -- here who speaks Russian. Okay.

24                What happened is Ava pooped. And so the first thing

1 that I say when I come into the room, I can see that and I say  
2 oh, you pooped. Okay. But I was in the -- the bathroom. I  
3 have to go. And I was watching the whole thing on the  
4 monitor. And, again, the door is closed. Ava's in there. If  
5 I saw that Ava was doing something improper that needed help,  
6 all it takes is split of a second and I'm in the -- in the  
7 room. So it wasn't -- how -- it's a big house, but her bed --  
8 her -- her bathroom -- Ava's bathroom is right there. It  
9 takes less than half a second to jump in.

10 Q Okay. And then in both these incidents they were at  
11 the Defendant's house?

12 A That is correct.

13 Q How -- how has the Defendant treated you throughout  
14 the relationship from the beginning?

15 A I would say pretty badly. I genuinely cared about  
16 her and I tried to make -- make her life better and I've done  
17 a lot of things for her. Never asked for anything. I was  
18 cooking for her, cleaning for her, walking her dog, taking her  
19 dog to -- to appointments across town and so on and so forth.  
20 And all along she treat me like a slave. She even used the  
21 term servitude trying to describe that.

22 Q She used the word servitude to describe what you're  
23 doing for her?

24 A Yes.

1 Q And then there was recently an issue with an  
2 appointment where the -- the Judge -- tell the Judge about  
3 that, some issue with the doctor appointment.

4 A We had an appointment scheduled for August 10th with  
5 Dr. Gaspar. That is when Ava was diagnosed with autism.  
6 Prior to that appoint -- that was all coordinated by -- by  
7 TMG, the early intervention, specifically Amber Harris, one of  
8 their witnesses. And so we would have Zoom sessions where we  
9 would talk about it and talk about different policies. At the  
10 same time as this was happening, this was also the time when  
11 Nevada Department of Health and Hum -- Human Services changed  
12 their guidelines regarding in person appointments. And so  
13 they told us that we need to -- we could do a ten -- first of  
14 all, we could do in person appointments. And then turned  
15 around and said oh, no, we -- we cannot because A -- Ava could  
16 not wear a mask and so they would not do it without a mask.

17 And they encouraged us -- Amber Harris -- both Amber  
18 Harris and Jennifer Lokiano, who is Amber's manager, and Mark  
19 James, who is a speech therapist, they all encouraged us to  
20 write to the Department of Health and Human Services which I  
21 did and the Defendant didn't. And I received a response. And  
22 the person's name is Rick Rob (ph). He's -- he's a deputy  
23 health -- I forget what the term is, but he's -- he's one of  
24 the people that is in charge of that. And he responded to me

1 and actually said that --

2 MS. ROSENBLUM: Your Honor, I would object to the  
3 hearsay statement.

4 THE COURT: Sustained.

5 BY MS. ISSO:

6 Q But anyways, the doctor had stated only one parent  
7 could attend the appointment, right?

8 A Well, I'm getting to that, but what happened was  
9 that -- that they -- when they told us that and Nechole did  
10 not e -- email or -- I let her know and I let the  
11 (indiscernible) know when their appointments were -- went back  
12 to in person. But then we had the next Zoom session with  
13 them, Amber Harris, and Nechole start -- accused TMG of -- of  
14 discrimination saying that they -- they did not -- they --  
15 they failed to disclose to her, you know, what -- what I  
16 actually told her and they told her as well.

17 And so then when the appointment came up, the  
18 appointment of August 10th, only one parent can be in the room  
19 with prior had the appointment on -- in January of 2020 where  
20 a hearing appointment for Ava suggested by TMG. Nechole  
21 contacted me via OurFamilyWizard and indicated to me that when  
22 she called to schedule the appointment she was told that only  
23 one parent could be in the room with Ava.

24 And she stated to me that she would like to take Ava

1 to that appointment because she is the one that has custody of  
2 Ava on that day. And I replied to her on OurFamilyWizard  
3 saying that that is a -- a shame that -- because I -- I like  
4 to go to all of the appointments. When I told her that, I --  
5 that is a shame; however, yes, I would agree with that as long  
6 as I get to go to the next appointment. And once --

7 Q So just real quickly, what was the first appoint --  
8 so what -- what appoint did you agree that she can take the  
9 child?

10 A The hearing appointment, the hearing test  
11 appointment which at that -- with -- I -- I do not recall who  
12 that was with.

13 Q And -- and what month was that in?

14 A It was January of 2020.

15 Q And in lieu, she agreed that you can take the child  
16 to the next appointment, correct?

17 A That is correct.

18 Q Okay. And when was the next appointment?

19 A The next appointment in person was August 10th  
20 appointment.

21 Q And then --

22 A We --

23 Q -- when it was your turn to take the child, what  
24 happened?

1           A     What happened was that she started saying that she  
2 -- she -- at first she agreed to it. It seemed like she was  
3 fine with it. She was asking if she could be in a -- in a --  
4 on a Zoom in -- in the building -- with the TMG building and  
5 they told her that was just fine. But then a week later TMG  
6 suddenly called me and said that Nechole has been -- it  
7 sounded like she was -- she was --

8           MS. ROSENBLUM: Your Honor --

9           A     -- I use --

10          MS. ROSENBLUM: -- I have to ask to strike the  
11 hearsay statement.

12          THE COURT: Sustained.

13          THE WITNESS: What sound -- what -- well, it sounded  
14 like --

15 BY MS. ISSO:

16          Q     Explain what happened without telling -- telling the  
17 Judge what someone else said.

18          A     Nechole accused TMG of racism and was trying to use  
19 the color of her skin to -- to be in the room for Ava's  
20 appointment.

21          Q     Because at that time they were implementing the  
22 COVID procedures?

23          A     Yes. That's correct.

24          Q     So when she couldn't be in the room and it wasn't

1 her turn, she started screaming racism?

2 A That's correct.

3 Q Okay. And then they ended up accommodating her?

4 A They did all along. But they offered -- she met  
5 with Dr. Gaspar prior to the appointment which I haven't. And  
6 she was on a Zoom in the building which I was when I -- when I  
7 -- during that hearing appointment I could not even go there.  
8 I was not on the zoom. No Zoom link was provided and I was  
9 not in the appointment.

10 Q And at that time were they also implementing the  
11 COVID procedures?

12 A Yes. That's correct.

13 Q So did they -- for the August 10th doctor  
14 appointment, did they end up accommodating

15 A Yes.

16 Q -- her request?

17 A Absolutely.

18 Q Accommodating her request?

19 A Yes.

20 Q After she made those allegations against them.

21 A They were trying to -- yes, they were trying to and  
22 -- and I -- I told them that this is mine just like she was --  
23 she said about her -- her own appointment that it was on a day  
24 that Ava's with me. And so I would like to be in the room and

1 she can be on the Zoom call which she was --

2 Q And the August --

3 A -- in -- in the building.

4 Q And the August 10th appointment was on your day.

5 A That is correct. That is --

6 Q And if she had agreed --

7 A -- one of the few ones because she has been  
8 strategically scheduling them to -- to have on her days. That  
9 was the only one that just by accident happened to be because  
10 we had to agree to a day no matter what day that is to get an  
11 appointment with Dr. Gaspar because usually you wait over  
12 three years. And by being with TMG we were lucky to get an  
13 appointment early. But we would have to agree to -- whenever  
14 that appointment was, it just happened to be on my day. One  
15 of the few times. Maybe the only time.

16 MS. ISSO: Okay. Exhibit 57 is the ABA Fire --  
17 Firefly treatment plan. We want to move to admit that, Your  
18 Honor. It's the ABA plan.

19 THE COURT: Any objection?

20 MS. ROSENBLUM: I just need to look at it. No  
21 objection.

22 THE COURT: All right. It'll be admitted.

23 (PLAINTIFF'S EXHIBIT 57 ADMITTED)

24 MS. ISSO: Exhibit 33 is the Therapy Management

1 Group CARS report. CARS. We want to move to admit that.  
2 MS. ROSENBLUM: Yes. No objection.  
3 THE COURT: It'll be admitted.  
4 (PLAINTIFF'S EXHIBIT 33 ADMITTED)  
5 MS. ISSO: And Exhibit number 60 is the TMG exit  
6 records. We want to move to admit that.  
7 MS. ROSENBLUM: I'm sorry, which one?  
8 MS. ISSO: Exhibit number 60.  
9 MS. ROSENBLUM: 6-0? Yeah, I have no objection to  
10 that either.  
11 THE COURT: It'll be admitted.  
12 (PLAINTIFF'S EXHIBIT 60 ADMITTED)  
13 MS. ISSO: Exhibit number 56 is the -- not that one.  
14 Exhibit number 33 is the --  
15 THE COURT: 30 --  
16 MS. ISSO: Oh, I -- oh, I already did that one.  
17 Sorry. I already did 33, right?  
18 THE CLERK: Yeah.  
19 MS. ISSO: Thank you. And then Exhibit number 53,  
20 the Dr. Gaspar report, pediatric report. We want to admit  
21 that.  
22 MS. ROSENBLUM: I have no objection to that one  
23 either.  
24 THE COURT: It'll be admitted.

1 (PLAINTIFF'S EXHIBIT 53 ADMITTED)

2 MS. ISSO: And then we -- we want to go back and  
3 identify the FamilyWizard and the text messages for you, Your  
4 Honor, for the next court hearing. Want to reserve the  
5 right --

6 THE COURT: No. No. No.

7 MS. ISSO: -- to do that.

8 THE COURT: Let me be clear. You have read -- you  
9 through your client should be able to have access to the  
10 OurFamilyWizard program. If you're going to make reference to  
11 specific ones, again, you can here in court by date and time.

12 MS. ISSO: Okay.

13 THE COURT: The entirety will come in. By Friday  
14 we'll get a custodian of records so the entirety of their --  
15 OurFamilyWizard communications will come in as Court's Exhibit  
16 2.

17 MS. ISSO: Okay.

18 THE COURT: Okay?

19 MS. ISSO: And -- and then --

20 THE COURT: But the text exhibits, again, you're  
21 going to have to -- I saw the stack.

22 MS. ISSO: Yeah.

23 THE COURT: You're going to have to list specific  
24 Bates stamps and why -- why it's relevant.

1 MS. ISSO: Okay. And then I want to reserve the  
2 right to call Eugene back as a rebuttal witness.

3 THE COURT: You always have that right.

4 MS. ISSO: Okay.

5 BY MS. ISSO:

6 Q Anything else you want to tell the Judge, Eugene?

7 A I want Your Honor to know that this case is about  
8 two things and two things only. The first is the Defendant's  
9 unwillingness and inability to relinquish her control and the  
10 second one is her plain refusal to be -- her greed and plain  
11 refusal to -- to pay child support. And I want the Court to  
12 know that I have done everything in my power to negotiate an  
13 agreement. And I'm always flexible and I'm -- I'm easy to  
14 negotiate with if it's fair negotiations. And that has never  
15 been the case. I do not have the money to be here nor the  
16 desire to be here. I'm the only one in the room who does not  
17 have any legal background. Okay. And I have done everything  
18 possible to negotiate with the Defendant.

19 But it is impossible to negotiate with the Defendant  
20 who does not want to give an inch, who does not want to  
21 cooperate, who doesn't want to fairly co-parent, who do -- who  
22 schedules appointments strategically on her own time without  
23 letting me know and then comes up with nonsense excuses that  
24 she respects my time with Ava where there's a clear need to --

1 clear evidence of controlling the situation. And this is just  
2 as recent as this -- in the last couple of weeks with the eye  
3 doctor appointment and now with the dentist appointment where  
4 I specifically state on -- on FamilyWizard that I would like  
5 to schedule or please let me know what dates are available,  
6 why I asked to call. And she does the opposite and either  
7 doesn't respond or responds with some nonsense -- half-legal  
8 nonsense of I respect your time but I disagree with your  
9 statement. Those are the most common ones that she's been  
10 doing.

11           So I -- I have no desire to be here. I love Ava --  
12 Ava very much. I believe that I have as much to offer to Ava  
13 as the Defendant does, if not more. I am a college educated  
14 professional with master's degree. I am a multi-cultural mi  
15 -- multilingual person that have lived in different countries  
16 and went to school in three different countries. I have  
17 worked for CSN now for over 21 years and have participated in  
18 education of thousands of students.

19           I received an -- an honor part-time faculty of the  
20 year award last year. And I object to my -- the assassination  
21 of my character the Defendant has employed because she has  
22 nothing else -- nothing else to -- to offer. That is the only  
23 reason we are here and I want the Court to know that.

24           MS. ISSO: All right. I pass the witness.

1 THE COURT: Ms. Rosenblum?

2 MS. ROSENBLUM: Your Honor, I'm going to reserve my

3 cross. I -- I would just -- I'm going to call Mr. Shapiro in

4 my case in chief.

5 THE COURT: Okay.

6 MS. ISSO: So --

7 THE COURT: Sir --

8 MS. ISSO: -- I --

9 THE COURT: -- you --

10 MS. ISSO: -- I would like to do my cross when --

11 when Ms. Garcia is called.

12 MS. ROSENBLUM: That's fine.

13 THE COURT: Okay.

14 MS. ROSENBLUM: I mean, I'm happy to explain to the

15 Court my logic for why.

16 THE COURT: It's --

17 MS. ROSENBLUM: I just -- I'm going to just reserve.

18 THE COURT: All right, sir. I guess you can go

19 ahead and sit down. Ms. --

20 THE WITNESS: Thank you.

21 (WITNESS EXCUSED)

22 MS. ISSO: The next two witnesses we have Your Honor

23 are --

24 (COUNSEL AND CLIENT CONFER BRIEFLY)

1 MS. ISSO: The next two witnesses I have, Your  
2 Honor, that are coming at 3:00 o'clock are Heather Tauchen  
3 with Firefly Behavioral Services. She's the clinical  
4 director. She's the one that's doing Ava's assessment for the  
5 ABA. Right. And then also we have Jennifer Barry (ph) who is  
6 the RBT with Firefly. They're going to be here at 3:00  
7 o'clock to testify in person.

8 THE COURT: Well, I need -- who -- the next -- then  
9 I need someone else.

10 MS. ISSO: Okay. I -- I can call Ms. Garcia.

11 THE COURT: All right.

12 MS. ISSO: I guess I'll call Ms. Garcia.

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

16 THE WITNESS: I do.

17 NECHOLE GARCIA  
18 called as a witness on behalf of the Plaintiff, having been  
19 first duly sworn, testified upon her oath as follows on:

20 DIRECT EXAMINATION

21 BY MS. ISSO:

22 Q Please state your name, for the record.

23 A It's Nechole Garcia.

24 Q Ms. Garcia, isn't it true that during your

1 deposition you admitted to withholding the child for clearly  
2 three days from Eugene?

3 A No.

4 Q Yes or no.

5 A No.

6 Q You didn't admit that in your deposition?

7 A No.

8 Q Okay. Could you turn to Exhibit 38, please?

9 A I don't have it in front of me. I'm sorry.

10 (COUNSEL AND CLIENT CONFER BRIEFLY)

11 MS. ISSO: Can we take a five minute break so we can  
12 get this setup over here?

13 THE COURT: A what?

14 MS. ISSO: We're going to get the -- we're going to  
15 get her binder setup for her over there.

16 THE COURT: A binder or a laptop?

17 THE WITNESS: It's going to be on a laptop. It's a  
18 -- it's a USB.

19 THE COURT: Okay. Just whatever works.

20 MS. ISSO: You know, it's just going to be easier if  
21 I do my cross at the same time that they call her. So if  
22 she's going to deny everything and not be truthful, it's going  
23 to take a lot of time. So I'd rather just do -- just like Ms.  
24 Rosenblum is requesting to do her cross when she calls Mr.

1 Shapiro, I want to do the cross of Ms. Garcia when she's  
2 called. The thing is that we don't have any other witness to  
3 call in the meantime. We might not even use six hours. We --  
4 we got through Eugene quickly.

5 THE COURT: First off, she's not obligated to call  
6 her own client as a witness. You understand that, right?

7 MS. ISSO: Yeah, but she will. And if she doesn't,  
8 then she doesn't.

9 THE COURT: Ms. Rosenblum, do you want to start with  
10 your --

11 MS. ROSENBLUM: Well, I guess my understanding is  
12 that Montana Garcia is standing by and prepared to testify who  
13 is Ms. Isso's witness. So --

14 THE COURT: Is there someone out there, Torrey?

15 MS. ROSENBLUM: No, they're on BlueJeans with Brian  
16 Blackham is represent -- Brian Blackham is representing Ms.  
17 Montana Garcia. So I don't know if Ms. Isso wants to call  
18 Montana now or -- she's available.

19 THE COURT: Is she showing up by video?

20 MS. ROSENBLUM: She's been waiting -- Brian --

21 THE COURT: Oh, I'm sorry.

22 MS. ROSENBLUM: -- was on the video and --

23 THE COURT: Do you have them both on them?

24 THE CLERK: Yeah, hold on one sec.

1 THE COURT: We wondered why Mr. Blackham was on  
2 today whether he was just, you know --  
3 MS. ROSENBLUM: He's --  
4 THE CLERK: Yeah, I actually had them in a  
5 breakout --  
6 MS. ROSENBLUM: They're --  
7 THE CLERK: -- room but they're --  
8 MS. ROSENBLUM: Yeah --  
9 THE CLERK: -- back in the main room.  
10 MS. ROSENBLUM: -- they're right there.  
11 THE CLERK: So you're --  
12 THE MARSHAL: There's no one for --  
13 THE CLERK: -- going to --  
14 THE COURT: All right.  
15 THE CLERK: -- call which --  
16 THE MARSHAL: -- here for that prior --  
17 THE COURT: Who's --  
18 THE MARSHAL: -- Department, Your Honor.  
19 THE COURT: Who -- no, they're on video. Sorry.  
20 MS. ROSENBLUM: Well, this is Ms. Isso's witness.  
21 So --  
22 THE COURT: All right. Ms. Isso, apparently you  
23 have your witness by video.  
24 MS. ISSO: Okay. We'll just continue with the --

1 THE WITNESS: Okay.

2 MS. ROSENBLUM: Wait, what are we doing?

3 (COUNSEL AND CLIENT CONFER BRIEFLY)

4 MS. ROSENBLUM: It goes Montana Garcia or Brian

5 Blackham.

6 MS. ROSENBLUM: Yeah, they're both together. I

7 mean, Brian is Montana's attorney.

8 THE CLERK: Oh, okay. Okay. Okay. They're both on

9 there.

10 MS. ROSENBLUM: So are they not --

11 BY MS. ISSO:

12 Q Okay. So Ms. Garcia, was your deposition taken in

13 this matter?

14 A Yes.

15 Q And do you recall which day?

16 A Not this specific day.

17 Q Okay. Take a look at Exhibit number 38.

18 THE COURT: What -- what --

19 MS. ISSO: Which she --

20 THE COURT: Hold --

21 MS. ISSO: -- doesn't have.

22 THE CLERK: Do I --

23 THE COURT: They have the -- we have the -- your

24 expert up there. So I didn't --

1 MS. ISSO: Oh, it's not my expert.  
2 MS. ROSENBLUM: She's not an expert. She's the --  
3 THE COURT: Or whoever it is --  
4 MS. ROSENBLUM: My client's mother.  
5 THE COURT: -- whoever the person is with Mr.  
6 Blackham is up there if you want to do that because you said  
7 you did not want to continue on with your direct --  
8 MS. ISSO: Let me --  
9 THE COURT: -- of her.  
10 MS. ISSO: -- see.  
11 THE COURT: Again, Ms. Issso, however you want to  
12 proceed.  
13 MS. ISSO: Okay.  
14 THE COURT: But candidly my preference is that you  
15 get Mr. Blackham and the other person since they've been  
16 apparently waiting all morning, but --  
17 (COUNSEL AND CLIENT CONFER BRIEFLY)  
18 MS. ISSO: You know, I -- I don't know if I'm -- I  
19 don't know if I'm going to call her just yet. Let me just go  
20 through Ms. Garcia, go through her.  
21 BY MS. ISSO:  
22 Q So your Exhibit number 38 is your deposition  
23 transcript. Do you have any reason to believe this is not a  
24 true and accurate copy?

1 A I haven't seen it.

2 Q Okay. You haven't -- your --

3 A I don't have Exhibit --

4 Q -- your --

5 A -- 38.

6 Q But -- but has your attorney reviewed the exhibits

7 with you, the ones that we disclosed?

8 MS. ROSENBLUM: Objection to the extent that it's --

9 it's attorney/client privilege communication.

10 MS. ISSO: If we're doing exhibits, it's not

11 attorney/client --

12 THE COURT: Sus --

13 MS. ISSO: -- privilege.

14 MS. ROSENBLUM: Sure, it is.

15 BY MS. ISSO:

16 Q Have you reviewed your deposition transcript?

17 A I was waiting on a ruling on the objection.

18 THE COURT: Sustained. Come on. We're all

19 attorneys. Let's not play games. Come on. Answer -- have

20 you reviewed your deposition?

21 THE WITNESS: Yes.

22 THE COURT: All right. There you go.

23 Q Thank you. And was your deposition taken on October

24 9, 2020?

1           A     Yes.

2           MS. ISSO:   Okay.   We want to move to admit Exhibit

3 number 38.

4           MS. ROSENBLUM:   I would object to the admission

5 of --

6           THE COURT:   No.

7           MS. ROSENBLUM:   -- the deposition --

8           THE COURT:   Listen, let me --

9           MS. ROSENBLUM:   -- transcript.

10          THE COURT:   -- pull -- it's going to take one second

11 for me to pull up my citations.   I am --

12          MS. ROSENBLUM:   I believe it's --

13          THE COURT:   -- not admitting a blanket full

14 deposition.

15          MS. ROSENBLUM:   I believe it's Rule 53, Judge.

16          THE COURT:   Give me a second and I'll get to it.   I

17 have it.   Been while since I've had to pull it.

18          MS. ROSENBLUM:   No, 52.

19          THE COURT:   Okay.   For the purposes of contradicting

20 or impeaching testimony and the other subsection does not

21 really apply usually at Family Court.   So the exceptions to

22 that is -- don't apply in this particular case which is the

23 third subsection.   So if you want to impeach her, you can feel

24 free to reference a page and lines, show it to her, but I am

1 not admitting the entire deposition, but portions that are  
2 relevant will be admitted.

3 MS. ISSO: Okay.

4 BY MS. ISSO:

5 Q So did Eugene propose to you a week on week off  
6 schedule?

7 A Yes.

8 Q And what was your response to that?

9 MS. ROSENBLUM: Objection, Your Honor, to the -- the  
10 settlement negotiations.

11 MS. ISSO: It's -- it's to show -- Your Honor, it's  
12 -- it's to go to her credibility.

13 THE COURT: It's not outright settlement  
14 negotiations. That part I'm -- I'm going to go ahead and  
15 allow in.

16 THE WITNESS: So my response was that I didn't think  
17 it was appropriate for a child of Ava's -- Ava's age to follow  
18 week on week off schedule.

19 BY MS. ISSO:

20 Q Well, then what did you propose to him?

21 MS. ROSENBLUM: Again, Judge, I'm -- I -- to the  
22 extent that it's --

23 THE COURT: Now, we're getting into --

24 MS. ROSENBLUM: -- see, settlement negotiations.

1 MS. ISSO: No. No, we're not.

2 MS. ROSENBLUM: And I have to object.

3 MS. ISSO: Because she proposed that -- that they --  
4 that -- that the child should only be away --

5 THE COURT: Now, you're going beyond telling me now.  
6 I'll go ahead and strike the prior portion as well, the part  
7 for the week on week off. That is settlement negotiations.

8 MS. ISSO: Okay.

9 THE COURT: Both parts will be stricken.

10 BY MS. ISSO:

11 Q Isn't it true that you stated that a child should  
12 not be away from another parent for more than -- more than two  
13 to three days at a time?

14 A I did state that. Yeah.

15 Q Okay. And then he proposed exchanging the child  
16 every two days, correct?

17 A Yes.

18 Q And did you agree to that?

19 MS. ROSENBLUM: Again --

20 A No.

21 MS. ROSENBLUM: -- Judge to the extent that it seeks  
22 the settlement --

23 MS. ISSO: It goes to her credibility.

24 MS. ROSENBLUM: -- negotiations of the party.

1 THE COURT: It does not -- it's settlement  
2 negotiations at this point when we're sitting here in trial,  
3 Ms. Isso. So sustained.

4 MS. ISSO: No, it goes to the child's best interest,  
5 which timeshare would he work.

6 THE COURT: Sustained. It's what they were  
7 negotiating back and forth. And apparently at one point they  
8 almost reached an agreement. I believe that was when Judge  
9 Bailey was involved. Again, this is how I remember all these  
10 cases and it fills my mind with this stuff, but for today's  
11 purposes at trial, settlement negotiations, the objection is  
12 sustained.

13 BY MS. ISSO:

14 Q Isn't it true that Dr. Bergquist described your  
15 co-parenting style as dominant?

16 A I think that she said --

17 Q Yes or no? Yes or no?

18 A No.

19 Q And describe your -- describe you as exacting?

20 A I don't recall that.

21 Q Do you want to -- do you want to review the report?

22 Do you want to review the report? Because I'm going to ask  
23 you some (indiscernible).

24 A If you wouldn't mind. Yeah, just to --

1 MS. ISSO: Can we a copy for her of the report? Do  
2 you have a copy of the report, Molly?

3 MS. ROSENBLUM: I have a copy on my laptop for me,  
4 but if you want to direct them to the court --

5 THE PLAINTIFF: There's a copy in that binder.

6 MS. ISSO: Okay. Which one? Oh, that binder?

7 THE PLAINTIFF: The very last one.

8 MS. ISSO: Why aren't the binders over there, the  
9 ones that you guys made us copy? It cost Eugene \$1800 to --

10 THE COURT: Torrey (ph) --

11 MS. ISSO: -- make a photocopy --

12 THE COURT: -- do you want to --

13 MS. ISSO: -- of that.

14 THE COURT: What -- I didn't know they were not --

15 MS. ISSO: And now the binder's not there.

16 THE COURT: Ms. Isso, I didn't -- this is the first  
17 time this has come up today, correct? I -- I didn't know that  
18 they weren't over there.

19 MS. ISSO: He paid \$1800 to get --

20 THE COURT: That --

21 MS. ISSO: -- these two binders printed.

22 THE COURT: Take a -- one second. All I said is  
23 this is the first time it's come up this entire day that they  
24 were not over there. So apparently those binders go --

1 MS. ISSO: Damn it.

2 THE CLERK: Do you want me to print out  
3 (indiscernible) report?

4 THE COURT: I just want them to have the binders.

5 THE CLERK: The boxes of binders?

6 THE COURT: Yes. Whether it's the -- the witness's  
7 exhibit or the binders apparently need to go up against the  
8 wall.

9 THE CLERK: And there's whole boxes --

10 THE MARSHAL: What binders are we -- are we move --

11 THE CLERK: I guess all of them.

12 THE MARSHAL: The (indiscernible) instructions --

13 THE COURT: Your exhibits -- which exhibits, Ms.  
14 Isso, do you want over at the witness stand? Ms. Isso?

15 MS. ISSO: All -- all of our exhibits, we want them  
16 there, please.

17 THE COURT: All right. All the --

18 MS. ISSO: Please stop the timer.

19 THE COURT: All the numbered --

20 MS. ISSO: Stop the timer.

21 THE COURT: All the numbered exhibits.

22 THE PLAINTIFF: It's all the folders --

23 THE CLERK: The -- the --

24 THE PLAINTIFF: -- and there's two copies --

1 THE CLERK: All I know --

2 THE PLAINTIFF: -- and those are the -- that's --

3 THE CLERK: -- is there four boxes of binders.

4 THE PLAINTIFF: -- what's the Court -- the Court's

5 requesting.

6 THE CLERK: Four boxes --

7 THE PLAINTIFF: That's what I would use.

8 THE CLERK: -- of exhibits. Do you want me to bring

9 them over there?

10 THE COURT: Somebody has to take them --

11 THE CLERK: Okay.

12 THE COURT: -- to the witness. Yes. And I guess

13 just leave them against the wall and it'll be up to the

14 witness to pull the binder out that's relevant. Can you tell

15 her what binder she needs to be pulling out, Ms. Isso?

16 THE PLAINTIFF: It's the last binder that says -- it

17 ends with file 64 and then it says last Dr. Bergquist report.

18 It's either copy one or copy two.

19 THE COURT: Listen, ma'am. Go ahead and have a

20 seat. Ms. Isso, you -- since they're your exhibit and you're

21 showing them to them either --

22 MS. ISSO: Have a seat.

23 THE COURT: -- you or your client go grab the book

24 and hand it --

1 MS. ISSO: Have a seat. You can have a seat.

2 BY MS. ISSO:

3 Q Okay. So on page 30 of Dr. Bergquist's report, she  
4 says results from the PAI plus suggests that she, as in you,  
5 is self-assured, confident, and dominant and prefers to  
6 interact with others in situations in which she can exercise  
7 some measure of control. This is congruent with Mr. Shapiro's  
8 view of Nechole. He complains that she's controlling, my way  
9 or the highway. That personality trait seems to have served  
10 her well in her career as a city attorney. Her communications  
11 -- this is what her statement is.

12 Her communication with her co-parent often sound  
13 like an interrogation or a criminal investigation assuming the  
14 worst and challenging him on every detail of his story.  
15 That's on page 30 of Dr. Bergquist's report. Do you have any  
16 reason to believe that I did not read that word-for-word off  
17 of the report?

18 A No, I don't.

19 Q In discovery, we requested your medical records from  
20 Dr. Carp, right?

21 A Megan Carp. Yeah.

22 Q And you did not provide those to us, correct?

23 A I ultimately did sign a HIPAA release.

24 Q Ultimately, but when we asked you for the medical

1 records --

2 THE COURT: I'm going to --

3 Q -- you didn't provide them.

4 THE COURT: I'm going to bring up the same thing  
5 that I did prior and I don't even remember --

6 MS. ISSO: Okay.

7 THE COURT: -- who was objecting to whatever. If  
8 it's not done in discovery, we're done.

9 MS. ISSO: It's okay. It shows -- it just her lack  
10 of cooperation.

11 THE COURT: No, we're not bringing that up. That's  
12 what I said.

13 MS. ISSO: Yeah.

14 THE COURT: I'm not bringing that up.

15 MS. ISSO: Okay.

16 THE COURT: You could have fixed that situation in  
17 the last year-and-a-half --

18 MS. ISSO: I did fix it.

19 THE COURT: -- of two years.

20 MS. ISSO: I did fix it.

21 THE COURT: You could -- okay.

22 MS. ISSO: I did fix it.

23 BY MS. ISSO:

24 Q In fact, you did not participate in the settlement

1 conference in good faith, did you?

2 MS. ROSENBLUM: Your Honor, objection.

3 THE COURT: Sustained.

4 MS. ISSO: And listen. This is -- this is a motion  
5 that --

6 THE COURT: Sustained.

7 MS. ISSO: -- we filed with the court. It was --

8 THE COURT: Sustained.

9 MS. ISSO: -- supposed to be heard today.

10 THE COURT: Move on. Sustained.

11 MS. ISSO: It was supposed to be heard today.

12 BY MS. ISSO:

13 Q And during your deposition, your attorney made over  
14 50 speaking objections; isn't that true?

15 MS. ROSENBLUM: Objection, relevance.

16 THE COURT: Sustained.

17 BY MS. ISSO:

18 Q In fact, you answered I don't know 8 -- over 80  
19 times to questions I asked you in your deposition. Are you  
20 aware of that?

21 MS. ROSENBLUM: Objection, relevance.

22 THE COURT: That part I will allow if in fact she  
23 answered that many.

24 THE WITNESS: I was not aware of that.

1 BY MS. ISSO:

2 Q I just searched I don't know through the word search  
3 on the --

4 MS. ROSENBLUM: Your Honor --

5 Q -- deposition.

6 MS. ROSENBLUM: -- I got to move to --

7 THE COURT: Sustained.

8 MS. ROSENBLUM: -- strike that as testimony.

9 THE COURT: You cannot testify as to what you --

10 MS. ISSO: Okay.

11 THE COURT: -- pulled up on your own --

12 MS. ISSO: Okay.

13 THE COURT: -- search --

14 MS. ISSO: Okay.

15 THE COURT: -- Ms. Isso.

16 BY MS. ISSO:

17 Q Do you have any reason to believe that's not true?

18 A No, I have no reason to not believe -- to believe  
19 it's not true.

20 Q Do you understand that we're seeking sanctions  
21 against you for bad --

22 MS. ROSENBLUM: Your Honor --

23 Q -- faith participant -- participation in the  
24 settlement conference?

1 MS. ROSENBLUM: Your Honor, I have --

2 THE COURT: Sustained.

3 MS. ISSO: What day -- what day is that being heard?  
4 We filed the motion. You said it was going to be heard on the  
5 day of the evidentiary hearing. Now we're here and you're  
6 telling me I can't talk about it.

7 THE COURT: Right now we're doing trial. That's  
8 correct.

9 MS. ISSO: You said it was going to be hard today  
10 that my motion for sanctions. Initially you thought it was  
11 Molly's -- you thought it was Molly's motion.

12 THE COURT: Okay.

13 MS. ISSO: That's why you said it was going to be  
14 (indiscernible) when in fact it was my motion.

15 THE COURT: Okay. You can couple your request for  
16 sanctions along with your request for attorney's fees or  
17 simply renote it. I won't -- I won't -- I'm not going to  
18 make you do the whole thing. I just -- when you -- if you  
19 file -- if you file for attorney's fees, you can renote the  
20 portion of sanctions.

21 MS. ISSO: Okay.

22 BY MS. ISSO:

23 Q Isn't it true that you had a dog living in your  
24 home?

1           A     Yes.

2           Q     And you had a dog despite the fact the child was  
3 diagnosed with being allergic to dogs?

4           A     Yes.

5           Q     And isn't it true that you admitted that your mom  
6 was pre-diabetic and overweight?

7           A     I said my mom was pre-diabetic.

8           Q     Is she --

9           A     I don't --

10          Q     -- overweight though?

11          A     I don't know what her weight is.

12          Q     But, I mean, is she -- is she heavyset?

13          A     No, I would not call her heavyset.

14          Q     Okay. I guess we'll have to ask her. Isn't it true  
15 that you make a hundred and nine thousand dollars a year?

16          A     I actually make a hundred and twelve thousand  
17 dollars a year now.

18          Q     Okay. And is it true that you work four 10 hour  
19 days?

20          A     Yes.

21          Q     And that you used to use your mom and Eugene to  
22 babysit?

23          A     Yes.

24          Q     And that you have a trial calendar two days a week

1 consisting of numerous trials?

2 A Yes.

3 Q And in fact, you testified that your work carries  
4 over to your home life sometimes?

5 A Rarely is what I said.

6 (PAUSE)

7 Q Well, you testified that sometimes you need to work  
8 at home in preparation for your trials.

9 A Yes, rarely.

10 Q Okay. You testified during your depo that you  
11 stated that your brother Christopher lived with your mother,  
12 right?

13 A Yes.

14 Q And at -- at that time there was a DV altercation  
15 where he was shot, correct?

16 A He was shot a few years prior. Yeah.

17 Q And you helped pay for his criminal fees.

18 A No.

19 Q What if I told you Eugene has a text message where  
20 you're explaining all of that to him and that you are drafting  
21 the motion for his case?

22 MS. ROSENBLUM: Your Honor, I would object to  
23 relevance.

24 THE COURT: Sustained.

1 BY MS. ISSO:

2 Q What was the other shooting incident? There was two  
3 of them.

4 A My brother's exwife shot him and then when he was --  
5 my brother was a teenager, he accidentally shot himself in the  
6 leg.

7 Q During this litigation you -- you kept insisting  
8 that Ava will only consume breast milk, correct?

9 A No.

10 Q Well, you made a big deal about breast milk when  
11 Eugene had the child for two weeks, did you not?

12 A Yeah, because I was breastfeeding.

13 Q But -- make that call --

14 MS. ISSO: Move to strike. I -- I was asking a yes  
15 or no question. Move to strike I asked a yes --

16 THE COURT: Sus --

17 MS. ISSO: -- or no question.

18 THE COURT: Sustained. So yes --

19 MS. ISSO: Okay.

20 THE COURT: -- yes or no.

21 THE WITNESS: Okay. Thank you.

22 MS. ISSO: Not overruled, right? Sustained? Okay.

23 BY MS. ISSO:

24 Q So my question was during this litigation you kept

1 in -- insisting -- during this litigation you kept insisting  
2 that Ava will only consume breast milk, correct?

3 MS. ROSENBLUM: Objection, asked and answered.

4 BY MS. ISSO:

5 Q Yes or no?

6 A No.

7 Q But when Eugene had the child, you were making a big  
8 deal about the breast milk, were you not? Yes or no?

9 A Yes.

10 Q But you just testified that she's not only consuming  
11 breast milk, right?

12 A That's correct.

13 Q So she may have been eating other things, right?

14 A She was.

15 Q And in fact, during your deposition you testified  
16 that she eats carrots, right?

17 A I think that's what I said.

18 Q Yeah.

19 A Or that I used to. I think I said she used to and  
20 she stopped.

21 Q Yeah.

22 A I definitely said she was eating solids though,  
23 other foods.

24 Q Yeah, but she's eating carrots, right?

1           A     She's eating other foods.

2           Q     But she -- but -- but you said that she -- she's --

3 she's eating carrots before, right?

4           A     Before, yes.

5           Q     Yeah.

6           A     Okay.

7           Q     Okay. And then you also testified that she's -- she

8 eats Beech-Nut fruit bars, right?

9           A     Yes.

10          Q     And Gerber chicken apple.

11          A     I think I said that. Yes.

12          Q     Yeah. And then you said also she eats Cheerios.

13          A     Yes.

14          Q     So she's not relying solely on breast milk, correct?

15          A     That's correct.

16          Q     In your deposition, you stated that it's okay for a

17 child to be breastfed -- fed until they're four years old?

18          A     I think I said something to that effect, yeah.

19          Q     And you testified that when you are working you use

20 a breast pump and you have -- and your mom offers the child

21 milk, correct?

22          A     I believe I said that I done that at a certain point

23 while I was working.

24          Q     Yeah, but you -- you were working 40 hours a week,

1 right? Or you still are, right?

2 A Yeah.

3 Q So when you were breastfeeding, you were pumping  
4 into a pump, right?

5 A I did up until a certain point and --

6 Q But you were pumping into a pump, right?

7 A Absolutely.

8 Q And you were leaving that milk for your mother to  
9 feed the child when she was babysitting, right?

10 A My mother and Eugene.

11 Q Yeah, and Eugene, right? Okay. You testified Ava  
12 is allergic to dogs, right?

13 A Yes.

14 Q In fact, you testified that when the child was in  
15 your care she had an allergic reaction and was taken to the ER  
16 because you had fed her whole wheat pancakes and they may have  
17 contained egg in it, correct?

18 A Yes.

19 Q And during another incident when the child was in  
20 your care you testified that she had an allergic reaction,  
21 correct?

22 A Yes.

23 Q And you assumed it was from hair products. But then  
24 you stated I honestly don't recall beyond that.

1           A     Yes.

2           Q     So there are two incidents when the child was rushed  
3 to the hospital for having an allergic reaction in your care.

4                   MS. ROSENBLUM:  Objection, misstates testimony.

5 BY MS. ISSO:

6           Q     True, yes or no?

7           A     No, --

8                   THE COURT:  Well --

9           A     -- not rushed to the hospital.

10          Q     Well, did she go to the hospital?

11                   THE COURT:  Hold on with the objection -- when  
12 there's objections.  You guys just keep going on.  If you're  
13 clarifying that now as she indicates there was two times but,  
14 what, one was not rushed?

15                   THE WITNESS:  When I took her to the pediatrician's  
16 office and the other time I took her to -- I did take her to  
17 the ER to be seen.

18                   THE COURT:  Does that answer your question, Ms.  
19 Isso?

20                   MS. ISSO:  Okay.  Thank you.

21 BY MS. ISSO:

22          Q     In --

23                   THE COURT:  Okay.

24          Q     -- fact, you know that your mom would not approve of

1 having a dog in the house since the child's allergic, right?

2 A No.

3 Q But you kept that information from her.

4 A At the time I didn't tell her.

5 Q But, you know, what if -- what if your mom was  
6 babysitting and there was an allergic reaction that was  
7 serious?

8 MS. ROSENBLUM: Objection.

9 Q Don't you think that's important information for her  
10 to know?

11 MS. ROSENBLUM: Objection, in --

12 Q Yes or no?

13 MS. ROSENBLUM: Objection, incomplete hypothetical.

14 THE COURT: I can't hear you with your mask on.

15 MS. ROSENBLUM: I'm sorry.

16 THE COURT: You're okay.

17 MS. ROSENBLUM: Objection.

18 THE COURT: If you want to wear it --

19 MS. ROSENBLUM: I didn't even realize I still had it  
20 on. Objection, incomplete hypothetical. I'm sorry.

21 THE COURT: Similar to speculation? I mean, I --

22 MS. ROSENBLUM: Speculation. Yeah, I'll go with  
23 that.

24 THE COURT: Incomplete --

1 MS. ROSENBLUM: And --  
2 THE COURT: -- hypothetical --  
3 MS. ROSENBLUM: -- assumes --  
4 THE COURT: -- I haven't heard --  
5 MS. ROSENBLUM: -- facts --  
6 THE COURT: -- in awhile.  
7 MS. ROSENBLUM: -- not in evidence.  
8 MS. ISSO: No, there -- there's no speculation.  
9 He's allergic to dogs and the mom was babysitting. What if --  
10 THE COURT: And --  
11 MS. ISSO: -- there was --  
12 MS. ROSENBLUM: Right.  
13 MS. ISSO: -- an allergic reaction? She's had two  
14 allergic reactions.  
15 THE COURT: Correct, you can ask her that.  
16 MS. ISSO: Okay.  
17 BY MS. ISSO:  
18 Q So --  
19 THE COURT: Okay.  
20 Q -- what if there was an allergic reaction? Don't  
21 you think that's an important thing for your mom to have  
22 known?  
23 A Yeah, that's why I've told her about it.  
24 Q But at the time when she was babysitting, she -- you

1 told me -- you just said that she didn't know, right?

2 A She didn't know initially. No.

3 Q Eugene was present at the birth of the child?

4 A Yes.

5 Q And Eu -- and you testified that he attended most

6 prenatal appointments with you, right?

7 A Yes.

8 Q And you testified that he drove you to and from the

9 doctor appointments, right?

10 A The prenats, yes.

11 Q And you further testified that Eugene cared for you

12 during your prenatal time.

13 A I don't recall saying that, but --

14 Q Let me find it for you.

15 A -- he would sometimes cook meals for us if that's

16 what you mean.

17 Q On -- on Bates Stamp 3448 --

18 THE COURT: Which exhibit is that? Sorry, Ms. Is --

19 Isso.

20 MS. ISSO: Exhibit 38.

21 THE COURT: 30 --

22 Q I stated to you --

23 MS. ROSENBLUM: I'm sorry, I -- mine are not Bate

24 labeled. So can you tell me what page of the deposition --

1 MS. ISSO: I think it's page --  
2 MS. ROSENBLUM: -- transcript?  
3 MS. ISSO: -- 105 of Exhibit 38 --  
4 MS. ROSENBLUM: Thank you.  
5 MS. ISSO: -- is what my thing --  
6 THE WITNESS: Should I --  
7 MS. ISSO: -- shows.

8 Q But I state to you based on his conduct and based on  
9 your interaction with him, would it be fair to say that Eugene  
10 cared about you and for you during your prenatal time? And  
11 your answer was yeah, I think that's fair.

12 A Okay.

13 Q So would you agree with me that you admitted that he  
14 -- I lost my spot. Cared for you during your prenatal time?

15 A Yes.

16 Q And you stated that you believe that Eugene loves  
17 Ava, correct?

18 A Yes.

19 Q And you stated that Eugene cooked for you  
20 frequently, right?

21 A At a certain point in our relationship. Yes.

22 Q And that he cooked for you several times a week in  
23 2019, correct?

24 A Yes.

1 Q And that he would cook chili, hamburgers, beef -- I  
2 don't know how to say this word. Beef stroganoff?

3 THE PLAINTIFF: Beef stroganoff. Yeah, that's  
4 Russian, actually.

5 MS. ISSO: Is it Russian?

6 THE PLAINTIFF: Yeah.

7 MS. ISSO: Oh, wow.

8 Q And beef stroganoff?

9 A Yes.

10 Q Okay. And that he also cooked for you in 2020.

11 A Okay. Yes. Yes.

12 Q And that he would clean your house and walk your dog  
13 regularly.

14 A Yes.

15 Q He would bathe your dog, take your dog to the  
16 doctor, right?

17 A Yes.

18 Q And that he also admitted that he would cook for you  
19 at your home and then wash the dishes.

20 A Yes.

21 Q And that he continued to do these things for you  
22 which means that he was around -- what -- I'm sorry. So the  
23 fact that he would continue to do these things for you means  
24 that he was around and present in the child's life since

1 birth, correct?

2 A Yes.

3 Q In fact, you testified that during these times he  
4 would be there he would spend time with Ava also, right?

5 A Yes.

6 Q And that you testified that he was caring for Ava on  
7 Tuesdays and Thursdays when you were at work, right?

8 A Yes.

9 Q What is your issues with him having some weekends if  
10 you were okay with him watching the child while you're  
11 working?

12 A Well, current --

13 Q Well, let me -- move to strike that question. I'm  
14 sorry. I mean, isn't it -- isn't it -- I -- I mean, do you  
15 believe that a reasonable person would think it's unusual for  
16 you to allow him to watch the child when -- when you're  
17 working but you don't want him to have weekends, do you think  
18 that's fair, yes or no?

19 MS. ROSENBLUM: Objection, speculation.

20 THE COURT: You know what --

21 MS. ROSENBLUM: It's compound.

22 THE COURT: -- I'm -- again, I have the right to ask  
23 my own -- and since it is an issue, I believe the way you  
24 asked the first way was appropriate. Why -- why is it not

1 reasonable for him to have any weekend time?

2 THE WITNESS: So he does have every other Sunday.

3 THE COURT: I get the Sunday. I'm talking full  
4 weekends which --

5 THE WITNESS: The --

6 THE COURT: -- most people define as Friday evening  
7 to Sunday night or Monday morning so they can let's say for  
8 instance go down to Disneyland.

9 THE WITNESS: So my primary issue was just that  
10 Eugene worked at very few hours a week and has a lot of free  
11 time during the week whereas I work during the week and my  
12 only days off were Friday, Saturday, Sunday. And so my issue  
13 was -- was just that Ava is very young. The things that you  
14 can do on Sat -- Friday or Saturday you can do on Monday,  
15 Tuesday, or Wednesday. I on the other hand am not available  
16 on Monday, Tuesday, Wednesday. I'm available Friday,  
17 Saturday, Sunday. So I was asking that those -- that I be  
18 able to take kind of full advantage of my time that I'm off  
19 with -- with Ava. So it's not that I don't he should be able  
20 to have weekends. It's that I was trying to maximize my  
21 parenting time because Eugene's work schedule was sparse  
22 especially at certain points. I don't know what it is right  
23 now but certain points in our relationship -- and he had all  
24 this free time. I felt that he could use that time during the

1 week since he was off.

2 BY MS. ISSO:

3 Q You further stated that you had your 65-year-old mom  
4 babysit for two days a week and then Eugene cared for the  
5 child the other two days a week, correct?

6 A Yes.

7 Q And then you stated there were some variations to  
8 the schedule where Eugene actually watched the child four days  
9 Monday through Thursday for at least 10 hours a day, correct?

10 A Sometimes.

11 Q And you've got upset -- let me go back to these.  
12 Have you started the potty training process yet?

13 A Through the ABA therapy, we both started it with the  
14 therapist.

15 Q How is that going?

16 A It's going okay. It's a slow pro -- pro -- slow  
17 process.

18 Q Isn't it -- Isn't it true that during your  
19 deposition I asked you why don't you want Eugene to have  
20 overnights? Didn't I ask you that question?

21 A I don't recall. I think you did, but I don't --

22 Q It's on 3497. So would you agree that I did ask you  
23 that question?

24 A I don't have the --

1 MS. ROSENBLUM: What's the page of the deposition  
2 transcript?

3 MS. ISSO: Let me get to it and I'll --

4 THE COURT: You -- you don't need --

5 THE WITNESS: I don't need it?

6 THE COURT: Then --

7 THE WITNESS: Okay.

8 THE COURT: Because if in fact they would go on a  
9 cross because I think it contradicts it, then I'm going to  
10 have them come get it and bring it over --

11 THE WITNESS: Okay.

12 THE COURT: -- to you to show it to you.

13 THE WITNESS: Okay.

14 THE COURT: I'm not going to make you get up and  
15 search their documents.

16 THE WITNESS: Thanks.

17 Q I state to you so you don't want --

18 MS. ROSENBLUM: I'm sorry, what page?

19 MS. ISSO: This is on page 154.

20 Q I state to you so you don't want Eugene to have any  
21 overnights. I asked you that question, right?

22 A I believe it --

23 MS. ROSENBLUM: That's not on -- I'm sorry,  
24 Jennifer. I don't --

1 MS. ISSO: page 154 which is Bates Stamp -- I'm  
2 reading it directly from the -- I -- from the --  
3 MS. ROSENBLUM: I don't -- I'm not --  
4 MS. ISSO: -- deposition transcript. I wouldn't  
5 lie. Okay.  
6 MS. ROSENBLUM: No. No. I'm just --  
7 THE COURT: No.  
8 MS. ROSENBLUM: -- I'm not on the --  
9 MS. ISSO: Third --  
10 MS. ROSENBLUM: -- same page with you. So I want to  
11 be able to --  
12 MS. ISSO: Yeah.  
13 MS. ROSENBLUM: -- follow along.  
14 MS. ISSO: So just hold on.  
15 MS. ROSENBLUM: So I just wanted to see where you  
16 were --  
17 THE COURT: If it's a depo, why don't we go page a  
18 line?  
19 MS. ISSO: Here. So you don't want Eugene to have  
20 overnights.  
21 MS. ROSENBLUM: And that's on page -- No. No. Go  
22 up where you can -- no --  
23 MS. ISSO: Oh, I'm not looking at those pages.  
24 MS. ROSENBLUM: Yeah. Yeah. Yeah.

1 MS. ISSO: I'm talking about the other ones.

2 MS. ROSENBLUM: So you can see the page number on

3 the actual transcript. No. No. No. 1 -- that's 152. So --

4 MS. ISSO: So it's on page 152.

5 MS. ROSENBLUM: 152. Okay. Thank you.

6 MS. ISSO: Oh, my God. I was looking --

7 MS. ROSENBLUM: Sorry.

8 MS. ISSO: -- at the PDF (indiscernible).

9 MS. ROSENBLUM: It's just we're in different --

10 we're on different pages. So I just --

11 Q So --

12 MS. ROSENBLUM: -- want to make sure --

13 Q -- I state to you so you don't want Eugene to have

14 any overnights. I asked you that question, right?

15 A Okay. Yes.

16 Q And then you said there's no room in his home for

17 Ava to sleep. That's what you responded, correct?

18 A Yes.

19 Q But you just heard Eugene testify that Ava's going

20 to have -- basically has her own room. She's right now

21 sharing a room with him because she's so young, right?

22 A It's the first time I'm hearing of it. But yes --

23 Q Did you ask him?

24 A -- I did -- I did hear that today, yes.

1 Q Did you ask him recently though?

2 A No, I've not asked him.

3 Q So there should be no issue with overnights now,

4 right?

5 A You're asking if I should have an issue with

6 overnights?

7 Q There should be no issues, but I asked you what was

8 the issue that you had and you mentioned there was no room in

9 your deposition --

10 A Okay.

11 Q -- correct?

12 A Okay. Yeah.

13 Q And you didn't bring up any other issue regarding

14 overnights, correct?

15 A Yes.

16 Q And then -- then we asked you during your deposition

17 -- I -- I asked you about the baby proofing, correct?

18 A Yes.

19 Q And you testified that Eugene sent you proof of the

20 baby proofing in August of 2020, correct?

21 A I said he sent me some photos. Yes.

22 Q Which was to -- to show the proof of the baby

23 proofing, right, in his house?

24 A Yes.

1 Q Yeah. And that he sent you more than 10 photos,  
2 correct?

3 A You -- are you asking me if you asked me that? Yes,  
4 you did ask me that.

5 Q And then you testified that he sent you proof of the  
6 baby proofing in August of 2020 that he has sent you photos,  
7 correct?

8 A He did send me photos. Yes.

9 Q More than 10 photos, correct?

10 A I -- I think I said I don't remember how many  
11 photos, but he definitely did send me more than 10. Yes.

12 Q Okay. And then I asked you are you requesting to go  
13 inspect Eugene's home? I asked you that question, right?

14 A Yes.

15 Q And you stated not anymore, correct?

16 A Yes.

17 Q You testified that you witnessed Eugene play guitar  
18 for the child, right?

19 A Yes.

20 Q And read to the child.

21 A Yes.

22 Q And that he cooked for her, right?

23 A I don't recall saying that he cooked for her. But  
24 he made her food. He definitely prepared food for her.

1 Q And then he bought her books, right?

2 A Yes.

3 Q And he changed her diapers.

4 A Yes.

5 Q He fed her.

6 A Yes.

7 Q Rocked her to sleep.

8 A I assume so, yeah.

9 Q And he stayed awake at your old house to watch her

10 at night.

11 A No.

12 Q You didn't testify?

13 A I'm pretty sure I said that he did not stay at the

14 night to watch her because he would go home at nights.

15 Q I said well, let me rephrase that. When she was a

16 newborn I believe -- no, no. You said -- you said no. then

17 you said well, let me rephrase that. When she was a newborn,

18 I believe that he did once or twice.

19 A Okay. Once or twice. Uh-huh (affirmative).

20 Q And then I asked you what are Eugene's strengths as

21 a parent, right? And you --

22 A Yes.

23 Q -- responded I do believe he loves Ava. I do think

24 it's great that he's teaching her Russian. I think it's great

1 that he has attended most of her appointments. I do think  
2 it's great that he's trying to pass on his musical abilities  
3 to her. I think that's wonderful. That's what you said,  
4 right?

5 A Yes.

6 Q You then -- I then asked you what -- what are  
7 Eugene's weaknesses as a parent, right?

8 A Yes.

9 Q And you made a comment stating that he puts his own  
10 -- Eugene has put his own -- then you said this is tough for  
11 me to answer because I want -- I want Eugene and I to be able  
12 to co-parent and I'm sad we're at this point. But -- but  
13 Eugene puts his interest in front of Ava's interest. That's  
14 what you said.

15 A Yes.

16 Q But Ms., you just testified he's been to almost  
17 every prenatal appointment, right?

18 A Yes.

19 Q And that he's been to almost every doctor  
20 appointment for this child, right?

21 A Yes.

22 Q And that he cooked for her -- or I'm sorry, prepared  
23 food for her.

24 A Yeah.

1 Q Bathed her, read to her, sing to her, watched her,  
2 rocked her to bed to sleep at night, sing to her. I mean,  
3 he's done everything for her. He spent a lot of money in this  
4 case to be here today, right?

5 A I assume he has. Yeah.

6 Q So do you think that's a fair statement to say that  
7 he puts his interests before the child? Do you think that's  
8 fair?

9 A Yes.

10 Q You testified that Eugene's -- that you and Eugene  
11 spoke and it would be a good idea for the child to be  
12 bilingual, correct?

13 A Yes.

14 Q Is A -- I also asked you about the baby proofing in  
15 your -- in your home, right?

16 A I think so.

17 Q I asked you is your child's room baby proofed?

18 A Yes.

19 Q In both of your homes, right, the old one and the  
20 new one, right?

21 A Both my -- yes. Uh-huh (affirmative).

22 Q Right?

23 A Yes.

24 Q Is there a gate at the doorway?

1           A     No.

2           Q     Okay. But you have cameras in there, right?

3           A     I did.

4           Q     Why did you take them out?

5           A     Because Eugene and I broke up.

6           Q     Oh, okay. But you used to watch the cameras when

7 your mother was babysitting, were you not?

8           A     No. My concerns were specific to Eugene.

9           Q     Okay. But, I mean, if you really had concerns, why

10 were you having him babysit?

11          A     Well, that's why I end -- ending up the relationship

12 and asking him to start watching her at his home on his time

13 because of my concerns.

14          Q     Yeah, but you know what, you make a lot of money.

15 Why didn't you put your child in childcare?

16          A     Because I think it's better if she can spend time

17 with her grandmother and with her father.

18          Q     Yeah, but don't you think it's a good idea for the

19 child to spend time with other children her own age?

20          A     So I can also say that I feel like this is a

21 decision he and I needed to make together and that it was both

22 of our responsibility and we agreed together that it was

23 better.

24          Q     But I asked you for the videos that were taken in

1 your home so I can observe them and you didn't provide those  
2 to me --

3 MS. ROSENBLUM: Objection --

4 Q -- did you?

5 MS. ROSENBLUM: -- Your Honor.

6 THE COURT: Sustained.

7 MS. ROSENBLUM: Relevance.

8 MS. ISSO: It goes to her credibility.

9 THE COURT: Sustained.

10 MS. ISSO: She cherry picked a couple videos.

11 THE COURT: it has to do with the same discovery  
12 issue that's come up for the third or fourth time today.

13 MS. ISSO: Okay.

14 BY MS. ISSO:

15 Q So you -- you were telling Dr. Bergquist that  
16 Eugene's forgetful and absentminded. That's what you told  
17 her, right?

18 A Yes.

19 Q Okay. You know that Eugene's boss that he's had for  
20 over --

21 MS. ISSO: How many?

22 THE PLAINTIFF: Two bosses.

23 Q Two bosses for over 20 years were interviewed by Dr.  
24 Bergquist? Did you know that?

1           A     I -- I saw that he had some people who he worked  
2 with and they were interviewed --

3           Q     Yeah.

4           A     -- yes.

5           Q     And he's worked for them for over 20 years. You  
6 know that, right?

7           A     Yes.

8           Q     Okay. And did they communicate to Dr. Bergquist  
9 according to her report anything about Eugene being for --  
10 forgetful or absentminded?

11          A     I don't recall that they did. No.

12          Q     No, they didn't.

13               MS. ROSENBLUM: Objection, Your Honor.

14               THE COURT: Sustained.

15               MS. ROSENBLUM: Is Ms. Isso --

16               THE COURT: It'll be stricken.

17               MS. ROSENBLUM: -- testifying?

18               MS. ISSO: Okay. Well, the record -- the -- the  
19 report speaks --

20               THE COURT: Your comment --

21               MS. ISSO: -- for itself.

22               THE COURT: -- afterwards --

23               MS. ISSO: Okay. But the report speaks --

24               THE COURT: -- is what's stricken. She answered the

1 question. You got it on the record. It's just your  
2 subsequent comment's stricken.

3 BY MS. ISSO:

4 Q In fact, he -- he's told Dr. Bergquist according to  
5 her report which is part of the record that Eugene's an  
6 excellent employee and goes above and beyond the call of duty,  
7 right?

8 A I will take you for your word because I don't recall  
9 reading that, but --

10 Q When Amber Harris informed you that only one parent  
11 can be -- be at the -- at the medical appointment on August  
12 10th, she informed you of that, right?

13 A Yes.

14 Q Okay. And at that previous appointment which was  
15 the hearing appointment, right, in January?

16 A January 2021. Yes.

17 Q You -- and you attended that appointment on your  
18 own, right?

19 A Yes.

20 Q Because that fell on your day.

21 A Yes.

22 Q And then the August 10th appointment fell on whose  
23 day?

24 A Eugene's.

1 Q Eugene's day. And it was Eugene's turn to take the  
2 child to the doctor, right?

3 A Absolutely.

4 Q And instead of you just allowing that and let Eugene  
5 take the role of taking the child to the doctor, you got  
6 upset, right?

7 A I let him take her. I -- I just wanted to be in the  
8 room when -- if our -- if our child was going to be diagnosed  
9 with autism I just wanted to be in the room --

10 Q Yeah, but --

11 A -- with Eugene and Ava.

12 Q Yeah, but this was Eugene's time to go to the  
13 appointment because you went to one on your own previously.

14 A Absolutely.

15 Q And they told you there was COVID-19 procedures that  
16 they're implemented.

17 A But they offered accommodations so that we can both  
18 be in the room and Eugene said no, that I couldn't be in the  
19 room.

20 MS. ISSO: Move to strike Your Honor because I --  
21 that doesn't answer my question. My question called for a Yes  
22 or no answer.

23 THE COURT: Sustained.

24 BY MS. ISSO:

1 Q So when they informed you that there's COVID-19  
2 procedures they have to implement, that's what they informed  
3 you, right?

4 A Yes.

5 Q You did not want to comply with that, right?

6 A No.

7 Q You requested accommodations, right?

8 A Yes.

9 Q Okay. So do you think your request of  
10 accommodations should trump the government orders in the  
11 state?

12 A I --

13 Q Yes or no?

14 A Yes.

15 MS. ROSENBLUM: I would --

16 Q You think that your -- your request should trump the  
17 government orders in the state?

18 A I think there's a way to keep people safe and allow  
19 both parents to be in the room.

20 Q But there was government orders in place, right?

21 A There was a government policy in place. Yes.

22 Q And you're an attorney, right?

23 A Yes.

24 Q And that's what we do. We follow rules and

1 procedures, right?

2 MS. ROSENBLUM: Objection, it's foundation. It's so  
3 outside the scope. Argumentative.

4 THE COURT: Sustained.

5 (COURT RECESSED AT 2:23 AND RESUMED AT 2:23)

6 Q Isn't it true that after Dr. Bergquist interviewed  
7 and evaluated you she also observed you with the child alone,  
8 correct?

9 A Yes.

10 Q And after she ordered a psycho te -- what kind of  
11 test is it? What kind of test did she order?

12 A Different psychological tests.

13 Q Yeah.

14 A Both of us.

15 Q She ordered these tests and they were conducted on  
16 you, correct?

17 A Yes.

18 Q And after all of her evaluation, she indicated and  
19 recommended that it's not in the child's best interest for you  
20 to have primary physical custody, correct?

21 A She recommended joint. That's correct.

22 Q Okay. And in fact she recommended that you continue  
23 individual therapy to assist you with your co-parenting and  
24 trust issues that you have, correct?

1 A Yes.

2 Q And have you done that?

3 A Yes, I've been in therapy.

4 Q Okay. Exhibit 38. Let me see if I can pinpoint  
5 these. Exhibit 25.

6 MS. ROSENBLUM: What? We're changing exhibits?  
7 Text messages.

8 Q So let's look at Exhibit -- page 25. And this is  
9 going to be Bates Stamp 2040. And for Molly, it's going to be  
10 page 1196.

11 MS. ROSENBLUM: I'm --

12 A I don't --

13 THE COURT: Ms. Isso -- Isso, I've -- as I've  
14 indicated, if in fact you're going to have her look at a  
15 particular exhibit, I'm going to either need --

16 MS. ISSO: Well, I can put it on the screen.

17 MS. ROSENBLUM: Yeah, ours aren't Bate labeled. So  
18 not --

19 MS. ISSO: I think. So we go to BlueJeans. Just  
20 the ID. General session Department B, that's not it. Let me  
21 find the other link.

22 Q So if you look at Exhibit number 25, Bates Stamp  
23 number 2040.

24 MS. ROSENBLUM: I'm sorry, I can't see --

1           Q     On this -- these are messages between you and  
2 Eugene, correct?

3           A     I believe so. I can -- I can barely read it myself.

4           Q     And it says -- this was received by Nechole on --  
5 this -- so this was a message you sent Eugene on October 9,  
6 2019. And you state here we go again. My mom asked me about  
7 giving Ava formula because she must be vitamin deprived.  
8 That's when I got angry. She told me I can't -- I can't get  
9 so angry now because I'm a mom and I need to be respectful. I  
10 told her to respect me instead of respecting my parenting.  
11 She also again said that Ava is cold when sleeping. I'm using  
12 the wrong kind of cup. I shouldn't drink coffee while breast  
13 feeding. So these are the things that your mom told you,  
14 right?

15          A     Yes.

16               THE COURT: The -- the Bates stamp on that, Ms.  
17 Isso, for my reference?

18               MS. ISSO: It is 2040.

19               THE COURT: All right. Thank you.

20          Q     And your mom is telling you not to get so angry now,  
21 right?

22          A     I think my mom was telling me not to get angry at  
23 her.

24          Q     No, she told me I can't get so angry now because I'm

1 a mom.

2 A At her.

3 Q But she's saying -- that's what she said to you.

4 You can't get so angry now, right?

5 A I believe so, yeah.

6 Q And that -- and that you need to be respectful,  
7 right?

8 A Of her, yes.

9 Q And when she gave you some feedback or some  
10 information, did you take that information?

11 A I took it. I didn't like it, but I took it.

12 Q And then Eugene sent you a long text basically  
13 calling you a sweetheart and, you know, saying that, you know,  
14 you -- he supports you because your mom had mentioned that the  
15 child should have formula, right?

16 A If I recall -- are you asking me yes or no?

17 Q Well, this is -- this is the message you texted  
18 Eugene. This is a message you sent Eugene. You said my mom  
19 is asking me about giving Ava formula. That's what you texted  
20 Eugene.

21 A Yeah, she -- she probably did ask about it. Yes.

22 Q And then you said I let her have it. It's the one  
23 in -- in yellow, the one that's highlighted in yellow.

24 A I can't -- I'm --

1 Q I let her have it. I told her she was a total  
2 hypocrite and that she needs to look at her own parenting and  
3 stop criticizing mine.

4 A Okay.

5 Q I told her I don't want to bring Ava to her house  
6 because of the living situation and environment. I also told  
7 her do -- do some research before lecturing me about drinking  
8 coffee or giving a toddler formula. So you were drinking  
9 coffee while you were breastfeeding?

10 A Not -- I didn't drink coffee until Ava was over a  
11 year old. And then I did start at that point because I had  
12 read that -- you're asking -- okay. Oh, I did start because I  
13 had read that at that age the level of caffeine that passed  
14 through the breast milk was okay. It wouldn't harm the child.  
15 But I didn't -- I didn't drink coffee for like the first year  
16 of breastfeeding.

17 Q I told her that she let me witness abuse and alco --  
18 alco -- alcoholism and she wants to lecture me about drinking  
19 coffee starting when Ava was 10 months old, question mark,  
20 that's what you typed to Eugene, right?

21 A Yes.

22 Q I also told her to get some therapy because it's  
23 ridiculous for her to claim Ava is spacing out. And if so,  
24 it's because she's malnourished. You text -- you texted that

1 to -- to Eugene, right?

2 A Yeah.

3 Q You -- you -- and you say I'm so sick of her  
4 bullshit. Let me -- and we'll get (indiscernible). Sorry.  
5 Okay.

6 MS. ISSO: So we'll need to admit this into  
7 evidence, Your Honor.

8 MS. ROSENBLUM: It's already admitted.

9 MS. ISSO: No, it's not. You objected earlier --

10 MS. ROSENBLUM: I objected to the --

11 MS. ISSO: -- about it being admitted.

12 MS. ROSENBLUM: -- entirety of the exhibit. I  
13 believe the Court's already determined that 25 would be  
14 admitted. You just had to identify the ones you wanted.

15 THE COURT: Yeah, if you want to give the -- the  
16 page and -- or the -- the Bates stamp's number, she has  
17 admitted to that particular conversation.

18 MS. ISSO: Okay. So 25's been admitted?

19 MS. ROSENBLUM: Not --

20 THE COURT: Not --

21 MS. ROSENBLUM: -- the entire.

22 THE COURT: -- the entire document. The pages  
23 you're referencing that are relevant. And if you want to do  
24 that by -- if you -- listen.

1 MS. ISSO: Okay.

2 THE COURT: You don't have to do it today but --

3 MS. ISSO: Well, we'll --

4 THE COURT: -- maybe Friday.

5 MS. ISSO: -- try to do some today. We'll try to do

6 some today. I mean --

7 THE COURT: You -- you can get me a -- a list of the

8 pages that are being admitted but I am not admitting every

9 page that encompasses a three year period.

10 MS. ISSO: Okay. So we're going to admit then --

11 THE COURT: So yeah, that would be even better if

12 you want to specifically put it on the record right now.

13 MS. ISSO: So the -- what exhibit is this?

14 THE COURT: That -- we will --

15 MS. ROSENBLUM: 25.

16 MS. ISSO: Okay. 25, Bates 2040 and 2401.

17 MS. ROSENBLUM: 2041.

18 MS. ISSO: I'm sorry, 2041.

19 THE CLERK: Can you say that one more time? I can't

20 hear you very well.

21 MS. ISSO: I'm sorry. 2040 and 2041.

22 MS. ISSO: This is like -- I don't know how to use.

23 It's got (indiscernible). Hold on, Your Honor. I'm going

24 down -- going --

1 THE COURT: It's going to start smoking there a  
2 minute, Ms. Isso. It's like you're starting a fire on  
3 Survivor.

4 MS. ISSO: I'm just eating so much lately.

5 (PLAINTIFF'S EXHIBIT 25, BATES 2040, 2041 ADMITTED)

6 MS. ISSO: All these trials make me hungry. Okay.  
7 Let's go to 802, page 802, Molly, which is Bates 1646.

8 MS. ROSENBLUM: What date is it?

9 MS. ISSO: 5/24/19.

10 MS. ISSO: So it's Bates Stamp 1646. We're going to  
11 move to admit this one, just so you know.

12 BY MS. ISSO:

13 Q Basically these are text messages again between you  
14 and Eugene, correct?

15 A Yes.

16 Q And over here, you say by the way, my mom sent me a  
17 text this morning claiming that Ava had a cough yesterday and  
18 offering to come over today to help me take care of her. I  
19 told her no thanks. Now she just tried calling me and I  
20 didn't answer. She text -- sent me a text claiming it was a  
21 butt dial. That's what you messaged him, right?

22 A Yes.

23 Q And then you sent -- you sent him a message saying  
24 yeah, she didn't cough at me either. Sometimes I wonder about

1 my mom's mental health. Even if Ava was sick, does my mom  
2 think I want to spend the day arguing with her about Ava's  
3 care or that I can't care for Ava on my own. I spent every  
4 day with her for six months. So do you question your mom --  
5 so that's -- that's what it says there, correct?

6 A Yeah, it does say that, yes.

7 Q You question -- the -- isn't it true here that you  
8 -- you question your mom's mental health to Eugene, yes or no?  
9 Is that what that text message says in this?

10 A I was saying it tongue and cheek, but yes  
11 technically that's what I said, yes.

12 MS. ISSO: Move to strike. It calls for a yes or no  
13 answer. Move to strike

14 THE COURT: Her question is did you do that.

15 Q Did you --

16 THE WITNESS: Yes --

17 Q -- question --

18 THE WITNESS: -- I did say that.

19 THE COURT: Okay.

20 MS. ISSO: Okay. So move to strike the other  
21 statement though.

22 THE COURT: I will strike it.

23 MS. ISSO: The other one.

24 BY MS. ISSO:

1 Q So you did question your mom's mental health though.

2 A I did say that, yes.

3 Q Okay. And then --

4 THE COURT: So that page of that exhibit will be  
5 admitted as well, correct?

6 MS. ISSO: Which is Exhibit 25, Bate 1646.

7 THE COURT: Correct.

8 (PLAINTIFF'S EXHIBIT 25, BATES 1646 ADMITTED)

9 BY MS. ISSO:

10 Q I'm going to go to page 144 which is --

11 MS. ROSENBLUM: What's the date?

12 Q What's the child's date of birth in this case again?

13 A September 26th, 2018.

14 MS. ROSENBLUM: Your Honor, I'm going to ask the  
15 Plaintiff to stop testifying when the question is being asked  
16 of my client. I can -- I can hear him --

17 THE COURT: Sir, you can't --

18 BY MS. ISSO:

19 Q So in this exhibit over here which is another text  
20 message to --

21 MS. ROSENBLUM: What's the date?

22 MS. ISSO: July 4th, 2018.

23 MS. ROSENBLUM: July --

24 Q You sent a message to Eugene thinking about taking

1 baby weaning classes, correct?

2 A I -- that's what the word says, yes. I think I  
3 meant breastfeeding classes. I had -- I was still pregnant at  
4 the time so I don't think I would have been taking baby  
5 weaning -- want to take a baby weaning class. It was  
6 breastfeeding.

7 THE COURT: Are you moving to admit that particular  
8 one, Ms. Isso?

9 MS. ISSO: No, it's not important.

10 THE COURT: Okay.

11 Q We'll go to 1567. What was -- just look at I guess  
12 2354. These are messages between you and Eugene, correct?

13 A Yes.

14 MS. ROSENBLUM: What's the date?

15 MS. ISSO: February 12th, 2020.

16 Q And you're asking him -- (indiscernible) -- and  
17 you're -- and you're messaging him did Ava have a good nap,  
18 correct?

19 A I think Eugene's messaging me did Ava have a good  
20 nap.

21 Q Yeah. And then you said oh, she slept for two  
22 hours, right?

23 A I think so.

24 Q Message received from Nechole. Yeah, she slept

1 about two hours. And then he sent you these pictures?

2 A Yes.

3 Q And you responded red heart.

4 A I think so. I'm --

5 Q So there is -- so there is good communication  
6 between you two, right?

7 A Majority of our communication before the  
8 relationship ended was good. Yeah.

9 MS. ISSO: Okay. So move to admit Exhibit 2354 --  
10 I'm sorry, Exhibit 25, Bate 2354 and 2355.

11 THE COURT: Okay.

12 MS. ISSO: And 2356, because then Eugene texts you  
13 she's absolutely gorgeous and so smart. Ava ate carrots,  
14 fruit bars, and Cheerios. Ava pooped. Ava ate all four of  
15 her foods, right? That's what he texted you?

16 Q Yes. Uh-huh (affirmative).

17 A And what did you write in response?

18 Q I -- from here it looks I texted him later on in the  
19 day to tell him my mom confirms she's watching Ava on Tuesday.  
20 And --

21 A That was about 45 minutes later. You said my mom  
22 confirmed she's watching Ava on Tuesday. You wrote okay,  
23 thank you. And then he texts you I just put Ava to bed, she  
24 fell asleep. I -- I found an excellent article on biracial

1 people. I also found out there's early voting in the Dem --  
2 Democratic Primary. Okay. Good.

3 MS. ISSO: So let's -- we're going to move to admit  
4 that one too, Your Honor, 2356.

5 (PLAINTIFF'S EXHIBIT 25, BATES 2354-2356 ADMITTED)  
6 BY MS. ISSO:

7 Q 2357, he messages you that she slept for two hours,  
8 she pooped in her sleep, she ate very well, she ate four  
9 foods, she pooped again, she's been eating, she pooped. We're  
10 on the way back to the house. We're on the way back at your  
11 house. So they were out. And then she messaged you happy  
12 Valentine's, heart. And you wrote to him thank you for the  
13 flowers and balloon. I saw the wine in the fridge. Why did  
14 you buy that. And he writes you're welcome.

15 MS. ISSO: Move to admit that one too, Your Honor.  
16 2357.

17 THE COURT: Okay.

18 (PLAINTIFF'S EXHIBIT 25, BATES 2357 ADMITTED)

19 MS. ISSO: I don't know why that was funny to me.  
20 I'm sorry.

21 BY MS. ISSO:

22 Q Okay. Okay. 1567, dates are sent in March of 2020.  
23 He sends you a message on March of 20 -- March 20, 2020. It  
24 says good morning. Please let me know when I can stop by and

1 see Ava. And your response was not today, I need a break.  
2 Don't you have your boys today. Focus on them instead of  
3 leading them to come over here. And then he writes back and  
4 says Ava's diapers came. I'll bring them in the morning. And  
5 there was no response from you, correct?

6 A Correct.

7 THE COURT: The Bates stamp again?

8 MS. ISSO: This is 2411.

9 THE COURT: Okay.

10 MS. ISSO: Exhibit number 25.

11 Q He messages you on March 22, 2020, Bates Stamp 2412  
12 which is page number 1568. Can I see Ava for a little bit  
13 when it's convenient for you. And you state why did you wait  
14 until so late in the day to ask? He sent you that message at  
15 2:28 p.m., correct?

16 A Yes.

17 Q And you wrote why did you wait so late in the day to  
18 ask? What about your boys? I just woke up from a nap and  
19 Ava's still sleeping. I have to run a quick errand and she  
20 wakes up and walk Athena. I don't know if there will be time.  
21 And he messages you on Athena's walk or I can stop by -- by  
22 myself for a little bit if there's time. And you respond so  
23 now it's all three of you. So you wrote now it's all three of  
24 you. What do you mean three of you?

1           A     He and his sons.

2           Q     So now it's all three of -- of you.  You earlier --  
3 your earlier text said it's just you.  That's what you wrote,  
4 right?

5           A     Yes.

6           Q     You know those boys are her siblings, right?

7           A     Yeah.

8           Q     You then respond later in the day because this is  
9 all on March 22nd you respond you can walk Athena tomorrow  
10 morning, right?

11          A     Yes.

12          Q     Athena's the dog?

13          A     Yes.

14          Q     He wrote cool, I'll walk her at six.

15                MS. ISSO:  Move to admit that, Your Honor.  2413,  
16 2412, of Exhibit 25.

17                THE COURT:  Okay.

18                (PLAINTIFF'S EXHIBIT 25, BATES 2412, 2413 ADMITTED)

19                (COUNSEL AND CLIENT CONFER BRIEFLY)

20 BY MS. ISSO:

21          Q     So in this text messages Eugene was giving you some  
22 advice, correct?

23          A     I -- I got to read it.

24          Q     He was recommending that you drive your cars around

1 your neighborhood.

2 MS. ROSENBLUM: What date is this?

3 Q Otherwise you --

4 MS. ISSO: It's April 2nd, 2020, Bates Stamp 2437,  
5 page number 5093.

6 Q He -- he tells you you should drive your cars around  
7 the neighborhood for a couple of days otherwise you'll risk  
8 the batteries of going dead, right?

9 A Yes.

10 Q He said I'll be more than happy to do it for you,  
11 right?

12 A Yes.

13 Q And then you respond you sound like my mom with the  
14 unsolicited advice and assumptions what I do and don't know.  
15 That's what you told him, right?

16 A Yes.

17 Q And he responded I'm sorry.

18 A Yes.

19 MS. ISSO: Move to admit page 2437.

20 THE COURT: It'll be admitted.

21 (PLAINTIFF'S EXHIBIT 25, BATES 2437 ADMITTED)

22 BY MS. ISSO:

23 Q So on page -- let's go to page 2441, the same --  
24 it's -- it's page 1597, the April 5th, 2020. Eugene messages

1 you and says good morning, please let me know when I can see  
2 Ava, right?

3 A Yes.

4 Q And then you responded what about your boys. Will  
5 you be bringing them with you or leaving them behind. That's  
6 what you messaged him, right?

7 A Yes.

8 Q And then he said they said they would like to see  
9 Ava too, right?

10 A Yes.

11 Q And then you wrote this is the routine you do every  
12 Sunday. You have your boy -- your boys, isn't going to work.  
13 You should have already known whether you were going to visit  
14 Ava alone and leave your boys behind. You should have also --  
15 you also should have shown regard for me and asked me if it  
16 was okay, good seeing three of you for a second day in a row  
17 or arranging something where all of us are together again.  
18 You later say I'm not doing it -- any of it. You then later  
19 say enjoy your day with your boys, correct?

20 A Yeah, among other things. Yes.

21 MS. ISSO: Move to admit 2441 from Exhibit 25.

22 (PLAINTIFF'S EXHIBIT 25, BATES 2441 ADMITTED)

23 BY MS. ISSO:

24 Q He then messages you and says I am enjoying my day

1 with my boys. I would also like to see my daughter. I'm  
2 respectfully ask -- I'm respectfully asking to see her at this  
3 time that is convenient for you. And what did you say in  
4 response?

5 A It looks like I said enjoy your day with your boys.

6 Q No, the second one at the bottom. You said --

7 A Oh, have fun.

8 Q Exclamation point.

9 A Exclamation point, yes.

10 Q That was on April 5th, 2020, right?

11 A I -- I'd have to go back. I wasn't paying attention  
12 to the date. I'm sorry.

13 Q It says April 5th, 2020. That's what the document  
14 says, right?

15 A That -- what you're showing me now, yes. Uh-huh  
16 (affirmative).

17 Q And then on April 5th, 2020 later in the night -- 17  
18 -- let's go to 1795. You're almost there. 1795. So these  
19 are text messages between you and Eugene, right?

20 A Yes.

21 Q And these are messages that he sent to you on August  
22 3rd, 2020, correct?

23 A Yes.

24 Q And these are messages showing pictures of what?

1           A     The crib I asked him to get and some baby proofing  
2 in the house.

3           Q     So he baby proofed the cabinet. Is that what I'm  
4 seeing right here? The baby -- so it can't open?

5           A     Yes.

6           Q     And then he baby proofed the stove, right?

7           A     Yes.

8           Q     And then he bought the crib, right?

9           A     Yes.

10          Q     And then he baby proofed the door, right? Do you  
11 see the door she can't open --

12          A     I do see that. I think those were -- there was some  
13 that were sent after I asked for some more pictures of some  
14 more areas. I'm not sure if tho -- that's those or if that  
15 was the same day.

16          Q     It says August 3rd, 2020, Ms., right there.

17          A     Okay.

18          Q     So he sent you a picture of the door -- doorknob  
19 being baby proof, right?

20          A     Yes.

21          Q     And then another cabinet being baby proof, right?

22          A     Yes.

23          Q     And then an -- another drawer and cabinet, correct?

24          A     Yes.

1           Q     Look at this picture.  He even put this -- this  
2 rubber -- this rubber corner so the child doesn't hit her head  
3 on the corner.  He put a rubber thing there so she doesn't get  
4 hurt.

5           MS. ROSENBLUM:  Objection, Your Honor, to the extent  
6 that Counsel's testifying.

7           THE COURT:  We'll strike that part of it, but the  
8 question itself --

9           MS. ROSENBLUM:  Yeah.

10          THE WITNESS:  Yeah, it looks like there's a  
11 rubber --

12          THE COURT:  -- regarding the corner.

13          THE WITNESS:  -- corner guard.

14          MS. ISSO:  Okay.  And we're going to move to admit  
15 2639, 2640.

16                 (PLAINTIFF'S EXHIBIT 25, BATES 2639, 2640 ADMITTED)

17          THE COURT:  Ms. Isso, let me just ask a trial  
18 management question.  Is -- is the person with Mr. Blackman  
19 (sic) that is waiting, is that your witness?

20          MS. ISSO:  That's her mother.  We're -- we're  
21 planning on calling her if we have time.  I don't want to call  
22 her now.  I -- that's the last witness if we have time.  It's  
23 like the least important witness for us.

24          THE COURT:  Okay.  I just --

1 MS. ROSENBLUM: So --

2 THE COURT: I just --

3 MS. ROSENBLUM: -- I guess here's my question. Can  
4 they -- can they be released, Brian and -- and Montana, if  
5 they're not going to get called today? Because my  
6 understanding is Ms. Isso has to leave at 4:45 and she's  
7 calling witnesses at 3:00. So can --

8 MS. ISSO: No.

9 MS. ROSENBLUM: -- they be released for today, my  
10 client's mother and Mr. Blackham?

11 MS. ISSO: I'm -- I'm -- listen, in my motion to  
12 accommodate for -- for us, I said we'll call her on Friday.  
13 We're going to call these particular people so everyone knows  
14 when they're going to be called and they updated to it. So I  
15 -- I don't -- I did everything I could to make this move.

16 THE COURT: Okay.

17 MS. ROSENBLUM: Right, but she's subpoenaed for two  
18 days. I mean --

19 THE COURT: So what?

20 MS. ROSENBLUM: She was subpoenaed for two days.  
21 Her mother was subpoenaed --

22 MS. ISSO: Because I couldn't --

23 MS. ROSENBLUM: -- for two days.

24 MS. ISSO: -- get the day that they were going to

1 agree to allow us to call her. So we were accommodating her  
2 expert and another witness so I was trying to get  
3 accommodation for everyone else so we can have a -- a strict  
4 schedule and not so they're sitting here waiting. She can --

5 THE COURT: Just --

6 MS. ISSO: -- go -- we'll call her on Friday at the  
7 end of the day if --

8 MS. ROSENBLUM: Okay.

9 MS. ISSO: -- we have time left, but I have to save  
10 my time for him as a rebuttal, for our expert. We have the  
11 therapists, the ABA therapist coming in right now at 3:00. I  
12 don't know how much time I'm at.

13 THE COURT: Okay. I'll count it up --

14 MS. ISSO: And we had --

15 THE COURT: -- when we --

16 MS. ISSO: -- technology issues --

17 THE COURT: -- take a break.

18 MS. ISSO: -- in this courtroom.

19 THE CLERK: That's providing --

20 THE COURT: Yeah, I'll -- I'll add mine up too and  
21 we'll -- do you have the ABA therapist coming in when?

22 MS. ISSO: Right now at 3:00 o'clock from Firefly.  
23 So we're going to --

24 THE COURT: Well, if you're going to -- if we're

1 that close and you're not going to -- rather than five more  
2 minutes of questions and jumping to the expert witness, why  
3 don't we take our -- our last -- since we're stopping at 4:45  
4 today, correct?

5 MS. ISSO: Correct.

6 THE COURT: Because you need --

7 MS. ISSO: And I want to reserve the right to ask  
8 her more questions on Friday.

9 MS. ROSENBLUM: That's fine.

10 THE COURT: If -- if you have time, you -- you have  
11 the right --

12 MS. ISSO: Yeah.

13

14 THE COURT: -- to do that.

15 MS. ISSO: My time. Yeah. Yeah.

16 THE COURT: You have the right to do that. I will  
17 -- let's take a 10 minute break -- our last 10 minute break  
18 for right now and then if you have your other witness coming  
19 in, but I will give you a tally of what -- what time you have  
20 left.

21 MS. ROSENBLUM: I just -- I mean, it -- if your mom  
22 -- did your mom has -- or --

23 THE WITNESS: I arranged --

24 MS. ROSENBLUM: Or --

1 THE WITNESS: -- alternative childcare because of  
2 the subpoena.

3 THE COURT: All right. So we'll be in recess for 10  
4 minutes.

5 (COURT RECESSED AT 2:57 AND RESUMED AT 3:10)

6 THE CLERK: We're back on.

7 THE COURT: All right. We're back on the record.  
8 It is 3:10 pursuant to the JAVS timestamp. As far as time  
9 left, Ms. Isso, you have two hours and eleven minutes left.  
10 Ms. Rosenblum has four hours and fifty minutes left. I'll  
11 remind you that that includes cross examination of any of Ms.  
12 Rosenblum's witnesses. So I just -- keep a running tally.  
13 Keep people informed.

14 MS. ISSO: Okay. We'll call Heather Traucha next --  
15 I'm sorry, Taucha --

16 MS. TAUCHEN: No, that's okay.

17 MS. ISSO: Sorry, Heather Tauchen.

18 (WITNESS SUMMONED)

19 THE COURT: Okay. And you want to come up. My  
20 Court Clerk will -- do you want -- remain standing. My Court  
21 Clerk will swear you in.

22 MS. TAUCHEN: Do you want me over here, right?  
23 Okay.

24 THE CLERK: Raise your right hand. You do solemnly

1 swear the testimony you're about to give in this action shall  
2 be the truth, the whole truth, and nothing but the truth, so  
3 help you God?

4 MS. TAUCHEN: Yes.

5 HEATHER TAUCHEN

6 called as a witness on behalf of the Plaintiff, having been  
7 first duly sworn, testified upon her oath as follows on:

8 DIRECT EXAMINATION

9 BY MS. ISSO:

10 Q Please state your name for the record and tell us  
11 your -- what company you work for.

12 A Yeah, Heather Tauchen, Firefly Behavioral Services.

13 THE CLERK: I'm sorry, can you spell your last name?

14 THE WITNESS: Yeah, T-a-u-c-h-e-n.

15 THE CLERK: Thanks.

16 MS. ISSO: And just to confirm, Exhibit 57 is  
17 already admitted, right?

18 THE COURT: Madam Clerk?

19 THE CLERK: Exhibit which one?

20 MS. ISSO: 57.

21 THE CLERK: Yes, that's in.

22 MS. ISSO: Okay.

23 Q Exhibit 57 is the Firefly treatment plan for ABA  
24 therapy. Could you just tell the Judge what that is?

1           A     Yeah, the treatment plan? So it's just an overview  
2 of what assessment results were conducted and how I really  
3 develop goals and move forward for the next six months of  
4 Ava's therapy.

5           Q     And what -- what are the goals for this child?

6           A     Yes. So a lot of it is social communication,  
7 working on communicating her basic needs and wants instead of  
8 engaging in maladaptive behaviors of screaming or saying no or  
9 running away. And it also includes a lot of parent training  
10 angles as well. That's something that I put a lot of emphasis  
11 on. So I -- you know, I have a lot of involvement for my  
12 parents and we were able to make progress as much as possible.

13                I also have a lot of adaptive goals for her too, so  
14 I'm working on becoming more flexible in tolerating changes in  
15 her environment. And then, you know, some play skills in  
16 there because she was so young and working on integrating it  
17 to more of a school environment.

18          Q     Okay. And how is the treatment going for the  
19 treatment?

20          A     It's going great. Yeah, she's been doing really  
21 awesome. I love how much progress she's made so far with just  
22 spontaneously communicating her needs. Instead of becoming  
23 frustrated, she's definitely become a lot more flexible which  
24 is really awesome to see. Yeah, so I would say that -- that

1 treatment is going really well so far.

2 Q And did you observe this child at both parents'  
3 home?

4 A Yes.

5 Q In the parents' home. Okay. And did you observe  
6 anything at Eugene's home that would give, you know, a rise to  
7 a concern or anything of that sort?

8 A No.

9 Q And has Eugene participated in all of the  
10 appointments?

11 A Yes. Uh-huh (affirmative).

12 Q And has he asked questions?

13 A Yeah. Uh-huh (affirmative).

14 Q Has followed your recommendations?

15 A Yeah. Uh-huh (affirmative).

16 Q Okay. When did -- when did your company start  
17 providing services to this child?

18 A Let's see, beginning of September probably like a  
19 weekend.

20 Q Sorry, I don't mean to ask the question like --  
21 so --

22 A Oh, no, that's okay. Yeah, the beginning of  
23 September. I thin it was like the second weekend, if not, the  
24 first, so --

1 Q And when does the treatment end?

2 A

3 So that's really depending on Ava's progress. And so right  
4 now we have goals for the next six months and then I'll  
5 reassess where we're at. I had developed some more goals for  
6 her and once we hit a certain percentage, you know, where  
7 she's mastering most of her goals and able to communicate and,  
8 you know, follow social interactions to, you know, age typical  
9 peers, then we'll look at discharge for her.

10 Q And is it true that you told Eugene that you were  
11 impressed with his involvement with ABA -- with Ava's ABA  
12 therapy?

13 A Yeah. Yeah.

14 Q And that you wished that all parents you worked with  
15 were like him?

16 A Yeah, I would say that for both parents. I'm very  
17 impressed with both parents how -- how much they participate  
18 in ABA therapy. It's really great to see. And that's  
19 something that I am very adamant about and can sometimes be  
20 very challenging for parents. And so I love how both parents  
21 for Ava are so invested and involved and I think it's really  
22 going to make a difference with the -- her treatment.

23 Q Did you see that there was a bond between the child  
24 and Dad?

1           A     A bond?

2           Q     Yeah, a bond.

3           A     Yeah. Yeah, I think so.

4           Q     how would you describe Eugene as a father to his

5 child based on what you've witnessed?

6           A     I would say, yeah, very caring -- sorry.

7           Q     Sorry, and that's tough question.

8           A     Yeah, very caring, affectionate. He definitely

9 wants to put her needs first. He gets very involved in

10 wanting to learn what's the best way to teach her. I -- yeah,

11 I would say he's a great parent.

12          Q     Has Eugene communicated with you?

13          A     Yeah. Uh-huh (affirmative).

14          Q     How often does he communicate with you?

15          A     Yeah, I would say weekly, not more than that.

16          Q     And what are those communications consist of?

17          A     Questions, sometimes, you know, phone calls,

18 sometimes over email, parent training, what we review in

19 parent training, the lesson handouts.

20                 (COUNSEL AND CLIENT CONFER BRIEFLY)

21          Q     And did you attend that IEP meeting for Ava?

22          A     I did, yes.

23          Q     And was Ava placed in a regular inclusive general

24 education class?

1 A Yes.

2 Q Okay. Have you observed Eugene's older children  
3 with Ava?

4 A Yeah, I got to see a little of that interaction.  
5 Uh-huh (affirmative).

6 Q And how would you describe it?

7 A It was good. Yeah, Ava's definitely seeking out  
8 that interaction and wanting to hold her brother's hand and  
9 bring him to play with her and everything.

10 MS. ISSO: Okay. No further questions.

11 THE COURT: Ms. Rosenblum?

12 MS. ROSENBLUM: Yeah, just brief -- briefly.

13 CROSS EXAMINATION

14 BY MS. ROSENBLUM:

15 Q Heather, Ms. Isso might have asked you already, but  
16 what is your role at Firefly?

17 A I got -- so I'm the clinical director. I'm also a  
18 board certified behavior analyst. So I oversee the cases for  
19 the RBTs.

20 Q And you're providing a -- are you providing direct  
21 services to Ava or just supervising them?

22 A Supervising and parent training. Yeah.

23 Q Okay. And I think your -- you indicated that your  
24 goals for Ava were social communication and communicating

1 basic needs and wants --

2 A Uh-huh (affirmative).

3 Q -- instead of engaging in maladaptive behavior; is  
4 that correct?

5 A Yes.

6 Q Can you explain to the Judge where Ava was when she  
7 started with Firefly and what the behaviors were?

8 A Yeah. So when starting when I first walked in the  
9 door, I think it was Dad's first that we -- I went to and then  
10 Mom's. and so I went to Dad's and I -- at first she was  
11 crying. She didn't really want anything to do with me. She  
12 was very shy. And so that's something that, you know, I -- I  
13 take very lightly because I -- I want to build a relationship  
14 with my clients as quickly as possible. And so a lot more  
15 just like observing and seeing how she interacts and plays. I  
16 noticed a lot of routines, very rigid with her routines. So  
17 if there was any changes, she got really upset. If I were to,  
18 you know, try to change the way she played or asked her  
19 questions, part of that she would, you know, cry or -- or say  
20 no or turn away from me.

21 And similar at Mom's, I think she did open up, you  
22 know, started to get more used to seeing me probably by then  
23 too and -- and yeah, we were able to play. I was able to see  
24 how Mom interacted and Dad too and -- but yeah, definitely a

1 lot of rigid with play and if -- you know, if that was  
2 interactive and crying.

3 Q I don't know how to ask it in any other way. A  
4 neurotypical child, kids cry, right?

5 A Yeah.

6 Q Shy kids cry. It -- can you give me a little more  
7 detail on how Ava would be different, how -- how these changes  
8 in her routine as you've described would be different than a  
9 neurotypical child or what we would --

10 A Yeah.

11 Q -- expect to see?

12 A Yeah, definitely. So a lot more of -- of like what  
13 we would call restrictive and repetitive behavior. So  
14 repeating the same activity or, you know, behavior over and  
15 over. And if that was interrupted, then it leads to more  
16 tantruming. Of course, we didn't, you know, push her so far  
17 to where she's like having a meltdown or anything, but based  
18 off parent report I know that, you know, those -- that's  
19 usually where it leads. She does have different like stemming  
20 behaviors is what we call with her fingers and her  
21 repetitively moving, you know, her fingers in some way or  
22 across her face.

23 And then as far as communication to -- so those  
24 social interactions being a lot more -- you know, it's -- it's

1 pretty normal for a kid to be shy, but, you know, eventually  
2 when she does start opening up we do see a lot more of those  
3 like social interaction skills where with Ava we really do  
4 have to teach, you know, how to, you know, say hi, how to --  
5 how that engagement, what kind of, you know, words do we say  
6 in certain context and go from there.

7 Q How would you describe when you first started seeing  
8 Ava her vocabulary? Was she able to say words, sentences?

9 A Yeah, she was able to say some words. A lot of like  
10 scripting is what we say. So repeating, you know, what she  
11 sees on like a TV show or what, you know, Mom says or even,  
12 you know, what other people in her environment are saying. So  
13 not -- so kind of just saying words or sentences that don't'  
14 -- aren't relevant to the context aren't like functional  
15 communication for her so that when she started, that's kind of  
16 where we were at. She wasn't really functionally  
17 communicating with people.

18 Q How -- so I know you've only been involved for maybe  
19 two months give or take.

20 A Yeah.

21 Q How have you seen Ava's improvement or  
22 non-improvement since your involvement in the case?

23 A Yes. So a lot more communication. So she's able to  
24 ask for things, make requests, asking for, you know, help and

1 asking for different items and asking for food, asking to stop  
2 something too saying all done or that if she wants more of  
3 something starting to get a lot more of those greetings and  
4 farewells from her too instead of saying hi when somebody  
5 enters the room or goodbye when we leave and communication  
6 during play too. So making different sounds that are, you  
7 know, associated with -- with play. So like if we're driving  
8 a truck say, you know, like vroom vroom or making the sound  
9 animals have and responding to questions more relevant as well  
10 too.

11 Q I don't know if you can compare Ava to a  
12 neurotypical child. Can you compare her where she's at to a  
13 neurotypical child?

14 A So I can say that she does have deficits. So  
15 definitely with, you know, communication she has some deficits  
16 there. And -- and meeting, you know, some more supports and  
17 then adaptive as well and being able to be flexible when  
18 changes in her routine happen and, you know, supporting her  
19 with play skills to help with those social interactions as  
20 well, labeling different things in her environment to wanting  
21 to broaden her vocabulary to help with her having more  
22 communication and tools to use in those social interactions.  
23 So I would -- you know, I would say that she does have  
24 deficits. Do I think that they're severe deficits? No, but

1 she does have autism and has, you know, behaviors that  
2 demonstrate that difference.

3 Q How often do you see Ava each week?

4 A Yeah, I see her weekly. If not, more. Definitely,  
5 you know, at least an hour or two a week. And then sometimes  
6 I'm able to make it to both parents' house. Sometimes it's  
7 just one. But I do parenting time with both of them I guess  
8 every other week. So if it's at Dad's one week, I'll do it  
9 with Mom's the other week.

10 Q In -- I -- I don't know if you can tell me, but in  
11 total how many hours a week is Firefly spending with this  
12 family?

13 A Oh, a week?

14 Q Yes.

15 A Let's see. So she has 30 hours of direct therapy  
16 and then I supervise at least an hour and do an hour of parent  
17 training a week. So yeah, like 32 hours. So quite a bit.  
18 Yeah.

19 Q Each week.

20 A I'm trying to think of the math. Or do you want me  
21 like an actual number or that --

22 Q No. No. I mean --

23 A Okay.

24 Q -- if that's -- if that's your best estimate, I'm

1 going to go with 32 hours each week. And that --

2 A Yeah.

3 Q -- includes -- I think you mentioned parent  
4 training. So can you explain what that is and what that  
5 entails?

6 A Yeah, definitely. So parent training is -- I have  
7 like a set of goals in the treatment plan that I have for  
8 parents and in six months I want to be able to, you know, meet  
9 those goals. So right now I have getting through at least 10  
10 lessons in a curriculum. The curriculum just goes over what  
11 is autism, what is ABA, and then it go -- dives into some, you  
12 know, teaching strategies and techniques that the parents can  
13 use while we're not there providing services.

14 Q And in your opinion, are both parents meeting those  
15 goals?

16 A Yeah. Yeah. Uh-huh (affirmative).

17 Q I think your testimony was that both parents are  
18 involved, correct?

19 A Yeah. Yeah.

20 Q Has there ever been a time where either parent has  
21 denied Firefly access to Ava or access to their home?

22 A No.

23 Q Has there ever been a disruption in Ava's services  
24 with Firefly that you can recall?

1           A     I guess there has been a -- a slight disruption with  
2 the insurance. We had a week off.

3           Q     And can you explain what happened with that?

4           A     We had --

5           MS. ISSO: Objection, relevance.

6           THE WITNESS: Oh.

7           THE COURT: Sorry.

8           MS. ISSO: She's asking her about insurance.

9           MS. ROSENBLUM: I asked if there was a disruption in  
10 services with Firefly and what happened.

11          MS. ISSO: And she said it was with insurance.

12          MS. ROSENBLUM: I didn't say insurance. The witness  
13 said insurance.

14          THE COURT: If the --

15          MS. ISSO: So --

16          THE COURT: If there was a disruption, I mean, that  
17 would be relevant and we'll find out why.

18          MS. ISSO: With insurance? It's relevant?

19          THE COURT: I don't know why Ms. -- but we'll find  
20 out why. Not to the why. The question is whether there was a  
21 disruption. So --

22          MS. ROSENBLUM: Right.

23          THE COURT: -- that can be answered.

24          MS. ROSENBLUM: And the witness said that there was

1 -- there was an issue with insurance and I asked her to  
2 explain.

3 THE COURT: Okay.

4 THE WITNESS: Okay. And so we had a pause in  
5 insurance coverage. And so we -- or I guess we had a change  
6 in insurance. So that led to a pause in services for a week.

7 BY MS. ROSENBLUM:

8 Q Are you aware of what specifically happened with the  
9 insurance coverage?

10 A Yeah. So the insurance switched to Health Plan of  
11 Nevada and we weren't contracted with them. And so we had to  
12 pause so that we were able to know that we can get coverage  
13 and pay for -- for those services.

14 Q Do you know which parent was responsible for the  
15 pause in insurance?

16 A So Dad's insurance --

17 MS. ISSO: Objection, relevance.

18 A -- switched and --

19 THE COURT: I'm sorry?

20 MS. ISSO: Objection, relevance.

21 THE COURT: It's going to be overruled, but, again,  
22 it's -- it's not going to make or break today. I mean, things  
23 happen with insurance all the time. So overruled.

24 THE WITNESS: Okay. So let's see. So insurance

1 switched under Dad. And so since they both had commercial,  
2 his birthday was before Mom's. And so his was primary. And  
3 his primary insurance isn't what we were in network with. So  
4 we had to pause services and tell her to switch it back over  
5 to Mom's.

6 BY MS. ROSENBLUM:

7 Q And that situation was remedied; is that correct?

8 A Yes. Yeah, very quickly I would say.

9 Q At no point was Ava discharged from Firefly,  
10 correct?

11 A No. No.

12 Q Okay. The last question I have to ask you is about  
13 the IEP --

14 A Uh-huh (affirmative).

15 Q -- that Counsel asked. You were present for that  
16 meeting; is that correct?

17 A Yeah. Yeah. Both meetings.

18 Q Why would Firefly be present for an IEP meeting?

19 A Yeah, so I like to provide consultation during IEP  
20 meetings. It's just kind of help support for families,  
21 advocate for Ava. Sometimes IEP meetings can be a little bit  
22 stressful for a parent and there's a lot that goes into it.  
23 And so I like to, you know, be there and support the parents  
24 through that process so we can make sure we have, you know,

1 effective goals to move forward for Ava in this school  
2 environment.

3 Q And to your knowledge, has Ava actually started in  
4 school now?

5 A Yeah, she started Monday.

6 Q And the IEP plan has been approved and accepted by  
7 the school to your knowledge?

8 A Yes. Uh-huh (affirmative).

9 Q Do you know what the accommodations are for Ava with  
10 regard to the IEP?

11 A Yeah. Uh-huh (affirmative).

12 Q Can you -- can you tell me what those accommodations  
13 are and tell the Judge what the accommodations are?

14 A Yeah. Yeah. So let's see, accommodations. So she  
15 has a lot of goals but as far as the accommodation lays she,  
16 you know, has supports for, you know, communication, visuals,  
17 having somebody kind of one-on-one support to help her  
18 initiate interaction and respond to her peers. And then she  
19 also has -- I know she had like a -- a bathroom goal. And I  
20 think it was relative to communicating surrounding that. She  
21 had some accommodations for her mass as well, not being --  
22 having to be required to wear one. And then I think there was  
23 one more. I'm kind of spacing off that last accommodation.

24 MS. ROSENBLUM: I don't know if the IEP is on the

1 witness stand. Can I approach, Judge, with the IEP? I don't  
2 know. If it's up there. It was Ms. Isso's exhibit.

3 THE COURT: I don't either, but yeah, I have no  
4 problem with that.

5 MS. ROSENBLUM: I don't know if it would --

6 Q Would it help to take a look at the IEP?

7 A Sure. Yeah.

8 Q Sure.

9 A Yeah, sounds good. When's a lot --

10 Q Here you go. All right.

11 A Thank you.

12 Q Do you want me to find her accommodations?

13 A If -- if it helps refresh your recollection on what  
14 the accommodations are.

15 Q Okay.

16 A Yeah, okay.

17 Q Does that help refresh your recollection?

18 A Yeah.

19 Q So -- so --

20 A Yeah.

21 Q -- yeah.

22 A I guess with the toileting one helping with pulling  
23 her pants up and down and checking in with the parents to  
24 communicate as far as potty training goes and writing

1 communication home for them to know what's going on in the  
2 school environment.

3 Q And I think you said one of the accommodations that  
4 she has one-to-one support; is that correct?

5 A Yeah, direct sport to -- support to help initiate  
6 interactions and respond to her peers.

7 Q Okay.

8 A Yeah.

9 Q So can you just for the record explain what that  
10 means? I -- I'm --

11 A Yeah.

12 Q I think we all know, but just so we have a clear  
13 record of what one-to-one support means.

14 A Yeah. So somebody directly with her I guess one --  
15 I don't know, one to -- like one -- one adult to one student  
16 ratio supporting her in initiating interactions and saying hi  
17 or, you know, if you want to play and then working on  
18 responding if peers were to come up to her and ask her  
19 questions.

20 Q Thank you for your testimony today.

21 A Yeah.

22 MS. ROSENBLUM: I don't have anything --

23 THE WITNESS: Of course.

24 MS. ROSENBLUM: -- further, Judge.

1 THE COURT: Ms. Isso, do you have any --  
2 MS. ISSO: No, no further questions.  
3 THE COURT: All right. Thank you for being here  
4 today --  
5 THE WITNESS: Yeah.  
6 THE COURT: -- to testify.  
7 THE WITNESS: Of course. Thank you.  
8 THE COURT: Have a good day. Stay safe and healthy.  
9 THE WITNESS: Thanks.  
10 MS. ISSO: And we're -- we're not going to call  
11 Jenny. We're not going to call her because --  
12 THE WITNESS: Okay.  
13 MS. ISSO: -- we're going to run out of time.  
14 THE WITNESS: Okay. Perfect. Sounds good. Thank  
15 you.  
16 (WITNESS EXCUSED)  
17 MS. ROSENBLUM: Thanks, Heather.  
18 MS. ISSO: Your Honor, I would prefer to leave at --  
19 because we only have -- if I can leave at 4:30 instead just so  
20 I'm not speeding. I noticed I have to speed lately because  
21 there's no traffic. So I'm there in time. And we -- we were  
22 now -- we only have, what, like a couple hours left? So we're  
23 going to save our time --  
24 THE COURT: You have two hours and four minutes left

1 now.

2 MS. ISSO: I'm going to save our time for our expert  
3 on Friday and we're going to call Mark James and what else?

4 THE COURT: Mark James now?

5 MS. ISSO: No, on --

6 THE COURT: Or on --

7 MS. ISSO: -- Friday.

8 THE COURT: -- Friday?

9 MS. ISSO: He -- he can only do Friday. And anyone  
10 else?

11 (COUNSEL AND CLIENT CONFER BRIEFLY)

12 MS. ISSO: Oh, and Bergquist. We got to save some  
13 time for Bergquist.

14 THE COURT: Listen, that's -- again, see, so I --  
15 trial management. However you need or want -- however you  
16 need to do it, but when time runs out, time is out. Make --  
17 make objections, but it does not -- it does not afford you --  
18 it includes cross examination. So do you have anybody --

19 MS. ISSO: No on else today.

20 THE COURT: Do you have anybody else you want to do  
21 for a bit? You have four hours and fifty minutes. And,  
22 again, I don't want to force you to --

23 MS. ROSENBLUM: No. No. I just -- again --

24 THE COURT: Because that makes --

1 MS. ROSENBLUM: -- I mean --  
2 THE COURT: -- that will make --  
3 MS. ROSENBLUM: -- I don't know if Mr. Blackham's  
4 still there.  
5 THE COURT: That will be --  
6 THE CLERK: He's not.  
7 THE COURT: See, that gets us the -- because we're  
8 doing it short, that cuts us on Friday. So we're either  
9 starting early or going late because right now we would have  
10 looking at both of your totals six hours and fifty-four  
11 minutes.  
12 MS. ISSO: I can get here at 8:30 on Friday. I'll  
13 rush. But I think I can get here at 8:30. And I don't know  
14 if I'll be using --  
15 MS. ROSENBLUM: I'll be here anytime you want me  
16 here.  
17 MS. ROSENBLUM: I don't know if we're going to use  
18 up all of our time to be honest with you. We might not even  
19 call Dr. Bergquist. Her report is already admitted then I  
20 don't need to call her. So I don't -- I might not even use  
21 all that time to be honest with you.  
22 THE COURT: So what did you say about Mr. Blackham?  
23 Do you want to --  
24 MS. ROSENBLUM: I don't know -- he's not my witness.

1 THE COURT: No, I --

2 MS. ROSENBLUM: I just know he's on -- he's been on  
3 the video screen all day. I don't know if he's still there.

4 THE CLERK: He's not there right now.

5 THE COURT: Yeah, that's on -- they're apparently  
6 done.

7 MS. ROSENBLUM: I don't know if -- I mean, it would  
8 seem like that would be a good -- you know, if we only have a  
9 few minutes and -- but I'll -- whatever the Court wants to do,  
10 I'm here. We're here. You tell me.

11 THE COURT: I mean, it's how you guys want to  
12 present your case. If they're saving the rest of their time  
13 for their expert and cross of yours, It would end up I guess  
14 turning to you to start. And if you're not -- the most we  
15 would go I guess would be 50 minutes or so.

16 MS. ROSENBLUM: 50? I can go --

17 THE COURT: What's that?

18 MS. ROSENBLUM: I can go 50. It's up to you.  
19 That's fine with me. I mean, if she's -- I guess the question  
20 is is whether -- aside from their experts, are they done  
21 calling witnesses?

22 MS. ISSO: We still have --

23 THE COURT: Listen.

24 MS. ISSO: -- Mark James.

1 MS. ROSENBLUM: Right.

2 MS. ISSO: And Dr. Carter. And if we have time,  
3 we'll call Kathleen Bergquist. And we might call her mother  
4 if we have time too.

5 MS. ROSENBLUM: But her mother's available now.  
6 That's my point.

7 THE COURT: Listen, it's -- she can present it how  
8 she wants. She has two hours left. Again, to reiterate, that  
9 includes cross examination. So --

10 MS. ISSO: And I got to save some time for closing  
11 arguments.

12 THE COURT: You can do written, if not. I am not  
13 adding additional time for closing arguments. If you have  
14 additional time you want to use that for closing arguments,  
15 you can use it for closing arguments. Otherwise --

16 MS. ISSO: That's what I just said. I said --

17 THE COURT: -- you can do it --

18 MS. ISSO: -- I got to save some time for closing  
19 arguments.

20 THE COURT: I'm sorry?

21 MS. ISSO: I got to save some time for closing  
22 arguments.

23 THE COURT: If you guys want a stip to do brief  
24 written closings, you can do that as well.

1 MS. ROSENBLUM: That's fine with me. I don't mind  
2 either way.

3 MS. ISSO: He's -- he's saying he wants me to just  
4 present it here, the closing argument.

5 THE COURT: Okay. And the Court's going to end up  
6 reading everything again including the pretrial memorandums,  
7 et cetera. So --

8 MS. ROSENBLUM: I --

9 THE COURT: -- Ms. Rosen -- who is it you would be  
10 calling?

11 MS. ROSENBLUM: I would call my client first.

12 THE COURT: Let -- let's just go ahead and start  
13 that --

14 MS. ROSENBLUM: Yeah.

15 THE COURT: -- with the foundation --

16 MS. ROSENBLUM: That's --

17 THE COURT: -- stuff and we'll --

18 MS. ROSENBLUM: Get it --

19 THE COURT: -- stop by like --

20 MS. ROSENBLUM: -- going and --

21 THE COURT: -- 4:15 or --

22 MS. ROSENBLUM: -- go ahead.

23 THE COURT: -- 4:20 and we can at least get the  
24 basic stuff started.

1 MS. ROSENBLUM: Yeah.  
2 (WITNESS SUMMONED)  
3 MS. ROSENBLUM: Can I just ask a housekeeping? I'm  
4 sorry --  
5 THE COURT: Sure.  
6 MS. ROSENBLUM: -- before we start with that, can I  
7 ask a housekeeping question?  
8 THE COURT: Sure.  
9 MS. ROSENBLUM: The Court -- my understanding that  
10 the Court is admitting all of the OurFamilyWizard as Court's  
11 Exhibit 2, correct?  
12 THE COURT: It -- yes.  
13 MS. ROSENBLUM: And the Court --  
14 MS. ISSO: Wait, was -- what was the question?  
15 MS. ROSENBLUM: OurFamily -- the OurFamilyWizard or  
16 Talking --  
17 MS. ISSO: Oh, Exhibit 2?  
18 MS. ROSENBLUM: -- whatever they're using.  
19 MS. ISSO: We're requesting to admit one.  
20 MS. ROSENBLUM: Yeah. The Court intends to review  
21 those messages. Is that -- will the Court review the entirety  
22 of those messages or --  
23 THE COURT: I will peruse them. My preference is  
24 for people to put Bates stamps and specifics and closings.

1 That's why I'm submitting the written closings. And if not, I  
2 guess Ms. Isso would have to verbally bring it up. But the  
3 same as that big stack of text messages. I don't want to read  
4 all of their --

5 MS. ROSENBLUM: No, that's fine.

6 THE COURT: -- back and forth.

7 MS. ROSENBLUM: I'm ready to go.

8 THE COURT: Okay. All right. So we'll call it JAVS  
9 3:40, starting at 3:40. All right. Ms. Rosenblum.

10 MS. ROSENBLUM: All right.

11 THE COURT: We'll -- we'll remind you --

12 MS. ISSO: More like 3:37.

13 THE COURT: More like?

14 MS. ISSO: More like 3:37, not 3:38.

15 THE COURT: What do you -- 3:38 -- what?

16 MS. ISSO: No, it wasn't 40. It was --

17 THE COURT: I'm going --

18 MS. ISSO: -- 3:38.

19 THE COURT: -- off JAVS. I have a running JAVS that  
20 was reset and if you guys want to check JAVS this entire time,  
21 you can. Right now JAVS says 3:40 and 17 seconds. Right up  
22 there. Right on the screen if you want to look, Ms. Isso.  
23 That's what the Court's been using.

24 MS. ROSENBLUM: We good?

1 THE COURT: Yeah.

2 MS. ROSENBLUM: All right.

3 NECHOLE GARCIA

4 called as a witness on her own behalf, having been previously  
5 sworn, testified upon her oath as follows on:

6 DIRECT EXAMINATION

7 BY MS. ROSENBLUM:

8 Q Nechole, how many children do you have?

9 A One.

10 Q And her name and date of birth, please?

11 A Ava Garcia-Shapiro, date of birth September 26th,  
12 2018.

13 Q The Plaintiff is the father, correct?

14 A Yeah.

15 Q He's on --

16 A Yes.

17 Q -- the birth certificate?

18 A Yes, he is.

19 Q And you heard his testimony and you agree he was  
20 present when Ava was born?

21 A Yes.

22 Q There's no dispute as to paternity; is that correct?

23 A That's correct.

24 Q Were you -- how -- tell me how you and the Plaintiff

1 met.

2 A 2012 or 2013 we met on an online dating site.

3 Q When did you begin a dating relationship?

4 A Approximately 2012 or 2013 is when we started dating  
5 and we dated about a year -- a year and four -- four months, a  
6 year-and-a-half. And then we broke up and resumed dating in I  
7 think April of 2017. And then we were together until July of  
8 2020.

9 Q You were asked questions about whether you and the  
10 Defendant -- I -- I don't know. Let me just ask it. Did you  
11 and the Defendant -- or you and the Plaintiff ever live  
12 together?

13 A In like 2014 for about two weeks but not from the  
14 2017 to 2020 period, no.

15 Q After Ava was born, have you resided with Eugene at  
16 all?

17 A No.

18 Q Was there a reason that you and Eugene decided not  
19 to live together?

20 A Eugene wanted to move in with me and live with me.  
21 I had issues with -- what I talked a little bit about earlier.  
22 It was some concerns with him and kind of putting his needs  
23 before Ava's. As well there was issues with him expecting me  
24 to financially support him. And so I wasn't comfortable with

1 him moving in with me. And before we had Ava, I made that  
2 clear. We discussed that. I believe we were on the same page  
3 about that.

4 Q The Plaintiff has asked you about seeing a  
5 therapist. Who do you see?

6 A Megan Carp.

7 Q And how long have you've seen Megan Carp?

8 A I started seeing her because Eugene and I were  
9 having problems and I wanted just some help coping with that.  
10 So -- and that was in June of 2020. So I've seen her from  
11 June of 2020 to the present. And I see her through Teladoc,  
12 so it's all through video.

13 Q Okay. Is Megan a -- is Ms. Carp a doctor?

14 A No, she's a licensed clinical social worker.

15 Q Okay. Has she given you a diagnosis?

16 A As far as I'm aware, I actually learned this through  
17 the custody evaluation, adjustment disorder with anxiety is  
18 what she stated.

19 Q Has she recommended that you take medication?

20 A No.

21 Q Has your diagnosis of adjustment disorder with  
22 anxiety affected you ability to parent Ava in any way?

23 A Not at all.

24 Q You mentioned that you started seeing Ms. Carp in

1 June 2020 because you were having issues with Eugene. Can you  
2 be more specific about what those issues were?

3 A Yeah, so I have to back up just a little bit more.  
4 Toward the end of 2019, and Eugene referenced this, there was  
5 a change in our relationship and it was because he had  
6 initially put some baby proofing measures in his home and then  
7 took -- took them out because his parents were complaining.  
8 And for me, that just started to -- I became very dissatisfied  
9 with the relationship and just started feeling like he wasn't  
10 putting Ava's safety needs first. And there were other  
11 incidents throughout the course of the next several months  
12 that were causing me to really have concern about whether he  
13 and I should stay together. He told me I think early in 2020  
14 that his son had reported being molested. I was adamant that  
15 he contact the police and report it. He didn't want to do  
16 that. That really bothered me. A little while later I did  
17 see on the nanny cam him it looked like to me sleeping or  
18 passed out while Ava was playing around him. That really  
19 concerned me.

20 And then in June I was at work. He was watching  
21 Ava. He texts me before I -- I would come home for lunch  
22 every day and -- or just about every day and he would text at  
23 me before I got home that Ava dropped a sippy cup on her  
24 wrist. He's -- I initially thought okay, that's weird, but

1 okay. I'll -- when -- I'm going to get home.

2 I come home, Ava's crying hysterically. Her wrist  
3 is a little swollen. And Eugene just asked me if I wanted to  
4 take her to the doctor. It bothered me that he hadn't already  
5 taken her so I immediately called work, took the afternoon  
6 off, took her to the doctor. He came with me. There was --  
7 the physician assistant that saw her was concerned that she  
8 may have a -- a fracture in her wrist and I was very upset  
9 because Eugene wasn't acting very concerned. He was there.  
10 He was definitely there at the appointment, but he was kind of  
11 trying to give -- have her hi five him and things that to me  
12 weren't appropriate considering.

13 Anyway, thankfully her wrist -- I -- I took her to  
14 get an X-ray. It was not fractured thankfully. But for me,  
15 that was kind of just the end and -- but I was struggling  
16 because injury did not grow up with an intact family. I  
17 really wanted that for my -- for Ava. And I did not want to  
18 end the relationship but it was -- had become so unhealthy and  
19 toxic and I had just had some concerns about Eugene's behavior  
20 that I just was in a rough place and wanted to start seeing  
21 somebody to help me work through it and figure out what to do.

22 Q You're continuing to see Ms. Carp; is that correct?

23 A Yes.

24 Q Why are you -- so obviously the relationship is --

1 has ended as --

2 A Yes.

3 Q -- far as a dating relationship goes --

4 A Uh-huh (affirmative).

5 Q -- or a romantic relationship, is that fair?

6 A Yes.

7 Q So why are you continuing to see Ms. Carp?

8 A Mostly it's the stress of this litigation to be  
9 honest with you. Eugene as been -- is like a switch flipped.  
10 Once I told him that I changed the locks to my home and -- and  
11 didn't want him just coming and going and he has just been  
12 incredibly hostile, disagreeable, alm -- on almost every  
13 issue, just seems to almost want to pick fights with me and --  
14 and bait me into arguments. It's just been very emotionally  
15 difficult. At doctors appointments he'll openly disagree with  
16 me or disparage me to whatever professional's in the room.  
17 It's just been very difficult and stressful. And so therapy's  
18 kind of been helping me manage it. And honestly this case has  
19 been -- it's been hard and the anxiety of what's going to  
20 happen and, you know, each court hearing. And so I've been  
21 seeing the -- the therapist to help me primarily with that.

22 Also on top of that, Ava was showing signs and  
23 symptoms of something not being right. And then there was a  
24 possibility of an autism diagnosis. And that itself is a lot

1 for -- was a lot for me to -- to handle and to try to adjust  
2 to and, you know, to me -- I'll speak for myself. My  
3 expectations have to -- had to shift once -- it would be an  
4 understanding that my daughter's not neurotypical and -- and  
5 my understanding of -- of what her outcomes are going to be  
6 and, you know, my dreams of what she be had to shift and  
7 change. So therapies help me a lot with that as well.

8 Q Okay. We've spent a lot of time talking about each  
9 other. Let's talk about Ava.

10 A Okay.

11 Q She's three?

12 A Yes.

13 Q She's in school?

14 A She just started this week.

15 Q Where does she go?

16 A To I think it's called John Dooley Elementary School  
17 in Henderson.

18 Q And how did the -- how did John Dooley become the  
19 school that Ava would attend?

20 A So I initiated getting her involved in early  
21 intervention and through that process as she got closer to the  
22 age of three Amber Harris, the developmental specialist,  
23 introduced us to the Child Find team for the school district  
24 kind of a transition plan. And so we met with the school

1 district and that kind of initiated the process of getting her  
2 into their pre-K program with the school district.

3 Q So how long has she been in school?

4 A Literally just started on Monday. So this -- today  
5 was her third day of school.

6 Q So far how is she doing?

7 A I've been email --

8 Q Two days?

9 A -- the -- I've been emailing the teacher. She's  
10 been doing well. She -- it's an adjustment for her. She --  
11 according to what the teacher responded, she's struggling with  
12 the social communication. She has had -- protested somewhat  
13 when she -- or Eugene and I have left her there. But all and  
14 all she's doing well and she seems to be adjusting and  
15 hopefully she's going to make friends. And they're -- they're  
16 going to offer -- she's going to get 30 minutes of speech  
17 therapy a week. She's going to get 30 minutes of occupational  
18 therapy a week. So she's going to get services in -- at  
19 school as well that are going to help her.

20 Q Okay. So let's talk about what Ava's needs are  
21 today. Communication has been discussed a lot. Does she  
22 communicate?

23 A Somewhat. As Heather said, a lot of her speech is  
24 that re -- Dr. Gaspar said it's echolalia and scripting. It's

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

NECHOLE GARCIA,

Appellant,

v.

EVGENY SHAPIRO,

Respondent.

Case No.: 83992-COA

**APPEAL FROM DECISION AND ORDER**

Eighth Judicial District Court of the State of Nevada

In and for the County of Clark

THE HONORABLE MATTHEW HARTER

DISTRICT COURT JUDGE

---

**AMENDED JOINT APPENDIX – VOL. 17**

---

Emily McFarling, Esq.  
Nevada Bar # 8567  
McFarling Law Group  
6230 W. Desert Inn Road  
Las Vegas, NV 89146  
(702) 565-4335  
*Attorney for Appellant,  
Nechole Garcia*

Jennifer Isso, Esq.  
Nevada Bar # 13157  
Isso & Hughes Law Firm  
8965 S. Eastern Ave  
Suite 120M  
Las Vegas, NV 89123  
(702) 434-4424  
*Attorney for Respondent,  
Evgeny Shapiro*

## INDEX OF JOINT APPENDIX

<b><u>VOLUME:</u></b>	<b><u>BATES NUMBER:</u></b>
1	000001 – 000250
2	000251 – 000500
3	000501 – 000750
4	000751 – 001000
5	001001 – 001250
6	001251 – 001500
7	001501 – 001750
8	001751 – 002000
9	002001 – 002250
10	002251 – 002500
11	002501 – 002750
12	002751 – 003000
13	003001 – 003250
14	003251 – 003500
15	003501 – 003750
16	003751 – 004000
17	004001 – 004250
18	004251 – 004500

19

004501 - 004750

20

004751 - 004896

**INDEX OF JIONT APPENDIX  
CHRONOLOGICAL ORDER**

<b><u>VOL.</u></b>	<b><u>DATE</u></b>	<b><u>DOCUMENT TITLE</u></b>	<b><u>BATES NO.</u></b>
1	08/07/2020	Complaint for Custody	JA000001 JA000005
1	08/07/2020	Financial Disclosure Form	JA000006 - JA000015
1	08/07/2020	Motion for Custody, Child Support, Attorney's Fees, and Other Related Relief	JA000016 - JA000025
1	08/07/2020	Amended Motion for Custody, Child Support, Attorney's Fees and Other Related Relief	JA000026 JA000035
1	08/14/2020	Answer and Counterclaim	JA000036 - JA000044
1	08/18/2020	Defendant's Opposition to Plaintiff's Amended Motion for Custody, Child Support and Other and Countermotion for Immediate Return of Child; for Primary Physical Custody; Child Support and Child Support Arrears; for Plaintiff to Share in Medical Costs for Child; for Attorney's Fees and All Other Related Relief	JA000045 - JA000061
1	08/26/2020	Reply In Support of Plaintiff's Amended Motion for Custody, Child Support, Attorney's Fees and Costs, and Other Related Relief	JA000062 - JA000074
1	08/26/2020	Plaintiff's Exhibits in Support of Plaintiff's Reply and Opposition	JA000075 - JA000161
1	09/04/2020	Def's General Financial Disclosure Form	JA000162 - JA000171
1	09/10/2020	Reply to Counterclaim	JA000172 - JA000174
1	09/11/2020	Exhibit in Support of Defendant's Opposition	JA000175 - JA000176
1	09/14/2020	Supplemental Exhibit in Support of Defendant's Opposition	JA000177 - JA000196
1	09/17/2020	Order for the Our Family Wizard Website Seervices	JA000197 - JA000198
1	10/29/2020	SAO CUSTODY EVALUATION	JA000199 - JA000201

1	11/03/2020	Notice of Entry of Stipulation and Order	JA000202 - JA000206
1	11/25/2020	D-20-612006-C - Shaprio v. Garcia - ORDR - Order After Hearing	JA000207 - JA000212
1	11/25/2020	Notice Of Entry Of Order	JA000213 - JA000220
1	12/21/2020	Order Adopting this Court's Holiday Schedule re Christmas D612006	JA000221 - JA000226
1	12/21/2020	Defendant's Objection To Plaintiff s Ex Parte Request For Holiday Visitation Time On Order Shortening Time	JA000227 - JA000231
1	12/21/2020	Defendant's Motion For Reconsideration Motion for Reconsideration and Objection and Plaintiff's Countermotion to Extend Custodial Time and For Attorney's Fees and Other Related Relief	JA000232 JA000240
1	12/28/2020	Minute Order Modifying the Decision and Order filed 12-21-20	JA000241 - JA000243
1-2	12/28/2020	Plaintiff's Opposition to Defendant's Motion for Reconsideration and Objection and Plaintiff's Countermotion to Extend Custodial Time and For Attorney's Fees and Other Related Relief	JA000244 - JA000253
2	12/28/2020	Exhibits in Support of Plaintiff's Opposition and Countermotion	JA000254 - JA000261
2	01/04/2021	Plaintiff's Re-Notice of Countermotion	JA000262
2	03/11/2021	Defendant s Reply To Plaintiff s Opposition To Defendant's Motion For Reconsideration And Objection And Plaintiff's Countermotion To Extend Custodial Time And For Attorney s Fees And Other Related Relief	JA000263 - JA000268
2	03/16/2021	PLAINTIFF S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION	JA000269 - JA000272
2	03/23/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY AND EXPERT REPORT PURSUANT TO NRCP 16.1(a)(2)	JA000273 - JA000286

2	03/23/2021	Custody Evaluation by Kathleen L. Bergquist, Licensed Clinical Social Worker <sup>1</sup>	JA000287 - 000319
2	04/20/2021	Order From Hearing On March 16, 2021	JA000320 - JA000324
2	05/04/2021	Notice of Scheduling Settlement Conference	JA000325 - JA000328
2	05/04/2021	Notice Of Entry Of Order	JA000329 - JA000334
2	05/29/2021	Notice of Seminar Completion EDCR 5.302	JA000335
2	05/29/2021	Financial Disclosure Form	JA000336 - JA000343
2	07/13/2021	Settlement Conference Minutes	JA000344 - JA000345
2	07/13/2021	Expert Witness List	JA000346 - JA000369
2	07/19/2021	PLAINTIFF S MOTION FOR A SANCTIONS AND FOR ATTORNEY S FEES AND COSTS AND OTHER RELATED RELIEF	JA000370 - JA000378
2	07/20/2021	Defendant's Opposition to Plaintiff's Motion for Sanctions and for Attorney's Fees and Costs and Other Related Relief Defendant's Countermotion for Plaintiff's Motion to Be Stricken; for Attorney's Fees and Costs; for Related Relief	JA000379 - JA000395
2	08/12/2021	Order Setting Civil Non-Jury Trial	JA000395 - 000400
2	09/07/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY PURSUANT TO NRCP 16.1(a)(2)	JA000401 - JA000414
2	09/08/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY PURSUANT TO NRCP 16.1(a)(2)	JA000415 - JA000429
2	09/15/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS REPORT	JA000430 - JA000437
2	09/21/2021	Trial Subpoena - Video Testimony Only	JA000438 - JA000440

---

<sup>1</sup> Submitted under seal subject to Court approval.

2	09/21/2021	Trial Subpoena - Video Testimony Only For Dr Mario Gaspar De Alba	JA000441 - JA000443
2	09/22/2021	Trial Subpoena - Video Testimony Only For Marine Lancz	JA000444 - JA000446
2	09/23/2021	Notice Of Taking Remote Deposition	JA000447 - JA000448
2	10/05/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000449 - JA000456
2	10/05/2021	General Financial Disclosure Form	JA000457 - JA000466
2	10/06/2021	Financial Disclosure Form	JA000467 - JA000482
2	10/07/2021	Plaintiff's Pre-Trial Memorandum	JA000483 - JA000492
2-3	10/08/2021	Defendant's Pretrial Memorandum	JA000493 - JA000530
3	10/09/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000531 - JA000539
3	10/14/2021	Calendar Call - Evidentiary Hearing	JA000540
3	10/15/2021	Financial Disclosure Form	JA000541 - JA000556
3	10/15/2021	Defendant's Emergency Motion for Witness Accomodation, or Alternatively, to Continue Trial on an order Shortening Time	JA000557 - JA000573
3	10/28/2021	Plaintiff's Reply to Defendant's Opposition to Motion for Witness Accommodation	JA000574 - JA000577
3	10/28/2021	Defendant s Limited Opposition To Plaintiff s Motion For Witness Accommodation And Request For Attorney s Fees And Costs Hearing Minutes	JA000578
3	11/02/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000579 - JA000587
3	11/03/2021	Trial Exhibit: Child's TMG Exit Records. Eugene	JA000588 - JA000612
3	11/03/2021	Trial Exhibit: Carter Counseling Autism Treatment Plan	JA000613 - JA000637
3	11/03/2021	Trial Exhibit: Firefly treatment plan for ABA Therapy. Eugene 4484-4508	JA000638 - JA000643

3	11/03/2021	Trial Exhibit: Dr. Gaspar Pediatric Report. Eugene 4462-4467	JA000644 - JA000649
3-4	11/03/2021	Trial Exhibit: Teladoc Health inc. records for Nechole Garcia. Eugene 3997-4111 <sup>2</sup>	JA000650 - JA000764
4	11/03/2021	Trial Exhibit: Pictures of child with scratches and diaper rash. Eugene 3715-3732	JA000765 - JA000782
4	11/03/2021	Trial Exhibit: Pictures of child with her brothers. Eugene 3700-3714	JA000783 - JA000797
4-5	11/03/2021	Trial Exhibit: Therapy Manage Group CARS Report Information. Eugene 3140-3152	JA000798 - JA000810
5	11/03/2021	Trial Exhibit: 2021 Additional Child Photos and Videos. Eugene 3134-3137	JA000811 - JA000814
5,6,7	11/03/2021	Trial Exhibit I: All Our Family Wizard Communications, Updated	JA000815 - JA001715
7 -15	11/03/2021	Trial Exhibit: Text Messages between the parties. Eugene 0845-2754	JA001716 - JA003625
15	11/03/2021	Trial Exhibit G: Constructive Arrears	JA003626 - JA003669
15	11/03/2021	Trial Exhibit: Dr. Pickar' s Report: Defendant Ex	JA003670 JA003684
15	11/03/2021	Evidentiary Hearing - Minutes	JA003685
15-17	11/03/2021	Transcript of Hearing: Evidentiary Hearing (Corrected)	JA003686 - JA004027
17	11/04/2021	Telephonic Hearing - Minutes	JA004028
17	11/04/2021	Transcript of Hearing: Telephonic Hearing	JA004029 - JA004037
17-18	11/05/2021	Transcript of Hearing: Evidentiary Hearing	JA004038 - JA004344
18	11/05/2021	Trial Exhibit: Plaintiff's PayPal Account. Eugene 0828-0844	JA004345 - JA004361
18	11/05/2021	Trial Exhibit: Child expenses and receipt from Dr. Berquist. Eugene 0800-0823	JA004384- JA004385
18	11/05/2021	Plaintiff's Mortgage Statement. Eugene 0795-0799	JA004386- JA004390
18	11/05/2021	Trial Exhibit: Plaintiff's traceable expenses report. Eugene 0793-0794	JA004391- JA004392

---

<sup>2</sup> Submitted under seal subject to Court approval.

18	11/05/2021	Trial Exhibit: Ledger of checks and cash given to Defendant. Eugene 0706-0707	JA004393 - JA004394
18	11/05/2021	Trial Exhibit: Child Medical Expenses. Eugene 0701-0705	JA004395- JA004399
18	11/05/2021	Trial Exhibit: Amazon Manage Order. - Eugene 0624-0625	JA004400- JA004401
18	11/05/2021	Trial Exhibit: Wal-Mart receipts. Eugene 0566-0623	JA004402- JA004459
18	11/05/2021	Trial Exhibit: Proof of Purchases for Baby Proofing. Eugene 0318-0322	JA004460- JA004464
18	11/05/2021	Trial Exhibit: Proof of Humidifier Purchase; Eugene 0316-0317	JA004465 JA004466
18-19	11/05/2021	Trial Exhibit: Checks and Cash Paid to Defendant by Plaintiff; Eugene 0080-0121	JA004468 JA004508
19	11/05/2021	Trial Exhibit: Statement related to health insurance for the minor child, Defendant Ex	JA004509 JA004512
19	11/05/2021	Trial Exhibit: Plaintiffs Bank Records, Defendant Ex W-0001 - Defendant Ex W-0086	JA004513 JA004599
19	11/05/2021	Trial Exhibit Z: Coparenting Concerns Involving CCSD, Defendant Ex Z-0001 to Defendant Ex Z-0015	JA004600 - JA004615
19	11/05/2021	State of Nevada Individualized Educational Program (IEP)	JA004616 JA004636
19	11/05/2021	Trial Exhibit: Defendant's 2018 Tax Return	JA004637
19	11/05/2021	Trial Exhibit: Defendant's 2019 Tax Return	JA004638 - JA004640
19	11/05/2021	Trial Exhibit: Defendant's 2020 Tax Return	JA004641 JA004645
19	11/05/2021	Trial Exhibit: Plaintiff's 2018 Tax Return	JA004646- JA004653
19	11/05/2021	Trial Exhibit: Plaintiff's 2019 Tax Return	JA004654 JA004665
19	11/05/2021	Trial Exhibit: Plaintiff's 2020 Tax Return	JA004666 JA004677
19	11/16/2021	SAO TO EXTENDED DUE DATE OF BRIEF	JA004678 JA004680
19	11/23/2021	Defendants Closing Brief	JA004681

			JA004690
19	11/24/2021	Defendant's Nechole Garcia's Brief Regarding Child Support	JA004691 JA004695
19	11/25/2021	PLAINTIFF S CLOSING BRIEF	JA004696 JA004705
19	11/26/2021	PLAINTIFF S CLOSING BRIEF	JA004706 JA004715
19	12/15/2021	Decision and Order for November 03, 2021 and November 05, 2021 Evidentiary Hearings	JA004716 JA004728
19	12/18/2021	Notice of Appeal	JA004729 JA004731
19	12/18/2021	Plaintiff's Motion For Attorney's Fees And Reimbursement Of Costs And Memorandum Of Fees And Costs Incurred	JA004732 JA004750
20	12/21/2021	Exhibits In Support Of Defendants Motion For Attorneys Fees And Costs Pursuant To NRCP 54(d)	JA004751 JA004829
20	12/21/2021	Defendant's Motion For Attorney's Fees and Costs Pursuant To NRCP 54(d)	JA004830 JA004846
20	12/22/2021	Defendant's Opposition to Plaintiff's Motion for Attorney's Fees and Reimbursement of Costs and Memorandum of Fees and Costs Incurred	JA004847 JA004862
20	12/27/2021	Plaintiff's Opposition To Defendant's Motion For Attorney's Fees And Costs And Counter Motion For Sanctions Under NRCP 11	JA004863 JA004874
20	12/29/2021	Order Deferring Motions Pending Appeal	JA004875 JA004877
20	01/06/2022	Emergency Motion to Stay The Court's Order	JA004878 JA004885
20	01/09/2022	Opposition to Motion to Stay	JA004886 JA004892
20	01/12/2022	Notice of Entry of Decision and Order	JA004893
20	01/12/2022	Decision and Order Denying Request for Stay	JA004894 JA004896

**INDEX OF JOINT APPENDIX  
ALPHABETICAL ORDER**

<b><u>VOL.</u></b>	<b><u>DATE</u></b>	<b><u>DOCUMENT TITLE</u></b>	<b><u>BATES NO.</u></b>
1	08/07/2020	Amended Motion for Custody, Child Support, Attorney's Fees and Other Related Relief	JA000026 JA000035
1	08/14/2020	Answer and Counterclaim	JA000036 - JA000044
3	10/14/2021	Calendar Call - Evidentiary Hearing	JA000540
1	08/07/2020	Complaint for Custody	JA000001 JA000005
2	03/23/2021	Custody Evaluation by Kathleen L. Bergquist, Licensed Clinical Social Worker <sup>3</sup>	JA000287 - 000319
1	11/25/2020	D-20-612006-C - Shaprio v. Garcia - ORDR - Order After Hearing	JA000207- JA000212
20	01/12/2022	Decision and Order Denying Request for Stay	JA004894 JA004896
19	12/15/2021	Decision and Order for November 03, 2021 and November 05, 2021 Evidentiary Hearings	JA004716 JA004728
3	10/28/2021	Defendant s Limited Opposition To Plaintiff s Motion For Witness Accommodation And Request For Attorney s Fees And Costs	JA000578
2	03/11/2021	Defendant s Reply To Plaintiff s Opposition To Defendant's Motion For Reconsideration And Objection And Plaintiff's Countermotion To Extend Custodial Time And For Attorney s Fees And Other Related Relief	JA000263 - JA000268
1	12/21/2020	Defendant's Motion For Reconsideration Motion for Reconsideration and Objection and Plaintiff's Countermotion to Extend Custodial Time and For Attorney's Fees and Other Related Relief	JA000232 JA000240

---

<sup>3</sup> Submitted under seal subject to Court approval.

1	12/21/2020	Defendant's Objection To Plaintiff's Ex Parte Request For Holiday Visitation Time On Order Shortening Time	JA000227 - JA000231
19	11/23/2021	Defendants Closing Brief	JA004681 JA004690
3	10/15/2021	Defendant's Emergency Motion for Witness Accommodation, or Alternatively, to Continue Trial on an order Shortening Time	JA000557 - JA000573
20	12/21/2021	Defendant's Motion For Attorney's Fees and Costs Pursuant To NRCP 54(d)	JA004830 JA004846
19	11/24/2021	Defendant's Nechole Garcia's Brief Regarding Child Support	JA004691 JA004695
1	08/18/2020	Defendant's Opposition to Plaintiff's Amended Motion for Custody, Child Support and Other and Countermotion for Immediate Return of Child; for Primary Physical Custody; Child Support and Child Support Arrears; for Plaintiff to Share in Medical Costs for Child; for Attorney's Fees and All Other Related Relief	JA000045 - JA000061
20	12/22/2021	Defendant's Opposition to Plaintiff's Motion for Attorney's Fees and Reimbursement of Costs and Memorandum of Fees and Costs Incurred	JA004847 JA004862
2	07/20/2021	Defendant's Opposition to Plaintiff's Motion for Sanctions and for Attorney's Fees and Costs and Other Related Relief Defendant's Countermotion for Plaintiff's Motion to Be Stricken; for Attorney's Fees and Costs; for Related Relief	JA000379 - JA000395
2-3	10/08/2021	Defendant's Pretrial Memorandum	JA000493 - JA000530
1	09/04/2020	Def's General Financial Disclosure Form	JA000162 - JA000171
20	01/06/2022	Emergency Motion to Stay The Court's Order	JA004878 JA004885
15	11/03/2021	Evidentiary Hearing - Minutes	JA003685
1	09/11/2020	Exhibit in Support of Defendant's Opposition	JA000175 - JA000176

20	12/21/2021	Exhibits In Support Of Defendants Motion For Attorneys Fees And Costs Pursuant To NRCP 54(d)	JA004751 JA004829
2	12/28/2020	Exhibits in Support of Plaintiff's Opposition and Countermotion	JA000254 - JA000261
2	07/13/2021	Expert Witness List	JA000346 - JA000369
1	08/07/2020	Financial Disclosure Form	JA000006 - JA000015
2	05/29/2021	Financial Disclosure Form	JA000336 - JA000343
2	10/06/2021	Financial Disclosure Form	JA000467 - JA000482
3	10/15/2021	Financial Disclosure Form	JA000541 - JA000556
2	10/05/2021	General Financial Disclosure Form	JA000457 - JA000466
1	12/28/2020	Minute Order Modifying the Decision and Order filed 12-21-20	JA000241 - JA000243
1	08/07/2020	Motion for Custody, Child Support, Attorney's Fees, and Other Related Relief	JA000016 - JA000025
19	12/18/2021	Notice of Appeal	JA004729 JA004731
20	01/12/2022	Notice of Entry of Decision and Order	JA004893
1	11/25/2020	Notice Of Entry Of Order	JA000213 - JA000220
2	05/04/2021	Notice Of Entry Of Order	JA000329 - JA000334
1	11/03/2020	Notice of Entry of Stipulation and Order	JA000202 - JA000206
2	05/04/2021	Notice of Scheduling Settlement Conference	JA000325 - JA000328
2	05/29/2021	Notice of Seminar Completion EDCR 5.302	JA000335
2	09/23/2021	Notice Of Taking Remote Deposition	JA000447 - JA000448
20	01/09/2022	Opposition to Motion to Stay	JA004886 JA004892

1	12/21/2020	Order Adopting this Court's Holiday Schedule re Christmas D612006	JA000221 - JA000226
20	12/29/2021	Order Deferring Motions Pending Appeal	JA004875 JA004877
1	09/17/2020	Order for the Our Family Wizard Website Seervices	JA000197 - JA000198
2	04/20/2021	Order From Hearing On March 16, 2021	JA000320 - JA000324
2	08/12/2021	Order Setting Civil Non-Jury Trial	JA000395 - 000400
19	11/25/2021	PLAINTIFF S CLOSING BRIEF	JA004696 JA004705
19	11/26/2021	PLAINTIFF S CLOSING BRIEF	JA004706 JA004715
2	09/15/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS REPORT	JA000430 - JA000437
2	03/23/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY AND EXPERT REPORT PURSUANT TO NRCP 16.1(a)(2)	JA000273 - JA000286
2	09/07/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY PURSUANT TO NRCP 16.1(a)(2)	JA000401 - JA000414
2	09/08/2021	PLAINTIFF S DISCLOSURE OF EXPERT WITNESS TESTIMONY PURSUANT TO NRCP 16.1(a)(2)	JA000415 - JA000429
2	07/19/2021	PLAINTIFF S MOTION FOR A SANCTIONS AND FOR ATTORNEY S FEES AND COSTS AND OTHER RELATED RELIEF	JA000370 - JA000378
2	03/16/2021	PLAINTIFF S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION	JA000269 - JA000272
2	10/05/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000449 - JA000456
3	10/09/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000531 - JA000539
3	11/02/2021	PLAINTIFF S TRIAL EXHIBIT PACKET	JA000579 - JA000587
18	11/05/2021	Plaintiff's Mortgage Statement. Eugene 0795-0799	JA004386- JA004390

1	08/26/2020	Plaintiff's Exhibits in Support of Plaintiff's Reply and Opposition	JA000075 - JA000161
19	12/18/2021	Plaintiff's Motion For Attorney's Fees And Reimbursement Of Costs And Memorandum Of Fees And Costs Incurred	JA004732 JA004750
20	12/27/2021	Plaintiff's Opposition To Defendant's Motion For Attorney's Fees And Costs And Counter Motion For Sanctions Under NRCP 11	JA004863 JA004874
1-2	12/28/2020	Plaintiff's Opposition to Defendant's Motion for Reconsideration and Objection and Plaintiff's Countermotion to Extend Custodial Time and For Attorney's Fees and Other Related Relief	JA000244 - JA000253
2	10/07/2021	Plaintiff's Pre-Trial Memorandum	JA000483 - JA000492
2	01/04/2021	Plaintiff's Re-Notice of Countermotion	JA000262
3	10/28/2021	Plaintiff's Reply to Defendant's Opposition to Motion for Witness Accommodation	JA000574 - JA000577
1	08/26/2020	Reply In Support of Plaintiff's Amended Motion for Custody, Child Support, Attorney's Fees and Costs, and Other Related Relief	JA000062 - JA000074
1	09/10/2020	Reply to Counterclaim	JA000172 - JA000174
1	10/29/2020	SAO CUSTODY EVALUATION	JA000199 - JA000201
19	11/16/2021	SAO TO EXTENDED DUE DATE OF BRIEF	JA004678 JA004680
2	07/13/2021	Settlement Conference Minutes	JA000344 - JA000345
19	11/05/2021	State of Nevada Individualized Educational Program (IEP)	JA004616 JA004636
1	09/14/2020	Supplemental Exhibit in Support of Defendant's Opposition	JA000177 - JA000196
17	11/04/2021	Telephonic Hearing - Minutes	JA004028
15-17	11/03/2021	Transcript of Hearing: Evidentiary Hearing	JA003686 - JA004027
17-18	11/05/2021	Transcript of Hearing: Evidentiary Hearing	JA004038 - JA004344

17	11/04/2021	Transcript of Hearing: Telephonic Hearing	JA004029 - JA004037
15	11/03/2021	Trial Exhibit G: Constructive Arrears	JA003626 - JA003669
5,6,7	11/03/2021	Trial Exhibit I: All Our Family Wizard Communications, Updated	JA000815 - JA001715
19	11/05/2021	Trial Exhibit Z: Coparenting Concerns Involving CCSD, Defendant Ex Z-0001 to Defendant Ex Z-0015	JA004600 - JA004615
5	11/03/2021	Trial Exhibit: 2021 Additional Child Photos and Videos. Eugene 3134-3137	JA000811 - JA000814
18	11/05/2021	Trial Exhibit: Amazon Manage Order. - Eugene 0624-0625	JA004400- JA004401
3	11/03/2021	Trial Exhibit: Carter Counseling Autism Treatment Plan	JA000613 - JA000637
18-19	11/05/2021	Trial Exhibit: Checks and Cash Paid to Defendant by Plaintiff; Eugene 0080-0121	JA004468 JA004508
18	11/05/2021	Trial Exhibit: Child expenses and receipt from Dr. Berquist. Eugene 0800-0823	JA004384- JA004385
18	11/05/2021	Trial Exhibit: Child Medical Expenses. Eugene 0701-0705	JA004395- JA004399
3	11/03/2021	Trial Exhibit: Child's TMG Exit Records. Eugene	JA000588 - JA000612
19	11/05/2021	Trial Exhibit: Defendant's 2018 Tax Return	JA004637
19	11/05/2021	Trial Exhibit: Defendant's 2019 Tax Return	JA004638 - JA004640
19	11/05/2021	Trial Exhibit: Defendant's 2020 Tax Return	JA004641 JA004645
3	11/03/2021	Trial Exhibit: Dr. Gaspar Pediatric Report. Eugene 4462-4467	JA000644 - JA000649
15	11/03/2021	Trial Exhibit: Dr. Pickar' s Report: Defendant Ex	JA003670 JA003684
3	11/03/2021	Trial Exhibit: Firefly treatment plan for ABA Therapy. Eugene 4484-4508	JA000638 - JA000643
18	11/05/2021	Trial Exhibit: Ledger of checks and cash given to Defendant. Eugene 0706-0707	JA004393 - JA004394
4	11/03/2021	Trial Exhibit: Pictures of child with her brothers. Eugene 3700-3714	JA000783 - JA000797

4	11/03/2021	Trial Exhibit: Pictures of child with scratches and diaper rash. Eugene 3715-3732	JA000765 - JA000782
19	11/05/2021	Trial Exhibit: Plaintiff's 2018 Tax Return	JA004646- JA004653
19	11/05/2021	Trial Exhibit: Plaintiff's 2019 Tax Return	JA004654 JA004665
19	11/05/2021	Trial Exhibit: Plaintiff's 2020 Tax Return	JA004666 JA004677
19	11/05/2021	Trial Exhibit: Plaintiffs Bank Records, Defendant Ex W-0001 - Defendant Ex W-0086	JA004513 JA004599
18	11/05/2021	Trial Exhibit: Plaintiff's PayPal Account. Eugene 0828-0844	JA004345 - JA004361
18	11/05/2021	Trial Exhibit: Plaintiff's traceable expenses report. Eugene 0793-0794	JA004391- JA004392
18	11/05/2021	Trial Exhibit: Proof of Humidifier Purchase; Eugene 0316-0317	JA004465 JA004466
18	11/05/2021	Trial Exhibit: Proof of Purchases for Baby Proofing. Eugene 0318-0322	JA004460- JA004464
19	11/05/2021	Trial Exhibit: Statement related to health insurance for the minor child, Defendant Ex	JA004509 JA004512
3-4	11/03/2021	Trial Exhibit: Teladoc Health inc. records for Nechole Garcia. Eugene 3997-4111 <sup>4</sup>	JA000650 - JA000764
7 -15	11/03/2021	Trial Exhibit: Text Messages between the parties. Eugene 0845-2754	JA001716 - JA003625
4-5	11/03/2021	Trial Exhibit: Therapy Manage Group CARS Report Information. Eugene 3140-3152	JA000798 - JA000810
18	11/05/2021	Trial Exhibit: Wal-Mart receipts. Eugene 0566-0623	JA004402- JA004459
2	09/21/2021	Trial Subpoena - Video Testimony Only	JA000438 - JA000440
2	09/21/2021	Trial Subpoena - Video Testimony Only For Dr Mario Gaspar De Alba	JA000441 - JA000443
2	09/22/2021	Trial Subpoena - Video Testimony Only For Marine Lancz	JA000444 - JA000446

---

<sup>4</sup> Submitted under seal subject to Court approval.

## **CERTIFICATE OF SERVICE**

I, an employee of McFarling Law Group, hereby certify that on the 28<sup>th</sup> day of March, 2022, I served a true and correct copy of this Joint Appendix as follows:

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

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

Jennifer Isso, Esq.  
[ji@issohugheslaw.com](mailto:ji@issohugheslaw.com)

/s/ Alex Aguilar  
Alex Aguilar

1 repeating what -- what you say to her out of context or she --  
2 she hasn't -- she can mem -- her memory is amazing. She can  
3 memorize just whole books and she'll just recite parts of  
4 books. She'll recite a whole section of a song. Functionally  
5 though, the functional communication is -- is a big issue.  
6 She's gotten better. And --

7 Q So when you say functional --

8 A Yeah.

9 Q -- communication, what do you mean?

10 A Like making requests, communicating what she -- when  
11 she wants something, communicating when she wants you to stop,  
12 you know, asking for help. Those things where there's a  
13 function to it I guess is what I'm trying to say.

14 Q Okay. Physically does she have limitations?

15 A Not really. I think she's pretty much on point with  
16 her gross -- like with her gross motor stuff. She does have a  
17 very, very limited diet, very, very picky eater. And -- and  
18 her weight has dropped a little off the -- a little bit she's  
19 still pro -- her weight's still progressing. So I would say  
20 that physically she's -- all and all she's okay.

21 Q The picky eating and limited diet, has --

22 A Yes.

23 Q -- that been attributed as part of the autism  
24 diagnosis that she has?

1           A     Yes, it has.

2           Q     What are her limitations with regard to eating and  
3 diet?

4           A     So Ava is -- it is very, very, very difficult to get  
5 her to try new things, period. But food in particular she's  
6 very resistant to trying new foods. When we first started  
7 early intervention, she only ate three to four foods. It's  
8 expanded now where there's a couple more of the same type of  
9 food but maybe a different flavor. But it's still very  
10 difficult. So that is something ABA's working on and also she  
11 needs a feeding therapist as well.

12          Q     Explain what the feeding therapy is and what it does  
13 for her.

14          A     So it'll -- it -- it -- Dr. Gaspar recommended  
15 speech/feeding. So they'll also work on speech with her. But  
16 it -- I believe will help -- the -- the feeding therapist will  
17 kind of figure out what the issue is, is it sensory, is it the  
18 texture of the food, is it the smell of the food or is it that  
19 she just doesn't want to try anything new, exactly what the  
20 issue is, and then help her with that hopefully by gradually  
21 introducing other foods and hopefully just to help her  
22 encourage her to eat a more varied diet.

23          Q     And the testimony through the Plaintiff's portion  
24 was that Ava also has a number of food allergies; is that

1 correct?

2 A Yes, she does.

3 Q Can you again recite what the --

4 A Yes.

5 Q -- allergies are?

6 A Soy, peanuts, which we recently tested and it is  
7 expanded to other nuts as well, dairy, eggs. I feel like I'm  
8 -- oh, soy, peanuts, dairy, eggs. I feel like I'm missing  
9 one.

10 Q Wheat?

11 A She was -- originally we thought wheat but then the  
12 doctor later said it was fine. Maybe it's -- maybe dogs is  
13 the other one.

14 Q Okay. Her diet -- I think you said she has expanded  
15 her diet now. So is it still limited in what you would --

16 A Yes.

17 Q -- I guess what you understand of a neurotypical  
18 child of Ava's age?

19 A Yes. So she -- so she eats the -- the Beech-Nut  
20 fruity oat bars in my home. I have expanded it where she will  
21 try a few other cereal bars. That's the expansion. She eats  
22 sun butter and jelly sandwiches and cheerios. And she only  
23 drinks water at my home out of a particular cup. She won't  
24 drink out of any other cup. So it's very, very limited.

1 Q So we talked about the vocabulary. We talked about  
2 the diet, the gross motor skills. Her -- you -- you mentioned  
3 that she can memorize whole books.

4 A Yes.

5 Q Is she able to read for a child her age?

6 A So what -- what Ava can do, she can memorize the  
7 word. And then if she sees the word again, she can say the  
8 word. So it's -- her brain operates very differently from my  
9 if of a neurotypical kid. Like I -- I learned to phonetically  
10 sound out a word. Ava just learned that a-n-d means and. And  
11 so she sees that word, she says and. So in that sense if she  
12 can memorize enough words and then see them, yes, she can say  
13 those words out loud. I don't believe she understands what  
14 she's -- she comprehends it or that it has, you know, meaning  
15 for her other than she's just repeating what she's memorized  
16 if that makes sense.

17 Q How about counting? Can she --

18 A Ava --

19 Q -- count?

20 A Ava can count to at least 30. I think heard her  
21 count to 31. And she can even count from 10 on back -- 10 to  
22 1. So yes.

23 Q Okay.

24 A Uh-huh (affirmative).

1 Q ABCs, does she know her ABCs?

2 A She does. Uh-huh (affirmative).

3 Q Dad mentioned that Ava is musically gifted. Have  
4 you been able to see that?

5 A Yeah. So she -- well, she does have a very good  
6 sense of rhythm. She does have a very pretty voice. She  
7 loves music. And that's pretty much what I've seen. She  
8 loves singing -- singing songs and stuff and she loves when I  
9 sing with her and sings stuff together and year.

10 Q How does Ava do when you introduce new people to  
11 her?

12 A Initially, she is not at all interested. And  
13 actually, I -- and this still happens with me, not as much,  
14 but like even during early intervention early on if I were  
15 Eugene were even talking to someone else, she would get upset  
16 and start protesting. She still does it with me sometimes but  
17 it's gotten better since she started ABA therapy. So she does  
18 -- it take her a long time to warm up to new people.

19 Q When you say protesting or describe her -- and even  
20 with Heather describing her crying or -- can you be more  
21 specific? Give me an example of what that looks like.

22 A Okay. So she'll -- Ava doesn't say no. She goes  
23 na, na, na, na, na. And she might just start na, na, saying  
24 it loudly. She might start whining loudly. And if you keep

1 going, she would start crying. And if you keep going after  
2 that, the crying will get more intense and get really bad.  
3 And so I usually -- I -- I won't speak for Eugene, but I  
4 usually back off way before we get to that point because I  
5 hate seeing her that way. But it usually involves her kind of  
6 whining, repeating a phrase over and over again, it then it  
7 escalates to crying. I have seen her sometimes more lately  
8 start to kick and flail a little bit. I guess I'm just  
9 demonstrating a tantrum, but it's kind of tantruming type  
10 behaviors.

11 Q Has she ever injured herself having a tantrum?

12 A Not that I'm aware of.

13 Q Does it ever escalate to the point that you're  
14 concerned that she could injure herself or injure you I guess?

15 A I'm not concerned about her injuring me. Some of  
16 the kicking that I've seen, sometimes, you know, she's been in  
17 her -- her crib and she kicks and I do get a little concerned  
18 she might hit something or bump into something if she does  
19 that. One of the RBTs reported that she did see Ava start to  
20 hit herself in the head but that only happened once. So we're  
21 kind of monitoring that to see if that happens again. I  
22 haven't see that, so --

23 MS. ISSO: Objection, Your Honor. Move to strike  
24 that as hearsay.

1 THE COURT: The statement --

2 MS. ISSO: RBT said something.

3 THE COURT: The what?

4 MS. ROSENBLUM: The --

5 THE COURT: All right.

6 MS. ROSENBLUM: Yeah.

7 THE COURT: So the hearsay statement will be  
8 stricken.

9 MS. ROSENBLUM: Right.

10 BY MS. ROSENBLUM:

11 Q Nechole, has -- as far as the therapies that Ava's  
12 involved in, can you give me an -- give us an idea of who she  
13 sees? Start out with who she sees.

14 A Okay. So her primary therapy is the applied  
15 behavioral analysis therapy with Firefly. That is 30 hours a  
16 week, six hours a day. She has one shift for three hours in  
17 the afternoon and then a second one kind of at -- late  
18 afternoon, early evening. That's a primary one. Then now  
19 with the school district, she goes to school Monday through  
20 Thursday from 8:00 to 10:30. And she -- we did have her  
21 placed in the general education room but then she gets those  
22 additional services. And then I'm actually lining up. She  
23 also needs speech and feeding therapy. So I found a place and  
24 I've messaged Eugene asking if he will agree to that as well.

1 So then -- so that would be the sum of her therapies. Through  
2 the school again she's -- she is also receiving speech and  
3 occupational therapy.

4 Q Okay. The school district Monday through Thursday,  
5 she attends school at John Dooley, correct?

6 A Yes.

7 Q And she's getting -- so when you say she goes from  
8 8:00 to 10:30 and she gets additional services, is that during  
9 that 8:00 to 10:30 time?

10 A Yes, my understanding is the speech therapist goes  
11 to the class. The occupational therapist goes to the class to  
12 perform the services.

13 Q Okay. And then in addition to that, there is --  
14 there will be additional speech and feeding therapy. Is that  
15 my -- is that what I'm understanding from you?

16 A Yes, because that's what Dr. Gaspar recommended.

17 Q Okay. And I believe you said that you had found a  
18 -- a place to conduct that, correct?

19 A Yes. My biggest concern was because she's got so  
20 much therapy during the week I don't want to overwhelm her.  
21 So I was able to work something out with the ABA therapy but  
22 they would actually just come with us to the speech therapy  
23 and she can kind of have the speech and therapy and ABA all at  
24 once. And so I found a place willing to do that. So I'm

1 trying to --

2 Q With regard to finding the therapist, particularly  
3 the services that she's in now with ABA and Firefly and then  
4 this speech therapist and feeding therapy, has that been --  
5 who's been responsible for -- for trying to find those people?

6 A It's been primarily me. I mean, I got her into  
7 early intervention. I asked Eugene if he would agree and he  
8 kind of said he didn't see an issue but then did ultimately  
9 agree. I wanted -- the Child Find stuff, the -- that was  
10 through Therapy Management Group. They -- they're the one --  
11 they're the ones who initiated that.

12 When -- even for the -- the evaluation of the school  
13 district, I wanted some additional evaluations done and Eugene  
14 initially was drawing a line in the sand and saying he  
15 wouldn't agree to that. After Dr. Gaspar diagnosed Ava, he  
16 finally backed off of that. But I would say it's primarily  
17 been me.

18 Q Since -- well, let me back up. When did Nevada --  
19 or when did -- sorry, when did Ava initiate with Nevada Early  
20 Intervention?

21 A It was the end of 2020. I had -- we had taken her  
22 to her well check -- two year well check. And I was concerned  
23 about her speech. The pediatrician said well, she's  
24 bilingual. They -- they usually have a delay but if she stops

1 progressing, then you should be concerned. And I noticed  
2 regression in her speech and actually in some of her  
3 comprehension. And that's what caused me to have some  
4 concerns. And I learned about early intervention, that it was  
5 at no cost. I felt like what was the harm at least getting  
6 her evaluated. So I messaged Eugene about it and once he  
7 agreed I went ahead and contacted them to get it started.

8 Q To your recollection, was Eugene in agreement with  
9 you about Ava's speech issues at the time?

10 A No.

11 MS. ISSO: Objection, foundation.

12 THE COURT: Do you want to I guess get a time period  
13 for --

14 MS. ROSENBLUM: Sure.

15 THE COURT: -- foundation purposes.

16 BY MS. ROSENBLUM:

17 Q And -- and your -- your testimony is at the end of  
18 2020 you took Ava to a well check. Who was it with?

19 A It was Dr. Hutchings at Sienna Pediatrics.

20 Q And what did you mention to Dr. Hutchings at that  
21 time?

22 A I was concerned about Ava was only saying a few  
23 words and I was concerned about her -- her speech being  
24 delayed.

1 Q Was Dad in agreement with your assessment at that  
2 time that Ava's speech was delayed?

3 A I think he -- I want to -- I don't want to be -- I'm  
4 just thinking about your question. I think he agreed it was  
5 delayed. I think we disagreed as to the cause if that makes  
6 sense.

7 Q Okay. And you have mentioned somewhere along the  
8 way that's -- I don't know if it was Dr. Hutchings or Dad or  
9 somebody mentioned that Ava was bilingual; is that correct?

10 A Yes.

11 Q Was there some position on Dad's part that Ava's  
12 speech delay was due to the fact that he was -- that she was  
13 bilingual?

14 A Yes, for a very long time it's -- he attributed it  
15 -- I think even when I initially raised it to him thousands of  
16 dollars to have her evaluated he says bilingual and then he  
17 also honestly blamed it on me as well.

18 Q And when you say he blamed it on your, what do you  
19 mean?

20 A He is insisting that I withheld Ava for 30 something  
21 days and that during that time that's when she forgot a lot of  
22 the words that I noticed she stopped saying.

23 MS. ISSO: Objection, Your Honor. Hearsay. It's  
24 basically discussing what the child said or didn't say.

1 MS. ROSENBLUM: It's discussing what Dad said.

2 THE COURT: That's what Dad said --

3 MS. ROSENBLUM: It's a party admission.

4 THE COURT: -- and Dad's a party here. So  
5 overruled.

6 BY MS. ROSENBLUM:

7 Q Nechole, there have been points throughout this  
8 litigation and even prior where you and Eugene would you agree  
9 have co-parented well?

10 A Before the litigation, absolutely. Yeah.

11 Q Okay. Ms. Isso showed you text messages and -- and  
12 videos of Dad sending you pictures of --

13 A Yes.

14 Q -- Ava, correct?

15 A Yes.

16 Q If you can look at the Defendant's Exhibit book. I  
17 think there's two of them up there.

18 A Yes.

19 Q Number one.

20 A Uh-huh (affirmative).

21 Q And we're going to Exhibit I which are the  
22 OurFamilyWizard messages.

23 A Okay.

24 Q So just looking -- I'm looking at what has been -- I

1 believe these are Court's Exhibit 1 also. But even just  
2 looking at the first few. So when -- let's -- let's lay some  
3 context here. When were you ordered to start using  
4 OurFamilyWizard?

5 A I think the hearing was September 17th of 2020.  
6 Because I think we were ordered on September 17th, 2020.

7 Q Okay. And you signed up for it?

8 A Yes.

9 Q And Dad obviously signed up for it as well, correct?

10 A Yes.

11 Q Is that the way that you and Dad communicate?

12 A Yes.

13 Q And -- and is that your request that you continue  
14 communication through OurFamilyWizard?

15 A Yes.

16 Q Have -- generally has OurFamilyWizard communication  
17 worked for the two of you since it's been ordered?

18 A It hasn't tapped down on the hostility and the  
19 conflict honestly. No. My hope is that it does eventually at  
20 some point.

21 Q Okay. But as far as getting messages --

22 A Yes.

23 Q -- communicating --

24 A Yes.

1 Q -- with each other --

2 A No, yeah. And -- and the calendar -- some of the  
3 other features of this app also work well.

4 Q Okay. Is it your request at the end of this that  
5 the Court continue to order the use of OurFamilyWizard?

6 A Yes, it is very much. Yeah.

7 Q Okay. So just looking at page 1 here sort of at the  
8 beginning, if you can just take a look at these messages.

9 A Yes.

10 Q You and Dad are sending pictures back and forth; is  
11 that correct?

12 A Yes.

13 Q And kind of communicating with each other about how  
14 Ava is doing every day; is that correct?

15 A That's correct.

16 Q Would that be pretty typical up until this case was  
17 started or right before, I guess?

18 A It was typical. Yeah, when he was with Ava while I  
19 was at work, he would send me pictures. If I was with Ava and  
20 when wasn't there, I would send him pictures.

21 Q Okay. One of the videos that Counsel's had admitted  
22 was Ava in a pool --

23 A Yes.

24 Q -- with Dad. Are you in that video?

1           A     I am.

2           Q     And when about was that?

3           A     Probably summer of 2019 I had wanted Ava to take  
4 swimming lessons. So I signed her up and I invited Eugene to  
5 join us.

6           Q     And he came to the swimming lesson?

7           A     He did. Uh-huh (affirmative).

8           Q     And you guys were getting along okay?

9           A     Yes. Yeah.

10          Q     All right. Let me just follow up on some of these  
11 other issues here. In his direct examination, Dad described  
12 you as uncooperative and it's not possible to get along with  
13 you unless you're doing whatever you say. Do you agree with  
14 that statement?

15          A     No.

16          Q     That you have been unwilling to compromise. Do you  
17 agree with that statement?

18          A     No.

19          Q     That you're a bully. Do you agree with that  
20 statement?

21          A     No.

22          Q     That you're a liar? Do you agree with that  
23 statement?

24          A     No.

1 Q And that you're constantly upset. Do you agree with  
2 that statement?

3 A No.

4 Q In fact, the text message -- or the OurFamilyWizard  
5 messages I just showed you show you and Dad getting along  
6 pretty well, right?

7 A Yes.

8 Q There have been -- have there been times where  
9 you've asked Dad to do things and he's disagreed with you?

10 A Yes.

11 Q How do those disputes generally resolved?

12 A We're in a -- a phase now where I just stop --  
13 we're in a phase where Eugene has to have the last word. He's  
14 accusing me of being a liar. He's accusing me of playing  
15 games. And so I usually just try to keep communications,  
16 focus on Ava, and I try to stop so that the conflict on  
17 whatever the issue stops. And then us -- usually most of the  
18 messages end with Eugene telling me something about how the  
19 evidence will show that I'm a liar or whatever. And I -- I  
20 usually leave those messages alone because I don't think  
21 they're productive to co-parenting.

22 Q And so Nechole, let's talk about potty training.

23 A Okay.

24 Q If you can flip in that book to I believe it's on

1 page 29.

2 A The Bates stamp number?

3 Q Yeah, the Bates at the bottom.

4 A Okay. Okay.

5 Q Okay. Was there a time -- so you heard the  
6 testimony that Ava is getting supports for potty training now,  
7 correct?

8 A Yes.

9 Q Was there a time prior to that where either of you  
10 had started to potty train Ava?

11 A In my opinion, Eugene had started. Yes.

12 Q And --

13 MS. ISSO: Objection, lacks personal knowledge. He  
14 already testified that he did not start it. She's guessing  
15 that he started it. Speculation.

16 THE COURT: Okay. But -- okay. That -- that's her  
17 belief. That's her understanding.

18 MS. ISSO: But she doesn't have any knowledge of  
19 that.

20 THE COURT: Do you have any --

21 MS. ISSO: She's speculating.

22 THE COURT: -- knowledge either way?

23 THE WITNESS: Based on our communications, that's  
24 all I'm -- I'm basing our comun -- I haven't been in the home

1 to personally observe it, but based on our communications,  
2 yes.

3 MS. ISSO: Well -- well --

4 THE COURT: Okay.

5 MS. ISSO: -- no, that's not what she's -- yeah,  
6 that's not what she's saying. That's an objection. That's  
7 hearsay, speculation.

8 THE COURT: No, that's not hearsay. She's --

9 MS. ISSO: Yeah --

10 THE COURT: -- saying based on their communication.

11 MS. ISSO: Yeah, based on --

12 THE COURT: That was her --

13 MS. ISSO: -- what communications?

14 THE COURT: -- understanding.

15 MS. ISSO: Foundation then.

16 MS. ROSENBLUM: Okay.

17 MS. ISSO: What communications?

18 THE COURT: Overruled.

19 MS. ISSO: He didn't say that --

20 (COURT RECESSED AT 4:10 AND RESUMED AT 4:10)

21 Q All right.

22 MS. ISSO: -- started potty training

23 Q So looking at Exhibit -- I'm sorry, page 29. If you  
24 can take a look at that message. 68.

1           A     Yes.

2           Q     Is this the basis for why you believed that Dad had  
3 started potty training?

4           A     Yes.

5           Q     And if you could just explain what you've documented  
6 in this email.

7           A     Yes. So Eugene and I went to Ava's well check and  
8 rather than communicating anything to me in front of me, he  
9 told the doctor that he bought a potty for Ava, that he  
10 started sitting her on it, introduced it to her and he started  
11 putting her on the potty and then kind of asked him about  
12 questions about potty training. So really surprising to me  
13 because he had never actually said to me about her potty. I  
14 started sitting around the potty. It did bother me that I was  
15 learning through him asking the Doctor questions about it  
16 instead of discussing it and I was very concerned also because  
17 I felt like we need to be on the same page and start at the  
18 same time and kind of be consistent with our method so that  
19 Ava wouldn't get confused and we didn't prolong the process  
20 for her.

21          Q     And then if you look at the next page on page 30,  
22 that message, 71 of 819. Do you --

23          A     Okay.

24          Q     -- see that there?

1 A Yes.

2 Q And that was Eugene's response to you?

3 A Yes.

4 MS. ISSO: What page are we on?

5 MS. ROSENBLUM: Page 30.

6 MS. ISSO: Page 30 like on the top?

7 MS. ROSENBLUM: Of Exhibit I. It's Bate labeled at

8 the bottom right.

9 MS. ISSO: What was the Bate?

10 MS. ROSENBLUM: 30.

11 MS. ISSO: Oh, okay. I'm trying to figure out

12 how --

13 Q Do you see that there? Was that Eugene's response?

14 A Yes, it is.

15 Q Did he dispute that he was potty training Ava at

16 that time?

17 A He did dispute it. Yes.

18 Q Okay. And this discussion continued onto page 32;

19 is that correct, looking at Exhibit 73?

20 A Yes.

21 Q Is that correct?

22 A That's correct. Yes.

23 Q Okay. Based on these communications, did you

24 believe that Eugene had started to potty train Ava?

1 A Yes.

2 Q And kind of more to your point, so looking at page  
3 36 of this exhibit, message 76 there, do you see that one?

4 A Yes.

5 Q Again, this is Eugene's response to you?

6 A Yes.

7 Q Did the potty training argument continue after  
8 Eugene had the last word?

9 A No, because I let it go. I -- I don't want to keep  
10 the conflict going.

11 Q Is -- is that responsiveness from Eugene pretty  
12 typical when there's a dispute?

13 A Yeah, this is actually a -- a tamer one of his  
14 responses. And a lot of times they were harsher than yes.  
15 But yes, the -- he always has to have the last mess -- the  
16 last word.

17 Q Because we're starting to run out of time here,  
18 Nechole, there's a whole lot of negativity here. Can you say  
19 anything positive about Eugene?

20 A Yeah, I do believe he loves Ava. I do believe that.  
21 I -- I do think it's -- you know, we agreed together to have  
22 him teach her Russian. I think it's good for her. I love  
23 that he's exposing her to that -- that part of his culture.  
24 And I do think he's a talented musician and I think it's great

1 that he's -- to whatever extent he's passing on that ability  
2 to Ava and kind of sharing that world of music with her, I  
3 think that's -- that's great.

4 Q Let's talk about your dog.

5 A Okay.

6 Q Do you still have the dog?

7 A She passed away on November 11th last year.

8 Q How did you learn that Ava was allergic to dogs?

9 A So I did -- I was trying to feed Ava new foods. I  
10 made these whole wheat pancakes. After -- as -- as she was  
11 eating the pancakes, she started kind of breaking out in hives  
12 and getting really itchy and swollen. So I took her to the  
13 pediatrician. They recommended allergy testing. Took her to  
14 Quest Labs to get tested. And that's when it came back that  
15 she was allergic to all these different foods and dogs.

16 Q And about when was that?

17 A It was early 2020, maybe January -- Jan -- sometime  
18 between January and March of 2020.

19 Q So by that point early 2020, January 2020, Ava's  
20 just a little about a year-and-a-half old give or take?

21 A Give or take, yeah.

22 Q Had she ever had a reaction to your dog before?

23 A Never.

24 Q Had she ever had any sneezing, coughing, or anything

1 that you noticed with regard to the dog?

2 A Never.

3 Q Were you surprised to learn then January of 2020  
4 that she was allergic to dogs?

5 A I was surprised and -- well, I don't want to --

6 Q Did -- did the person who diagnosed her give you any  
7 recommendations with regard to the dog?

8 A We ended up taking Ava to Dr. Miyake at the -- the  
9 name of the place I think is Allergy Partners of Nevada. And  
10 I told them about the mitigation measures I was taking. I  
11 bought -- I bought purifiers. I -- I had already even kind of  
12 keeping them separate just because I do have a big dog. I was  
13 keeping them separate, vacuuming regularly. My dog's not  
14 allowed in Ava's room and he said to keep doing those things.  
15 I also explained that my dog was old and had cancer and  
16 probably wouldn't live much longer. And so yeah, he  
17 recommended just continuing to do those -- to do those things.

18 Q Okay. Did the doctor ever recommend that you get  
19 rid of the dog?

20 A No.

21 MS. ISSO: Objection, hearsay, Your Honor. Move to  
22 strike.

23 THE COURT: Sustained.

24 BY MS. ROSENBLUM:

1 Q Let me ask it a different way. Did you have an  
2 understanding as to whether you should get rid of the dog?

3 A I was never -- my understanding was that I didn't  
4 have to get rid of the dog, the mitigation measures were  
5 enough.

6 Q Okay. At some point did Eugene ask you to get rid  
7 of your dog?

8 A Eugene never had a problem with my dog until after  
9 the relationship ended and he started this litigation. And  
10 then in October 2020 he then started this message string  
11 claiming that Ava had a bump on her face and after several  
12 back and forths started saying that it was because of the dog  
13 and that I should get rid of my dog.

14 Q I'm sorry, one more time. The dog passed away when?

15 A November 11th of 2020.

16 Q Okay. Was Ava bonded to your dog?

17 A A little bit. She was a little bit. Yeah.

18 Q Okay. Looking at pages -- page 51 of that same  
19 Exhibit I.

20 A Okay.

21 Q When you're referencing bumps on Ava, did -- is --  
22 are these the messages that you're referring to, starting at  
23 message 110?

24 A Yes.

1 Q In fact, did you ask Eugene if maybe the bumps were  
2 being caused by something in his home?

3 A Yes, I did, because I -- I didn't observe any when I  
4 handed her over. And so my initial reaction was well, let's  
5 try to figure out what's causing them. Maybe it's your after  
6 shave. Maybe it's some perfume. Maybe she rubbed her face on  
7 the car seat and something irritated.

8 Q And this discussion regarding the bumps, it started  
9 on August 12th, 20 -- or -- or on October 12th, 2020; is that  
10 correct?

11 A Yes.

12 Q And how long did the discussion about the dogs and  
13 the bump go on for?

14 A Several -- I'm -- I'm just looking at the exhibit.  
15 I think it went at least a couple days, two or three days.

16 Q Do you have a new dog?

17 A No.

18 Q Do you intend to get a new dog?

19 A No.

20 Q There's testimony of -- during Ms. Isso's case that  
21 you withheld Ava for 33 --

22 THE COURT: You know, we're going to switch  
23 subjects. I think we're getting to a point where let's just  
24 shut it down and start again on Friday.

1 MS. ROSENBLUM: Friday morning?

2 MS. ISSO: 8:30?

3 THE COURT: We can get it done if we start right at  
4 9:00. If everybody gets set up by -- you can get here. I  
5 think the courtroom's open by 8:30. But as far as starting  
6 JAVS, it'll be at 9:00 a.m. is when we'll start.

7 MS. ISSO: So we have 4:45, 4:30 usually --

8 THE COURT: Again -- what?

9 MS. ISSO: I still have to leave at the same time on  
10 Friday.

11 THE COURT: That's fine. I think -- again, we'll be  
12 done by then because again you have two hours and four  
13 minutes. Ms. Rosenblum at this point has three hours and  
14 fifty-seven minutes. And if we keep a short lunch again we  
15 should be able to get done.

16 MS. ROSENBLUM: I have a -- leave all this stuff  
17 here or do we need to take all this with us?

18 MS. ISSO: I'm going to take my stuff over here but  
19 I can't carry those ones.

20 THE COURT: It's your call. I mean, I'm not going  
21 to given the extent of everything you guys brought.

22 MS. ROSENBLUM: It's just a lot of stuff. It's  
23 not --

24 THE COURT: We might have one in person hearing

1 tomorrow and if this -- you -- you can just leave it. We'll  
2 make sure nobody --

3 MS. ROSENBLUM: I mean, I don't --

4 THE COURT: -- touches it.

5 MS. ROSENBLUM: -- mean to leave it like this.

6 THE COURT: No.

7 MS. ROSENBLUM: I just mean to leave it in the  
8 courtroom.

9 THE COURT: You absolutely can.

10 MS. ROSENBLUM: I'm -- I'm not asking to take up the  
11 whole --

12 THE COURT: That's fine.

13 (PROCEEDINGS CONCLUDED AT 4:20:43)

14 \* \* \* \* \*

15 ATTEST: I do hereby certify that I have truly and  
16 correctly transcribed the digital proceedings in the above-  
17 entitled case to the best of my ability.

18  
19 

20  
21 \_\_\_\_\_  
Adrian N. Medrano

22

23

24

## Child Custody Complaint

## COURT MINUTES

November 04, 2021

D-20-612006-C      Evgeny Shapiro, Plaintiff.  
                                 vs.  
                                 Nechole Garcia, Defendant.

---

**November 04, 2021      01:15 PM      Telephonic Hearing**

**HEARD BY:**      Harter, Mathew      **COURTROOM:** Courtroom 24

**COURT CLERK:**

**PARTIES PRESENT:**

**Evgeny Shapiro, Counter Defendant, Plaintiff, Not Present      Jennifer Isso, Attorney, Present**

**Nechole Garcia, Counter Claimant, Defendant, Not Present      Molly S. Rosenblum, Attorney, Present**

**Ava Garcia-Shapiro, Subject Minor, Not Present**

**JOURNAL ENTRIES**

**TELEPHONIC HEARING**

Matter heard via videoconference.

Court noted that the parties have stipulated to joint physical custody, but that there is a dispute as to the custodial timeshare.

Discussion was held regarding what counsel should be focusing on during the remainder of the evidentiary hearing.

Court noted that it will require three years of tax returns from both sides before child support can be calculated.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

Nov 05, 2021 9:00AM Evidentiary Hearing  
Courtroom 24 Harter, Mathew

FILED

FEB 08 2022

*Sharon A. Johnson*  
CLERK OF COURT

TRANS

ORIGINAL

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

EVGENY SHAPIRO,

Plaintiff,

vs.

NECHOLE GARCIA,

Defendant.

CASE NO. D-20-612006-D

DEPT. N

APPEAL NO. 83992

BEFORE THE HONORABLE MATHEW HARTER  
DISTRICT COURT JUDGE

TRANSCRIPT RE: TELEPHONIC HEARING

THURSDAY, NOVEMBER 4, 2021

APPEARANCES:

The Plaintiff:  
For the Plaintiff:

NOT PRESENT  
JENNIFER ISSO, ESQ. (Tel.)  
8965 S. Eastern Ave., #120M  
Las Vegas, Nevada 89123  
(702) 434-4424

The Defendant:  
For the Defendant:

NOT PRESENT  
MOLLY ROSENBLUM, ESQ. (Tel.)  
376 E. Warm Springs Rd., #140  
Las Vegas, Nevada 89119  
(702) 433-2889

1 LAS VEGAS, NEVADA

THURSDAY, NOVEMBER 4, 2021

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

3 (The following transcript contains multiple indiscernibles  
4 due to poor recording quality)

5 (THE PROCEEDINGS BEGAN AT 1:15:57)

6

7 THE CLERK: We are.

8 THE COURT: All right. Well, Ms. Isso, you can hear  
9 me?

10 MS. ISSO: Yes.

11 THE COURT: Okay. Ms. Rosenblum, can you hear me?

12 MS. ROSENBLUM: Yes.

13 THE COURT: All right. This is one of those  
14 situations where after a long yesterday came home contemplated  
15 the trial which I do a lot after some days. And what I --  
16 what -- let me just kind of cut to the chase. Mr. -- Ms.  
17 Rosenblum, at least three times in the a.m. yesterday it was  
18 stipulated on the record and it was also confirmed through  
19 your expert the parties have agreed to joint physical custody,  
20 correct?

21 MS. ROSENBLUM: That is correct.

22 THE COURT: Okay. Then my -- getting back to what  
23 the issue is -- because what really went on yesterday if you  
24 guys think about the evidence and the testimony and what we

1 were talking about, I -- I don't kind of understand the logic  
2 because I don't un -- if it's an -- an attack on the other  
3 person, an attack on the custody evaluation, and if you think  
4 you did a better job than your client should get what they  
5 prefer is the visitation schedule, that is -- that -- that is  
6 not logically what should be occurring. What logically should  
7 be occurring is what is the -- what is the best -- in the --  
8 in the child's best interest what should be the parenting  
9 time. Ms. -- Ms. Isso is clear -- and, again, you guys have  
10 your positions; I understand them. Your client would like to  
11 keep it the same. Ms. Isso in her brief would like the  
12 two-two-three schedule.

13 But that should be the focus if that makes sense to  
14 you, because, again -- well, again, let's -- I'm -- I'm trying  
15 to talk out loud so we can maybe be a little more focused on  
16 relevant issues on Friday. There -- I don't see the need for  
17 attacking other persons, for attacking the Court for --  
18 because we're not determining custody. We're determining what  
19 schedule is going to be in this child's best interest. Does  
20 that make sense?

21 MS. ROSENBLUM: Yes.

22 THE COURT: Because I -- does that make sense, Ms.  
23 Isso, what I'm saying?

24 MS. ISSO: Yes. Yes.

1 THE COURT: Because again when I'm sitting there  
2 laying thinking about all the stuff that came in, the  
3 documents, et cetera, et cetera, I would propose to you the  
4 majority of that has nothing to do with why we're at trial.  
5 We're at trial for that and then of course the sub issue is  
6 going to be the child support issue.

7 And the other thing I'm -- I'm going to -- I scanned  
8 through -- again, I don't look at documents until they're  
9 admitted. I scanned through your guys' list. I believe it  
10 was Ms. Isso had maybe one tax return. I can't remember -- I  
11 can't even remember if it was from her client or your client.  
12 I'm going to require both parties for Friday or before I make  
13 a child support decision three years of filed tax returns.  
14 And then, again, you guys have the opportunity to argue the  
15 adjustments. But, again, I -- I just -- I guess I take blame.  
16 I guess Ms. Isso indicated yesterday she hasn't had a trial in  
17 front of me which I -- I thought she had.

18 I know you have, Ms. -- I usually am more hands on.  
19 When I -- when I start feeling this is going sideways or we're  
20 not dealing with relevant stuff, I'm usually the first one to  
21 pipe up and say why are -- why are we doing what we're doing  
22 when that's not what we're here for.

23 And so I -- I will -- it will be that way on Friday,  
24 but I just wanted to -- because, again, custody's -- custody's

1 been agreed to. And by statute, that's the presumption,  
2 especially once it's been agreed to. We just have to figure  
3 out what is in this child's best interest, the logistics, the  
4 logistics. We should be talking about work schedules. We  
5 should be talking about geographical. We should be talking  
6 about when the other -- when they have their other kids. And  
7 then you both submit what you think is your best plan and then  
8 the Court will make that consideration. But again, going back  
9 to yesterday, little if any of that came out. Little if any  
10 of that came out. And that's the issue we're truly at trial  
11 if that makes sense.

12           Here's -- here's what I'm also going to throw out  
13 there because I -- I'll -- I'll be the first to admit, I  
14 haven't thought this in depth but I'll give you both an  
15 example I'm sure you're both familiar with. Okay. So I'm  
16 going to make sure Ms. Isso's still there. I see your bars  
17 (indiscernible).

18           MS. ISSO: (Indiscernible) -- I --

19           THE COURT: That's fine.

20           MS. ISSO: -- (indiscernible) Department V. Let me  
21 just get out and I'm going to start -- I'm going to listen.  
22 I'm sorry. I can hear you now.

23           THE COURT: Okay.

24           MS. ISSO: Could you -- could you speak now?

1           THE COURT: Okay. I mean, let me -- let me give you  
2 an -- an example of, you know, something recent. You guys are  
3 not -- I don't know if you're going to be able to do it  
4 between now and tomorrow or going to end up doing written  
5 closing briefs, but I would submit since again 0035(4) is  
6 determining custody, I absolutely will have to consider those  
7 factors, but similar to Arcella where it's a specific issue, a  
8 change in schools, not only do I have to consider those  
9 factors, then there's a list of other factors. There may be  
10 persuasive -- pre -- I -- there -- as you both know, they're  
11 not in Nevada.

12           There may be persuasive factors out there somewhere  
13 in the other 49 states or territories that have a good cogent  
14 list of factors that the Court should consider when it comes  
15 to logistics of a -- a parenting schedule. I don't know. I'm  
16 just throwing that out there. But I just -- my main purpose  
17 is to go -- let you guys know that tomorrow will be more  
18 focused.

19           I did not want to do it the morning of to bombard  
20 you or surprise you so that you guys could prepare adequately,  
21 but if we start edging into areas that have nothing to do with  
22 the actual -- what's at issue which is the parenting schedule  
23 and child support, I will offer or will be the first one to  
24 pipe up and say this is not relevant. Does that make sense to

1 everybody? So I just wanted to make a record of that.

2 MS. ROSENBLUM: Yes.

3 THE COURT: Ms. Isso, do you have anything else?

4 MS. ISSO: No, I think I understood. You want us to  
5 focus on the child's best interest, right?

6 THE COURT: The -- the best interest as it relates  
7 to the logistics of the -- the parenting time, why -- why is  
8 your schedule better than what Ms. Rosenblum's is and what --  
9 Ms. Rosenblum is going to submit why her schedule is better  
10 than yours. We don't get in -- we don't need to get into  
11 (indiscernible). (Indiscernible) this -- this negative  
12 bickering about some of this other stuff. It does not have  
13 relevance. It's what's in the best interest of the child as  
14 far as the logistics regarding scheduling. We've already  
15 agreed to joint physical custody.

16 MS. ISSO: I understand.

17 THE COURT: Okay. All right. So I just wanted to  
18 put that on the record because, again, I -- I will probably  
19 piping up a bit more on Friday if we start going sideways.  
20 Because the purpose at this point is not to have the custody  
21 evaluation, the (indiscernible) party, the parties would agree  
22 to joint physical custody. Just show me in -- in your  
23 (indiscernible), do you want me to use a choice of factors.  
24 But it should be regarding the (indiscernible) of what the

1 week on week off schedule should be.

2 MS. ISSO: Your Honor, I'm sorry, I missed -- I lost  
3 part of what you said.

4 THE COURT: We're back to again -- the -- it's the  
5 focus -- overall -- it's always best interest. It's like our  
6 -- again, I -- the only thing I can compare it to recently is  
7 Arcella. Yes, ultimately (indiscernible) include that's in  
8 the best interest but there's factors that sometimes don't  
9 come under 0035(4) and what we need to focus on is what's in  
10 the best interest of this child regarding the schedule, not  
11 attacking the other person, not doing this, not doing that  
12 because it's already been agreed to it's going to be joint  
13 physical custody. This is not a -- listen, it's not a custody  
14 trial and most of yesterday yet as though it were a custody  
15 trial.

16 MS. ISSO: Okay.

17 THE COURT: Okay? And, again --

18 MS. ISSO: Okay.

19 THE COURT: -- I -- I need both parties' last three  
20 years tax returns. They don't need month (indiscernible). I  
21 --

22 MS. ISSO: Okay.

23 THE COURT: -- consider and then again you guys can  
24 advocate whatever adjustments under the Administrative Code

1 you would like. All right. I just wanted --

2 MS. ISSO: Okay.

3 THE COURT: -- to make that record for kind of I  
4 think will help out, you know, focus for tomorrow  
5 (indiscernible). And we'll see you guys in person at -- at  
6 9:00 a.m.

7 MS. ISSO: Thank you, Your Honor. Thank you.

8 MS. ROSENBLUM: Thank you.

9 THE COURT: Have a good day.

10 MS. ISSO: Have a good day.

11 (PROCEEDINGS CONCLUDED AT 1:26:13)

12 \* \* \* \* \*

13 ATTEST: I do hereby certify that I have truly and  
14 correctly transcribed the digital proceedings in the above-  
15 entitled case to the best of my ability.

16   
17

18 \_\_\_\_\_  
19 Adrian N. Medrano

20  
21  
22  
23  
24

1 **TRANS**

2  
3  
4  
5 **EIGHTH JUDICIAL DISTRICT COURT**  
6 **FAMILY DIVISION**  
7 **CLARK COUNTY, NEVADA**  
8

9 EVGENY SHAPIRO, )  
10 Plaintiff, ) CASE NO. D-20-612006-D  
11 vs. ) DEPT. N  
12 NECHOLE GARCIA, ) APPEAL NO. 83992  
13 Defendant. )  
14

15 BEFORE THE HONORABLE MATHEW HARTER  
16 DISTRICT COURT JUDGE

17 TRANSCRIPT RE: EVIDENTIARY HEARING

18 FRIDAY, NOVEMBER 5, 2021

19 **APPEARANCES:**

20 The Plaintiff: EVGENY SHAPIRO  
21 For the Plaintiff: JENNIFER ISSO, ESQ.  
22 8965 S. Eastern Ave., #120M  
23 Las Vegas, Nevada 89123  
24 (702) 434-4424  
  
25 The Defendant: NECHOLE GARCIA  
26 For the Defendant: MOLLY ROSENBLUM, ESQ.  
27 376 E. Warm Springs Rd., #140  
28 Las Vegas, Nevada 89119  
29 (702) 433-2889

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
4

DIRECT      CROSS      REDIRECT      RECROSS

9

1

9

21

2

23

4

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

I N D E X   O F   E X H I B I T S

<u>PLAINTIFF'S</u>	<u>ADMITTED</u>
<u>EXHIBITS:</u>	
4, 14, 20 - Receipts	292
7, 10, 11, 13, 22, 24 - Receipts	296
56 - Dr. Carter report	118
<u>DEFENDANT'S</u>	
<u>EXHIBITS:</u>	
G - Medical expenses	283
P - Mr. Shapiro deposition	260
V - Insurance letter	144
W - Bank records	272
Z-4, Z-13, Z-15, Z-83 - Text messages	83

P R O C E E D I N G S

(The following transcript contains multiple indiscernibles due to poor recording quality)

(THE PROCEEDINGS BEGAN AT 9:02:10)

THE CLERK: We're on the record.

THE COURT: All right. We're back on the record in case D-612006, Shapiro versus Garcia. Unless we're moving something out of order, Ms. Rosenblum, I think we were -- had your client?

MS. ROSENBLUM: Yes, we did, Judge. The only thing is I don't know if witnesses are on or in the waiting room.

THE CLERK: Mr. Blackham's (ph) on.

MS. ROSENBLUM: Okay.

MS. ISSO: And Your Honor, our expert's going to be on at 11:00 a.m.

MS. ROSENBLUM: So I don't have a problem starting with Nechole but if another witness pops on, if we can stop her and call that witness.

THE COURT: Okay.

MS. ROSENBLUM: Is that okay with the Court? I just -- because these are treaters and they're fitting us into their schedules so I want to make sure that we give them the

1 time and courtesy to get them on and off as quick as we can.

2 MS. ISSO: And we have Mark James coming today too.  
3 I just can't remember the -- the time.

4 THE CLERK: Ready?

5 MS. ISSO: Yeah, he's going to -- he wants to come  
6 like around 10:00 a.m. Let me ask him if he come on at like  
7 -- at like 1:00 p.m. We can just get started when I get a  
8 text back --

9 MS. ROSENBLUM: Yeah.

10 MS. ISSO: -- and then I'll --

11 MS. ROSENBLUM: Judge, are you ready?

12 THE COURT: Yeah. And for JAVS Bates Stamp, we're  
13 starting at 9:03. So --

14 MS. ROSENBLUM: Okay.

15 THE COURT: -- 9:03.

16 MS. ROSENBLUM: All right. You don't need to swear  
17 her back in or anything? She's still --

18 THE COURT: The next day, do we, Madam Clerk? Yes?

19 THE CLERK: I'm sorry?

20 THE COURT: When they testify the next day? It's  
21 been so long since we've done the next day.

22 THE CLERK: It's up to you. I --

23 THE COURT: I'll just remind her. She's an -- she's  
24 an attorney. She's an officer of the court. I'll just remind

1 you you've been sworn in.

2 MS. ROSENBLUM: Okay.

3 NECHOLE GARCIA

4 called as a witness on her own behalf, having been previously  
5 sworn, testified upon her oath as follows on:

6 DIRECT EXAMINATION CONTINUED

7 BY MS. ROSENBLUM:

8 Q All right, Nechole. Still continuing to talk about  
9 Ava, do you believe that you have the ability to manage Ava's  
10 behaviors?

11 A I do. I -- I believe so. And I -- you know, I've  
12 reached out to different -- I got myself involved in different  
13 organizations at the Families for Effective Autism --

14 MS. ISSO: Objection.

15 A -- Treatment.

16 MS. ISSO: Non-responsive. It calls for a yes or no  
17 answer. Move to strike.

18 THE COURT: Sustained.

19 BY MS. ROSENBLUM:

20 Q Why do you believe that you are capable of managing  
21 Ava's behaviors?

22 A Because I've done my -- I -- I talked to a lot of  
23 parents and got myself involved in different organizations to  
24 educate myself about autism, read -- read different books to

1 help me. I think even the therapy that I'm in helps. And I  
2 also think I do have a temperament as well to be able to do  
3 that.

4 Q As far as medications, is Ava taking any  
5 medications?

6 A No, not right now.

7 Q Okay. Have any of her treaters recommended that she  
8 take medications?

9 A Not right now.

10 Q And -- and you -- you're saying not right now. I  
11 meant is there -- have they suggested that at --

12 A No.

13 Q -- some point --

14 A There's been no suggestion. It's just my  
15 understanding with autism you just don't know.

16 Q With regard to any potential emergencies that come  
17 up as far as Ava's autism, do you believe that you're capable  
18 of managing that?

19 A Yes, I do.

20 Q And as far as managing her appointments, are you  
21 capable of managing that?

22 A Yes, I do believe that.

23 Q And I know we talked briefly about the amount of  
24 services that she's in. If you can just explain to the Court

1 how -- how those services are working. Do you go somewhere?  
2 Do they come to you? Just -- just explain briefly to the  
3 Court how that works.

4 A Right now with the applied behavioral analysis  
5 therapy they're coming to our homes. They go to Eugene's home  
6 when Ava's there and they come to my home when Ava's with me.  
7 They come to each home. They're two different -- they're  
8 called registered behavioral technicians. They -- it's a one  
9 three hour session and then another three hour session each  
10 day. But they come to our homes. The speech and -- and the  
11 feeding therapy is -- it's very difficult to find providers  
12 that come to home. So that's going to have to be at a clinic.  
13 And the -- my hope is that the ABA therapist will be able to  
14 come with us to the clinics so that they caregiver kind of do  
15 ABA concurrently with that.

16 The schooling and the -- the therapies through  
17 school are going to be -- or take place at the school site,  
18 the Dooley Elementary School site. And then on top of that,  
19 she does have to see Dr. Gaspar twice a -- twice a year. That  
20 of course would be at the Ackerman Center.

21 Q Okay. And, again, as far as being able to manage  
22 the appointments and the number of -- of service providers she  
23 has day-to-day, you feel that you can handle that.

24 A Yes, I do.

1 Q Let's talk about Eugene just briefly. Do you  
2 believe that Eugene can manage the appointments?

3 A No, I --

4 Q Why not?

5 A So I -- I have -- I do have concerns with Eugene  
6 about the instances of inattentiveness in the past that I  
7 think impact that. Eugene also gets -- gets overwhelmed and  
8 anxious kind of easily. And historically particularly before  
9 this case was filed Eugene relied on me and expected me to  
10 make the appointments and to manage all those types of things.

11 Q Okay. In fairness over the last let's say six  
12 months, he's testified that he's made it to all of the  
13 appointments.

14 A Yes, absolutely.

15 Q And that he's been involved in the appointments; is  
16 that true?

17 A That's true.

18 Q Okay. As far as managing Ava's behaviors, let's  
19 just kind of stay focused in that last six month time period.  
20 Has there been anything that you've witnessed with Eugene that  
21 makes you believe he cannot manage her behaviors?

22 A Transitions are hard when I give Ava over to Eugene.  
23 Sometimes she will cry very hard and his way of managing it is  
24 just very different than mine. It's to kind of hand her a toy

1 and turn up the music and whisk her away. So that's -- that's  
2 really all I've seen. Most of the other time, you know, we're  
3 not together and Ava's in his home and he doesn't communicate  
4 with me about her behaviors. His messages to me are usually  
5 just about how wonderful everything is going at his -- at his  
6 house, so --

7 Q Okay. Has he ever contacted you? And -- and,  
8 again, I just -- I want to stay focused in this really -- this  
9 last six month time frame.

10 A Okay.

11 Q Has he ever sent you a text or communicated with you  
12 about, you know, Ava's having a meltdown and I can't handle it  
13 or she's crying and she won't stop, anything like that?

14 A No.

15 Q Okay. Do you believe that you're able to identify  
16 subtle changes in Ava's behaviors?

17 A I do. I -- I do think so. I -- I'm the parent who  
18 observed all those behaviors that got -- that raised flags for  
19 me and got her into early intervention. I've been the parent  
20 for the past six months who's been advocating for her to be  
21 seen and evaluated for autism and had real concerns about her  
22 having autism based on everything that I've learned about --  
23 about the disorder. So yes, I do.

24 Q Can you give me an example of maybe where you

1 noticed a subtle change in -- in her behaviors?

2       A     Yes. So I did notice there were words that Ava was  
3 saying. Around 18 months or so there were words that she was  
4 saying that she -- she stopped being able to say. And so she  
5 was regressing in her speech, as well, there were things -- I  
6 was able to say for example go get your shoes and she would go  
7 get her shoes. I started saying those kind of things to her  
8 and she stopped seeming to be able to comprehend what I was  
9 saying. So I -- I noticed that regression and that was a  
10 subtle change that for me raised some red flags.

11       Q     As far as making decisions about Ava and getting  
12 treatment for her, I think you testified that that was kind of  
13 always -- you -- as sit here today do you believe that you are  
14 able to make those decisions and get those treatments for her?

15       A     Absolutely. Yes.

16       Q     With regard to Eugene on those questions, do you  
17 think that he has the ability to identify subtle changes in  
18 Ava's behavior?

19       A     No, I don't. I --

20       Q     And why --

21             MS. ISSO: Objection --

22       Q     -- do you --

23             MS. ISSO: -- calls for speculation.

24             THE COURT: She can testify as to her opinion as to

1 his abilities to parent.

2 BY MS. ROSENBLUM:

3 Q Why do you believe that?

4 A Well, up until the moment she was diagnosed, Eugene  
5 was in denial about a lot of her issues.

6 MS. ISSO: Objection, calls for speculation.

7 THE COURT: Over --

8 MS. ISSO: He's not a doctor to be --

9 THE COURT: Overruled.

10 MS. ISSO: -- able to -- to -- be able to assess  
11 whether a child has autism. Okay. A medical professional is  
12 required for that.

13 THE COURT: She said -- I think she didn't say  
14 autism. She said the --

15 THE WITNESS: Issues.

16 THE COURT: -- issues is what she said.

17 MS. ISSO: Well -- well, objection --

18 THE COURT: Overruled.

19 MS. ISSO: -- ambiguous, foundation.

20 THE COURT: Overruled.

21 THE WITNESS: So I -- at appointments I would state  
22 my concerns to the early intervention professionals or to Dr.  
23 Gaspar and Eugene would immediately jump in, interrupt me, and  
24 tell the professionals that none of those behaviors are

1 happening at his home and start talking about how everything  
2 was great at his home and everything was great with Ava. So  
3 we were on very, very different pages in terms of what her  
4 issues were.

5 BY MS. ROSENBLUM:

6 Q Okay. Let's talk about since she's been diagnosed.

7 A Uh-huh (affirmative).

8 Q Have there been instances where you've noticed a  
9 change in Ava's behavior but Eugene is still carrying on that  
10 same thought process or I guess what you've described as him  
11 being in denial I guess I would say that is --

12 MS. ISSO: Objection, assumes facts not in evidence.  
13 There's no evidence that he's in denial of anything.

14 THE COURT: That part then I will sustain that as  
15 been established.

16 BY MS. ROSENBLUM:

17 Q I would just ask your opinion as his co-parent. I  
18 mean, have you observed instances in the last six months or in  
19 the last couple months since Ava's been diagnosed where you  
20 noticed behavior changes or something going on with Ava and  
21 Eugene has stated something contrary to that?

22 A Yes.

23 Q And can you give me an example?

24 A Yes. We had the school district assessment in

1 September. We both attended that assessment that was after  
2 Ava had been diagnosed. And during that assessment, again, I  
3 try to relay my concerns, talk about Ava's issues. Eugene  
4 would interrupt, tell them that he didn't observe those  
5 things. He told them that a part of Ava's issues were -- were  
6 still because he was bilingual and not because of autism.

7 Q Have you ever seen Eugene become frustrated with  
8 Ava?

9 A I've seen him become overwhelmed, but not  
10 frustrated.

11 Q When you say overwhelmed, give me an example of what  
12 you mean by that.

13 A This is going back to when we were together, if she  
14 -- she started crying hard, was having difficulty that way  
15 getting upset.

16 MS. ISSO: Objection, Your Honor. Relevance.

17 THE COURT: Overruled.

18 THE WITNESS: He would get kind of frazzled and look  
19 to me to kind of take over and be able to calm her down.

20 BY MS. ROSENBLUM:

21 Q Shifting gears, Nechole, let's talk about a typical  
22 day. I want to talk about Ava's kind of structure and  
23 routine. So what's a typical day in your house?

24 A So get Ava up some time between a quarter to 7:00,

1 7:00 o'clock. She just started school this week. So I have  
2 to get her to school by 7:45. So get her ready for school,  
3 get her to school by 7:45. She's in school from 8:00 until  
4 10:30. I will pick her up from school or my mother will pick  
5 her up from school, bring her back to my house. She then has  
6 an ABA therapy session starting 11:45 and going until 2:45.  
7 And then she has a little bit of a break until 3:30 where she  
8 can eat or what have you. And during the -- that first ABA  
9 session as well, Ava will eat. And that's one of the things  
10 they're working on is her feeding, getting her to eat more  
11 variety of foods.

12 And then she'll have a second ABA session starting  
13 at 3:30 and ending at 6:30. By that point it's bath time. So  
14 I'm getting her ready for her bath -- bath. And then it's  
15 bedtime by 7:00 or 7:30.

16 Q And is this pretty much daily -- this routine is  
17 pretty much daily in your household?

18 A It is. Yes.

19 Q Do you believe it's important for Ava to stick to  
20 this routine?

21 A I think it is extremely important.

22 Q And --

23 A Yes.

24 Q -- why is that?

1           A       Even before she was diagnosed I knew -- I observed  
2 that Ava got -- got very upset with even minor changes in  
3 routines --

4           MS. ISSO:  Objection, hearsay.  Move to strike

5           THE COURT:  Overruled.

6           MS. ISSO:  A child's conduct or what she says is  
7 hearsay.

8           THE COURT:  Overruled.  What -- do you want me to  
9 bring the -- overruled.

10          THE WITNESS:  So yes, she got upset in -- with even  
11 minor changes and routine.

12          THE COURT:  Sir, hold on.  You are very distracting.

13          THE PLAINTIFF:  I'm sorry.

14          THE COURT:  I -- are you a lawyer?

15          THE PLAINTIFF:  No.

16          THE COURT:  Do you understand the ramifications of  
17 objections and overruled?  It doesn't mean that you're losing  
18 your case or --

19          THE PLAINTIFF:  I understand.

20          THE COURT:  -- anything of that effect.  But your  
21 laughing and shaking your head every time your -- your --

22          THE PLAINTIFF:  I'm sorry, Your Honor.

23          THE COURT:  -- client (sic) loses an objection is  
24 very distracting.

1 THE PLAINTIFF: Okay. I'm sorry, Your Honor.

2 THE COURT: You can continue.

3 THE WITNESS: Yeah. So she just -- she gets very  
4 upset even, you know, if -- if you're reading a book to her  
5 and you get one of the words wrong which she typically got in  
6 the past, she would -- if you typically said it a certain way  
7 it pasts -- she just gets very upset and starts crying and  
8 gets really frustrated. See, a routine structure is very  
9 important.

10 BY MS. ROSENBLUM:

11 Q If something -- and I think you touched on it a  
12 little bit, but aside from the crying, getting upset, I -- I  
13 want to go into that a little more. Does she -- for example,  
14 does she hold her breath?

15 A She -- and she can -- if -- if it gets to --

16 MS. ISSO: Objection, leading. Move to strike

17 THE COURT: Sustained.

18 BY MS. ROSENBLUM:

19 Q Be a little more specific about what you mean when  
20 she -- when you say she gets upset.

21 A She will start protesting saying no, no, no, no, no,  
22 no, then will escalate to crying and the crying can become  
23 more and more hysterical where it is that hard crying that can  
24 affect, you know, you're breathing heavy because you're crying

1 really hard and then she may start to kind of kick her legs  
2 and kind of flail just a little bit, kind of tantrum meltdown  
3 type behavior.

4 Q Okay. Are there any types of routines or structures  
5 that you and Eugene have agreed to use in both of your homes?

6 A No, it's -- it's been extremely difficult to  
7 communicate with Eugene and get agreement on things like  
8 providers and things like that. And so no, we have not been  
9 able to discuss or agree on routine and structure for the  
10 scheduling and stuff like that.

11 Q I think at one point you mentioned Ava has a sippy  
12 cup that she'll --

13 A Yes.

14 Q -- only drink out of at your home. Are there -- is  
15 -- is that a sippy cup that goes back -- for example, is that  
16 a sippy cup that goes back and forth between both homes?

17 A No, my understanding is Eugene has the identical  
18 cup, just the same brand same color, at his house. So she has  
19 one at his house and one at my house.

20 Q Okay. Are there other items like that where you  
21 both have identical items?

22 A I think we have identical toys. There is a -- like  
23 a toy radio that I started giving to her kind of to attach to  
24 to transition because music does seem to help soothe her a

1 little bit. And so when I -- during transitions when I'm  
2 giving her to Eugene I get -- she has that radio with her and  
3 then when he gives her back she's got that radio again with  
4 her. It's a toy radio.

5 Q Are there comfort items -- aside from the radio and  
6 maybe the cup, are there comfort items that Ava likes to have  
7 with her?

8 A Other than the radio, not really. Ava's never been  
9 one for stuffed animals or dolls. When I have attempted to  
10 give her those, she kind of just throws them. Doesn't have  
11 any interest in them. So that radio -- music -- for Ava,  
12 music is -- she loves it and it does kind of calm her at times  
13 and that radio in particular lights up as well and I think the  
14 lights help. She likes to look at the lights and -- and kind  
15 of just rock as she listens to the music. So that really  
16 would probably be the biggest comfort item --

17 Q Okay.

18 A -- that she's got.

19 Q Any -- any particular like blanket or outfit that  
20 you both send her back and forth in or make sure each of you  
21 have?

22 A No.

23 Q Okay. You heard Eugene's testimony that you're very  
24 rigid and hot tempered and angry. How would you describe your

1 parenting style with Ava?

2 A I believe that I'm -- I'm patient. I'm a loving  
3 parent. I am -- I am a fierce advocate for Ava. I -- and I  
4 -- I will not deny that. I am. I want her to get all the  
5 services and treatments that -- that she can. I -- I don't  
6 believe that I'm rigid or -- or inflexible or a bully or a  
7 tyrant or any of the things that -- that he described.

8 Q You described a pretty tight schedule --

9 A Yes.

10 Q -- with Ava. What are some things that you and Ava  
11 like to do for fun that -- that are maybe outside that  
12 schedule?

13 A Yeah. I -- I like -- you know, when the weather's  
14 cool in particular I just like being outside. I like taking  
15 her to the park, you know -- you know, walking around in her  
16 -- in her stroller. I -- before she started school, it was  
17 important to me that she gets some socialization with kids her  
18 age. So I started taking her -- which -- I had taken her to  
19 Gymboree before COVID and -- since in the past six months I've  
20 been taking her to a place called My Gym where she's in a  
21 class with other kids and I'm there. But just to give her  
22 some social interaction and work on her motor skills, you  
23 know, just climbing and things like that.

24 Q How would you -- I'm assuming even before this

1 litigation started you had the opportunity to observe Eugene  
2 parent Ava?

3 A Yes.

4 Q How would you describe Eugene's parenting style?

5 A And I -- I observed him parenting his boys as well.  
6 It's -- it's a more laid back passive style of parenting.  
7 He's -- he has not been big on routine and structure. I think  
8 -- I think we -- we disagreed about that in the past whereas I  
9 was more of -- especially I felt like toddlers and -- and  
10 younger kids got a sense of security from having a routine and  
11 some consistency and then especially now with -- with her  
12 diagnosis she needs that.

13 Q Do you believe that it's important for Ava to have  
14 similar structures? I'm not going to say the same, but  
15 similar structures and routines between both households?

16 A I really do especially with her -- her diagnosis. I  
17 understand it's not possible to be identical, but I think for  
18 her it gives her a sense of that consistency and stability and  
19 minimizes the risk of her hav -- having those, you know, that  
20 tantrum meltdown type behaviors, that distress that she gets  
21 into because of -- of the changes.

22 Q Let's talk about discipline. I understand she's  
23 three.

24 THE COURT: Listen, it's a little more distracting

1 for some reason than the last time. If you guys will use a  
2 pad and pass it back and forth. I can only hear you  
3 whispering back and forth over her. Okay. If you need paper,  
4 we'll have my -- my Marshal get you some paper to -- to go  
5 back and forth. But I can -- I can't hear any word and you're  
6 talking back and forth. I can't hear her. It's distracting.

7 MS. ROSENBLUM: And Judge, I'm -- as I'm looking  
8 over here, I'm noticing other people that I -- don't have  
9 glasses and I can't see that far. I don't know who else is on  
10 the -- MT? I don't know who that is.

11 THE CLERK: Marnie -- it's really tiny on my screen.

12 MS. ROSENBLUM: Oh, Marnie -- wait --

13 THE CLERK: Marnie --

14 MS. ROSENBLUM: -- a minute.

15 THE CLERK: (Indiscernible) and Montana Garcia.

16 MS. ROSENBLUM: Okay. Is it possible to -- to stop  
17 with Nechole and call Ms. Lancz --

18 THE COURT: Yeah.

19 MS. ROSENBLUM: -- as our witness?

20 THE COURT: That's fine.

21 MS. ROSENBLUM: So that we can get her --

22 MS. ISSO: How much time do I have?

23 MS. ROSENBLUM: -- off.

24 THE COURT: You have two hours and four minutes.

1 MS. ISSO: I would still like to cross her, Nechole.  
2 MS. ROSENBLUM: I'm not even close to done.  
3 THE COURT: Yeah. Yeah.  
4 THE CLERK: So which one? Which one?  
5 MS. ROSENBLUM: Ms. Lan -- Marnie Lancz.  
6 THE CLERK: Okay.  
7 MS. ROSENBLUM: Lancz.  
8 THE CLERK: Do you want me to do this for a breakout  
9 room so that the other ones don't hear or --  
10 THE COURT: Well, who is -- who is it and --  
11 MS. ROSENBLUM: Her -- her name is Marnie Lancz.  
12 She is one of the treatment providers.  
13 THE COURT: Well, then Mr. Blackham and the other  
14 person should not be in there, correct?  
15 THE CLERK: Okay. Well, I can -- I can just move  
16 her to a breakout room if you want to do it that way.  
17 THE COURT: Yeah.  
18 MS. ISSO: That's a good point since she's been  
19 listening the whole time.  
20 THE CLERK: They're -- they can't hear. I --  
21 MS. ISSO: Oh.  
22 THE CLERK: -- have us muted.  
23 MS. ISSO: Oh, okay.  
24 (COUNSEL AND CLIENT CONFER BRIEFLY)

1 MS. ROSENBLUM: Ms. Lancz, can you hear us?  
2 MS. LANCZ: Yes, I can.  
3 MS. ROSENBLUM: All right.  
4 THE COURT: Madam Clerk, you're going to have to  
5 swear her in as a witness.  
6 MS. ISSO: Your Honor, we're going to object to this  
7 witness. She hasn't treated the child.  
8 THE COURT: We'll go back to what she list -- was  
9 she listed as a witness?  
10 MS. ISSO: I'm sorry?  
11 MS. ROSENBLUM: She was.  
12 THE COURT: Was she listed as a witness.  
13 MS. ROSENBLUM: She was, Your Honor.  
14 MS. ISSO: No, but point is it's not relevant. She  
15 wasn't -- she didn't --  
16 THE COURT: Did you --  
17 MS. ISSO: -- treat the child.  
18 THE COURT: -- file an objection as we've gone  
19 through the trial setting order over yesterday? Did you file  
20 an objection to this particular witness indicating that she  
21 was not relevant?  
22 MS. ISSO: Okay. Well, just -- just stating for the  
23 record.  
24 THE COURT: Okay.

1 MS. ROSENBLUM: Are we ready?

2 THE COURT: Uh-huh.

3 MS. ROSENBLUM: All right.

4 MARNIE LANCZ

5 called as a witness on behalf of the Defendant, testified as  
6 follows on:

7 DIRECT EXAMINATION

8 BY MS. ROSENBLUM:

9 Q Good morning, Ms. Lancz. Can you hear me?

10 A Yes, I can.

11 Q All right. Can you go ahead and state your name for  
12 the record, please?

13 A My name is Marnie Lancz.

14 Q And Ms. Lancz, where -- where are you employed?

15 A I am employed at Therapy Management Group.

16 Q And what is your job title there?

17 A I'm the director.

18 Q Are you familiar with Nechole Garcia and Eugene  
19 Shapiro?

20 A Yes, I am.

21 Q How are you familiar with them?

22 A I have had conversations with both Eugene and  
23 Nechole in regards to services for Ava.

24 Q Are you providing direct treatment for Ava?

1           A     No, I am not.

2           Q     At any point have you provided direct treatment for  
3   Ava?

4           A     No, I have not.

5           Q     Is it fair to say that you have supervised some of  
6   that treatment -- or at least the provider's giving that  
7   treatment?

8           A     I have talked to the providers. They have been  
9   providing the treatment but I have never met Ava nor provided  
10   any treatment for Ava.

11          Q     Okay. Ms. Lancz, at some point were you aware that  
12   Ava was seen by Dr. Gaspar?

13          A     Yes.

14          Q     Were you assisting the parties in obtaining that  
15   evaluation and assessment?

16          A     I was aware that it was scheduled with Dr. Gaspar  
17   and then was assisting the family and in granting access per  
18   both parents to be present for that evaluation.

19          Q     Do you recall the date of that assessment with Dr.  
20   Gaspar?

21                THE COURT: Ms. Isso, again, all I can do is hear  
22   you. It's very distracting. Please use a pen. And, again, I  
23   know this is a process used around the country. It is. I  
24   cannot hear when you and your client talk back and forth while

1 people are testifying.

2 MS. ISSO: I'm sorry.

3 THE COURT: Go ahead, Ms. Rosenblum.

4 BY MS. ROSENBLUM:

5 Q Ms. Lancz, are you familiar with -- with the date  
6 that the assessment was to occur or the evaluation was to  
7 occur with Dr. Gaspar?

8 A I'm referring to my notes here. I believe it was  
9 August 10th, 2021.

10 Q And, again, did you participate in that evaluation?

11 A No, I did not.

12 Q With regard to the evaluation on August 10th, 2021,  
13 if you can just briefly again for the Court and for me what  
14 was your role in that?

15 A I was approached by Nechole in regards to granting  
16 access for both parents to attend that appointment. Generally  
17 for evaluations of that nature we like to have both parents  
18 present for the evaluation. Unfortunately because of our  
19 phase three guidance, TMG is contracted with the state of  
20 Nevada to provide early intervention services and so we fall  
21 under their guidance in regards to COVID protocols. So under  
22 the current COVID protocols it was prohibiting parents from  
23 two separate households both being physically present for that  
24 evaluation due to those COVID protocols. So that's how I was

1 involved in the appointment.

2 Q Okay. And Ms. Lancz, did you offer accommodations  
3 so that Nechole could be present for that assessment with Dr.  
4 Gaspar?

5 A Yes. I spoke with the Individuals with Disabilities  
6 Education Act Part C office as well as the Aging and  
7 Disabilities office with the state of Nevada requesting  
8 reasonable accommodations for both parents to be present in  
9 the office. And we offer for a large space to be used so both  
10 parents can be present for that evaluation. Eugene declined  
11 that accommodation and ultimately we ended up having Nechole  
12 in an adjacent room over Zoom because both parents can be  
13 present in the same room.

14 Q Aside from offering a larger room for the parents to  
15 meet in, were there any other accommodations that you offered  
16 to the parents?

17 A We talked about having the families swap rooms  
18 halfway through the appointment both being present on Zoom and  
19 swapping rooms. Eugene did not agree to that. My  
20 understanding is that the family has split custody and  
21 therefore it was Eugene's day, the date of the evaluation was  
22 Eugene's custody day. And so we tried to offer accom --  
23 reasonable accommodations for both parents to be present. And  
24 Eugene was -- was not in agreement of that.

1 Q At any point, did my client threaten -- I don't even  
2 want to say the word threaten. At any point -- and my client  
3 -- did my client Nechole bring up the issue of race with  
4 regard to a lack of accommodation?

5 A No.

6 Q That -- at any point, did she allege that you -- you  
7 or TMG were discriminating against her because of her race?

8 A No, not that I'm aware.

9 MS. ROSENBLUM: I have nothing further for this  
10 witness, Judge.

11 THE COURT: Ms. Isso? Hold -- you can -- give me  
12 one second to write this down. Hold on a second. All right.  
13 Go ahead.

14 MS. ISSO: Oh, okay. Thank you.

15 CROSS EXAMINATION

16 BY MS. ISSO:

17 Q Isn't it true there was another appointment  
18 previously before August 10th, correct?

19 A With Dr. Gaspar? That was the only appointment with  
20 Dr. Gaspar.

21 Q Okay. So it's fair to say though that Ms. Garcia  
22 did participate in the appointment, correct?

23 A She did. She did participate via zoom and in an  
24 adjacent room during the visit.

1 Q And isn't it true that at the previous appointment  
2 with Dr. Gaspar only Ms. -- okay, isn't it true that  
3 previously Ms. Garcia met with Mr. Gaspar alone?

4 A To my knowledge, there was only one appointment with  
5 Dr. Gaspar on August 10th and that was the only time that  
6 there was an appointment with Dr. Gaspar an that was with both  
7 parents present.

8 Q But didn't she meet with him personally by herself,  
9 Ms. Garcia, didn't she meet with Mr. Gaspar alone before the  
10 appointment?

11 A Not to my knowledge.

12 Q And if there are any communications between Ms.  
13 Garcia and Ms. Amber Harris regarding the discrimination or  
14 racism, would you be privy to those communications?

15 A This is the first I'm hearing of any discussion in  
16 regards to that. So I am not aware of any of that  
17 information.

18 Q Okay. But if Ms. Garcia did allege discrimination  
19 and racism, when she wasn't permitted to be in the room and  
20 she communicated that to Amber Harris, would you have known  
21 about that?

22 A If Amber reported it --

23 Q Okay.

24 A -- to me, I would have known about it.

1 Q Okay.

2 A Again, this is the first I'm heading of that.

3 Q What did -- what did Eugene communicate to you about  
4 the hearing test previously?

5 A I believe when I spoke to Eugene he said that there  
6 had been a previous appointment that fell on Nechole's custody  
7 day which he wasn't permitted to attend because of their COVID  
8 policies. That's what I recall him saying.

9 Q And did you agree with him that since he didn't --  
10 since only one parent was permitted to attend the hearing test  
11 that his -- you know, his request, you know, is reasonable  
12 that he -- he attend this one alone as well?

13 A My job is to make sure that both parents have access  
14 and it -- to the services and make reasonable accommodations.  
15 And it's not my job to determine what's appropriate in terms  
16 of who attends. I'm -- I'm legally bound to provide services  
17 for new children as will meet the requirements under IDEA  
18 Part C law.

19 Q And does -- in your opinion, has -- has Eugene been  
20 involved and has he been nice and pleasant to deal with?

21 A Again, I'm -- I'm not able to give my opinion. I --  
22 I've --

23 Q Oh.

24 A -- interacted with Eugene and it's been -- all of my

1 interactions have been professional.

2 MS. ISSO: Okay. No further questions. How many  
3 minutes was that for me.

4 THE COURT: Give me one second. Nine  
5 thirty-seven --

6 MS. ISSO: How many minutes was that? I'm counting  
7 it down to the second.

8 THE COURT: That was five minutes. So you're down  
9 to one minute and fifty-nine.

10 MS. ISSO: This is such a joke. Go ahead.

11 THE COURT: Ms. Rosenblum?

12 MS. ROSENBLUM: Yeah. No further questions, Judge.

13 THE COURT: All right. Thank --

14 MS. ROSENBLUM: Thank you, Ms. Lancz.

15 THE COURT: Thank you for being here to testify  
16 today.

17 THE WITNESS: Thank you.

18 THE COURT: Have a good day. Stay safe and healthy.

19 THE WITNESS: All right.

20 MS. ROSENBLUM: And if we don't have any new people,  
21 I would just put my client back up.

22 THE COURT: Is there anybody in there, Madam Clerk?

23 THE CLERK: Yes, there's Mr. Blackham and Ms.  
24 Garcia.

1 MS. ROSENBLUM: Okay. All right. Are we good?

2 THE COURT: Yeah.

3 MS. ROSENBLUM: Ready to go? All right.

4 NECHOLE GARCIA

5 called as a witness on her own behalf, having been previously  
6 sworn, testified upon her oath as follows on:

7 DIRECT EXAMINATION CONTINUED

8 BY MS. ROSENBLUM:

9 Q Nechole, just kind of where we left off, as far as  
10 disciplining Ava, are -- are you at that stage with her?

11 A I'm not. She's really little and -- no, I'm not.

12 Q Okay. Do you have any understanding of how Eugene  
13 handles discipline with Ava in his household?

14 MS. ISSO: Objection, calls for speculation. She is  
15 not in his household. She doesn't know --

16 THE COURT: She asked --

17 MS. ISSO: -- what's going on.

18 THE COURT: -- if he -- she has any knowledge. If  
19 she doesn't, then she doesn't. Overruled.

20 THE WITNESS: I don't. No.

21 BY MS. ROSENBLUM:

22 Q Have you and Eugene have -- had a conversation about  
23 discipline for Ava when she reaches that age?

24 A No, we haven't.

1 Q There was testimony given when Ms. Isso had her case  
2 in chief about your work schedule. State again for the record  
3 your employer.

4 A City of Henderson.

5 Q And what do you do there?

6 A I'm an assistant city attorney in the criminal  
7 division. So I'm a prosecutor.

8 Q What is your work schedule?

9 A It's Monday through Thursday from 7:30 a.m. to 5:30  
10 p.m.

11 Q Okay.

12 THE COURT: Wait, hold on one second. Again, how do  
13 you get her -- if you got to be at work at 7:30, how do you  
14 get her to school --

15 MS. ROSENBLUM: Yeah.

16 THE COURT: -- by 7:45 to 8:00?

17 THE WITNESS: So my boss is really great and he's  
18 allowing me to come into work late --

19 THE COURT: Okay.

20 THE WITNESS: -- so that I can take her to school.  
21 If Ava has any important appointments, IEP meetings, the  
22 assessments, I'm able to take time off work for that. He also  
23 allows me to work from home sometimes so that I can -- I can  
24 be there with Ava. Yeah, my -- I -- I have a really great

1 boss and he allows me a lot of flexibility with my -- with my  
2 work schedule.

3 Q Okay. And I appreciate the Court because that's  
4 literally the next question I had.

5 THE COURT: I told you I ask questions.

6 Q Do you -- do you typically work holidays?

7 A No.

8 Q Do you typically --

9 A Off always.

10 Q -- work overtime?

11 A It is very rare. If -- so I -- I -- you know, in my  
12 job I have calendars that I have to handle two times a week.  
13 I have a trial calendar that I handle. If there's a  
14 particularly somewhat complicated case, I may take that case  
15 home and after Ava's sleep I may do a little extra work on it.  
16 But this year for example I've only done six trials the entire  
17 year. So it -- it hasn't happened in -- in quite awhile.

18 Q Who typically watches -- so I know you talked about  
19 the school schedule and that she's in school Monday through  
20 Thursday. But while you're at work who's watching Ava?

21 A My mother.

22 Q Okay. Anyone else?

23 A It's my mother. Today because my mother's been  
24 subpoenaed and I have a -- a dear friend of mine named Tracey

1 Yaro (ph). She's watching her.

2 Q Do you and Eugene for instance share a babysitter or  
3 a nanny?

4 A No.

5 Q Have you ever talked about that with Eugene?

6 A No.

7 Q As far as Eugene goes, do you know what his work  
8 schedule is?

9 A I don't. I've -- he's told me different things at  
10 different times. As far as I am aware right now he has a  
11 pretty open schedule and is -- has a lot more free time during  
12 the week than I do.

13 Q Can you state for the court what the existing  
14 custodial schedule is with Ava?

15 A Right now it's a week on week two schedule. Week  
16 one Eugene has Ava from 7:00 a.m. on Sunday morning to 7:00  
17 p.m. on Tuesday. Week two he has Ava from 7:00 a.m. on Monday  
18 morning to 7:00 p.m. on Wednesday.

19 Q And your request as you sit here today is to  
20 maintain that schedule as the custodial schedule; is that  
21 correct?

22 A Yes.

23 Q Explain to the Court why you believe that this  
24 existing schedule is in Ava's best interest.

1           A       Well, a big thing is that Ava has become accustomed  
2 to the schedule. She's become used to it. I do think -- I do  
3 think change in her routine and the structure would be very  
4 jarring for her. It would be difficult for her to manage.

5           MS. ISSO: Objection, hearsay.

6           THE COURT: Overruled.

7           THE WITNESS: I think the schedule only requires a  
8 couple of transitions a week which I think, you know,  
9 minimizing the number of transitions is good because in my  
10 experience with her she does have difficulty when I get her  
11 back from Eugene. She's more likely to have meltdowns and  
12 tantrums for at least a few hours until she kind of gets  
13 reacclimated to my home. And then when I do hand her over to  
14 Eugene at times, she also is having issues melting down and  
15 getting upset. So I -- I also think it's good because it  
16 minimizes the number of -- of those exchanges.

17 BY MS. ROSENBLUM:

18           Q       Does this existing schedule -- and -- and I know you  
19 heard Eugene's testimony that he doesn't ever really have a  
20 full weekend with Ava. Do you think this --

21           MS. ISSO: Your Honor --

22           Q       -- schedule --

23           MS. ISSO: -- I want to object for a second because  
24 yesterday you held a conference call.

1 THE COURT: Listen, I absolutely --  
2 MS. ISSO: No, I'm --  
3 THE COURT: -- did.  
4 MS. ISSO: -- going to object for a second.  
5 THE COURT: I -- I don't -- I --  
6 MS. ISSO: Yesterday --  
7 THE COURT: That actually --  
8 MS. ISSO: -- you held a --  
9 THE COURT: -- goes to --  
10 MS. ISSO: -- conference call --  
11 THE COURT: -- all of this.  
12 MS. ISSO: -- with me and Opposing Counsel and you  
13 basically coached Opposing Counsel what to do today for her  
14 case in chief. And you said to me that everything that we  
15 presented is irrelevant. So I'm going to ask for a whole new  
16 trial, a whole new trial right now, based on what happened --  
17 THE COURT: I'm giving --  
18 MS. ISSO: -- yesterday --  
19 THE COURT: -- a whole new trial.  
20 MS. ISSO: -- during that call. Was that --  
21 THE COURT: I --  
22 MS. ISSO: -- on the record, by the way?  
23 THE COURT: That was absolutely --  
24 MS. ISSO: The -- okay.

1 THE COURT: -- on the record --

2 MS. ISSO: So you basically --

3 THE COURT: -- and you guys can --

4 MS. ISSO: -- coached Opposing Counsel on what to do  
5 today --

6 THE COURT: I --

7 MS. ISSO: -- and ba -- and we lost all of our time.  
8 You didn't give us that advice or that information before we  
9 presented our case in chief and I'm going to ask for a whole  
10 new trial.

11 MS. ROSENBLUM: So Your Honor, can I --

12 THE COURT: The request for a new trial is going to  
13 be denied and again we'll allow each -- you guys can continue  
14 to present your case. I never said don't. I said I would add  
15 in -- and, again, as far as what the issue is, I know the  
16 parties were not present yesterday. The issue is what  
17 schedule, what schedule, because we've already agreed on  
18 custody, is in the best interest of this child and the child  
19 support issue. Again, that is not coaching the Defendant on  
20 how to present her case. That was simply a comment by this  
21 Court to everybody post after the first day, Ms. Isso, to  
22 hopefully direct.

23 And so the questions could be more pointed to the  
24 issue. And, again, if you guys want to pro -- we've allocated

1 the time. Do you want to continue on? And quite candidly,  
2 I'll make this comment right now. Everything thus to right  
3 now, maybe a couple of things, are of relevance, but you guys  
4 can use the rest of your time as is. Your request for another  
5 trial is denied.

6 MS. ISSO: You should have made that suggestion then  
7 after opening arguments when they agreed to joint physical  
8 custody --

9 THE COURT: You --

10 MS. ISSO: -- not after we already presented our --

11 THE COURT: You could have --

12 MS. ISSO: -- case in chief.

13 THE COURT: You could have stated that as well, Ms.  
14 Isso. You could have absolutely made that --

15 MS. ISSO: I'm the not the --

16 THE COURT: -- comment --

17 MS. ISSO: -- one that --

18 THE COURT: -- as well.

19 MS. ISSO: -- called for a hearing yesterday to give  
20 your opinion on how we should conduct our -- our case or which  
21 strategy --

22 MS. ROSENBLUM: I --

23 MS. ISSO: -- we should implement.

24 MS. ROSENBLUM: Your Honor --

1 THE COURT: Go ahead and move on.

2 MS. ROSENBLUM: -- please.

3 THE COURT: Next question, Ms. Rosenblum. I -- I  
4 made my comments. The record's clear. That was absolutely on  
5 the record. I would never have a discussion like that off the  
6 record.

7 MS. ROSENBLUM: And -- and I want to be sure it's  
8 clear for the record. I did -- certainly did not contact the  
9 Court and ask for a conference.

10 MS. ISSO: Nobody --

11 MS. ROSENBLUM: In fact, I was --

12 MS. ISSO: -- said that.

13 THE COURT: I set it.

14 MS. ROSENBLUM: -- in a settlement conference.

15 THE COURT: I set it.

16 MS. ROSENBLUM: Yeah.

17 BY MS. ROSENBLUM:

18 Q Sorry, forgot where I was. As far as Dad was  
19 requesting some additional weekend time with Ava --

20 A Yes.

21 Q -- as far as this schedule goes, explain to the  
22 Court how this schedule impacts or doesn't impact weekend time  
23 with Ava.

24 A Because Eugene has the availability he has during

1 the week, in my opinion this schedule maximizes the time that  
2 both of us get to -- to spend with her. I'm able to on my off  
3 days maximize my time with Ava and Eugene during his time  
4 during the week that he's not working I -- gets to maximize  
5 his time as well. And yes, he also does have those Sundays  
6 with Ava and his sons to -- to do different activities.

7 MS. ISSO: Move to strike that. She just -- she  
8 just testified she doesn't know what his schedule is. So how  
9 can she say that would maximize the time with each parent?  
10 Relevance, foundation.

11 THE COURT: She testified she does not know his  
12 schedule. You are correct. I'll sustain that part.

13 MS. ROSENBLUM: I -- I'm -- okay. Let me ask a  
14 question again.

15 BY MS. ROSENBLUM:

16 Q The you believe that the existing schedule based on  
17 what you know maximizes both of your times with Ava?

18 A I do because in my communications with Eugene in  
19 OurFamilyWizard he would frequently ask to have -- or -- or  
20 state that he should have Ava during my work hours because he  
21 is available.

22 Q Let's talk about holidays.

23 A Yeah.

24 Q There's a holiday schedule currently in place in

1 this case; is that true?

2 A Yeah, I think we're on the default holiday schedule.

3 Q Do you agree --

4 THE COURT: Let me -- this is another part where I  
5 pipe in. And this is not the first case. And it is pro se  
6 litigants up to multimillion dollar clients. If these parties  
7 cannot agree on their own visitation schedule, it will be the  
8 Court's default, period.

9 MS. ROSENBLUM: And I'm asking the Court based on  
10 the needs of this child to at least hear the testimony as to  
11 whether or not there will be a deviation from the Court's  
12 default holiday schedule.

13 THE COURT: Okay.

14 THE WITNESS: Yes, we are -- we are on the default  
15 schedule.

16 BY MS. ROSENBLUM:

17 Q Okay. Do you agree with the default holiday  
18 schedule?

19 A Not for Ava because of her age and also because of  
20 her -- having autism. Particularly the parts about the  
21 schedule -- the Christmas schedule that requires the long  
22 segment with one parent and then the long segment with the  
23 other parent --

24 THE COURT: So let's go -- and, again, let's note

1 them specifically. So it's the Christmas one. I realize  
2 that's elongated. Okay.

3 MS. ROSENBLUM: Right. Yes.

4 Q So specifically Christmas.

5 A Specifically the Christmas and -- and the spring  
6 break went as well -- is elongated. We did have this year.  
7 We each took the -- a week vacation with Ava. And I did  
8 notice during that long period of time when I got her back  
9 from Eugene she was more prone to having meltdowns and  
10 tantrums and she was extremely --

11 MS. ISSO: Objection, hearsay.

12 THE COURT: Overruled.

13 THE WITNESS: And she was ex --

14 MS. ISSO: Isn't -- isn't it an out of court  
15 statement? A statement could be --

16 THE COURT: It is not, Ms. Isso. What am I supposed  
17 to do, bring a child in here? They can absolutely --

18 MS. ISSO: That's --

19 THE COURT: Your --

20 MS. ISSO: That --

21 THE COURT: -- client testified to the observations  
22 of -- of what he sees what his child does and says. He's  
23 testified to that as well.

24 MS. ISSO: Your Honor --

1 THE COURT: The objection --  
2 MS. ISSO: -- a statement --  
3 THE COURT: -- for hearsay --  
4 MS. ISSO: -- under the hearsay rule includes --  
5 THE COURT: -- is overruled.  
6 MS. ISSO: -- conduct and includes verbal.  
7 THE COURT: Right.  
8 MS. ISSO: Okay.  
9 THE COURT: Right.  
10 MS. ISSO: So she's saying --  
11 MS. ROSENBLUM: It's the present sense --  
12 MS. ISSO: -- the child did --  
13 MS. ROSENBLUM: -- impression.  
14 THE COURT: Overruled.  
15 THE WITNESS: So yeah, and she was a lot clingier.  
16 And then when I had her for that week and when I gave her back  
17 to Eugene, she -- she really cried and had a hard time with me  
18 handing her over. So I do think that long -- those -- the  
19 longer stretches are time are -- are really hard on her. And  
20 I -- I would request that for those periods maybe just be  
21 shortened to just Christmas Day, Christmas Eve, that sort of  
22 thing.  
23 BY MS. ROSENBLUM:  
24 Q Okay. So you mentioned Christmas Day, Christmas

1 Eve. What would you your proposal for modifying at least the  
2 Christmas schedule? Let's start there.

3 A Perhaps if we can just alternate. One of us has a  
4 Christmas Even let's say even years and the other one has a  
5 Christmas Day. And then it switches.

6 Q Okay.

7 A Something really straightforward.

8 Q As far as spring break, how would you propose  
9 managing that?

10 A I just ask that we don't have the spring break --  
11 that we just maintain our normal schedule during spring break.

12 Q Okay. And you mentioned that you and Eugene both  
13 just took vacations and that that was another concern you had  
14 as far as the Court's default schedule. So tell me how you  
15 would propose handling the vacation issue.

16 A The other thing now is now that Ava's on these  
17 therapies and it's important that she maintains the  
18 consistency with the therapies, I don't think he or I are --  
19 are going to be able to leave town and -- and stop the  
20 therapies for that long period of time anyway. So I -- I  
21 think perhaps just -- maybe we extend our -- whatever  
22 visitation we have maybe once or twice a year we can extend  
23 that by a few days so that you -- you can have that longer,  
24 you know, few more day period of time with her, but not the

1 full week.

2 THE COURT: So those are the three parts, right? Is  
3 that correct? Or is there any others?

4 MS. ROSENBLUM: Yes. Well, I'm going to ask her if  
5 there's --

6 THE COURT: Okay.

7 MS. ROSENBLUM: -- any others. Is that the Court's  
8 question or mine?

9 THE COURT: Again, I -- there a -- I assume. Okay.  
10 Sorry.

11 BY MS. ROSENBLUM:

12 Q So we've talked about those three. Any other  
13 holidays that you've got concerns with or any other piece of  
14 the default plan that you're worried about?

15 A No.

16 THE COURT: Okay.

17 Q Okay. As far as Ava's educational needs, I think  
18 the Court sort of touched on this a little bit. I know she --  
19 your testimony was she just started school --

20 A Yes.

21 Q -- this -- this week, right?

22 A Yes.

23 Q Did -- is she bringing home homework?

24 A Not yet, but the teacher has informed I think both

1 of us that she may have little assignments that we're expected  
2 to do with her.

3 Q Okay. Do you have any difficulty with your work  
4 schedule being able to assist her with homework or anything  
5 the Court -- or sorry, the school may ask you to do --

6 A No.

7 Q -- outside of school hours?

8 A Not at all. Ava's my priority and my work is very  
9 flexible. So I can take time off if I need to. I can --  
10 it's a meeting I can even do in my office and close my office  
11 door. I can go home, whatever I need to do.

12 Q Okay. To your knowledge, has Eugene been able to  
13 participate in getting Ava to school on time?

14 A To my knowledge, yes.

15 Q And picking her up on time.

16 A As far as I know, yes.

17 Q And, again, I know we've only been in school for  
18 four days, but there's been no issues with that this week.

19 A That's right.

20 Q Is that correct?

21 A That's correct.

22 Q Does Ava have an educational surrogate?

23 A She has an advocate.

24 Q Okay. Oh, sorry. Different -- different court it's

1 called a surrogate. As far as the advocate goes, what is her  
2 role to your understanding?

3 A It's my understanding is that the advocate attends  
4 the IEP meetings with all the -- with the parents and with the  
5 -- all the school district staff. And their job is to make  
6 sure that the school district provides every service that  
7 she's entitled to by law. And the advocate -- the advantage  
8 of the advocate is that they know the school system, they know  
9 the professionals that work there, they know the regulations  
10 and they can -- you know, they know a lot more than the  
11 parents often know.

12 MS. ROSENBLUM: Is that Dr. Gaspar?

13 THE COURT: Hold on one second. Who is this person  
14 and can they hear, Madam Clerk?

15 THE CLERK: They cannot hear us right now though.

16 MS. ROSENBLUM: Okay. That is their witness.

17 THE COURT: Okay.

18 MS. ROSENBLUM: I don't know if Ms. Isso wants to --

19 THE COURT: Can you -- can you ask him to mute his  
20 mic then --

21 MS. ROSENBLUM: -- stop --

22 THE COURT: -- so we can't hear him?

23 THE CLERK: I just -- I just muted him.

24 THE COURT: Thank you.

1 MS. ROSENBLUM: Do we want to stop here and start  
2 with --

3 THE COURT: You guys --

4 MS. ROSENBLUM: -- Mr. James?

5 THE COURT: Listen. You guys present your case how  
6 you want and call your witnesses how you want. So --

7 MS. ROSENBLUM: I'll defer to Ms. Isso.

8 MS. ISSO: Can we ask him --

9 MS. ROSENBLUM: I anticipated --

10 MS. ISSO: -- if he can come --

11 MS. ROSENBLUM: -- this.

12 MS. ISSO: Can we -- can we ask if he can -- excuse  
13 me?

14 MS. ROSENBLUM: I anticipated that we would be --  
15 like at least for my witnesses that as they appear we would  
16 try to get them in and out.

17 MS. ISSO: Oh, how --

18 MS. ROSENBLUM: So --

19 MS. ISSO: -- much longer do we have in front of  
20 Nechole Garcia? I'd rather we finish up with her and then  
21 call him if he's available. Can we ask him if he's available?  
22 Like how long do you think you're going to go?

23 MS. ROSENBLUM: I don't know.

24 THE COURT: I'm sorry, whose witness is this?

1 MS. ROSENBLUM: This is --  
2 MS. ISSO: This is Mark --  
3 MS. ROSENBLUM: -- Ms. Isso's witness.  
4 MS. ISSO: -- James. I have another patient  
5 appointment I'm planning at 10:00. I have -- oh, so he -- he  
6 has to go at 10:00? Could you -- could you hear us, Mr.  
7 James?  
8 THE CLERK: He cannot hear us.  
9 MS. ISSO: Oh, because he's texting me. Do you have  
10 to be done at 10:00, question mark?  
11 THE CLERK: Do you want to ask him?  
12 MS. ISSO: I just texted him.  
13 THE CLERK: Oh.  
14 MS. ROSENBLUM: I -- I can --  
15 THE COURT: These kind of delays do add -- are  
16 coming from your time though, Ms. Isso. Go right ahead.  
17 MS. ROSENBLUM: I can continue to ask Nechole  
18 questions if she wants straight.  
19 MS. ISSO: He wants to start at 10:00.  
20 MS. ROSENBLUM: He wants to start at 10:00? So I  
21 have four minutes.  
22 MS. ISSO: Okay. We'll call you at 10:00.  
23 THE COURT: Okay. Do you want to continue on, Ms.  
24 Rosenblum?

1 BY MS. ROSENBLUM:

2 Q I'm sorry, Nechole. So I think we left off there's  
3 an educational advocate who attends meetings with the staff,  
4 school district. Can you just kind of -- I -- I don't know if  
5 you were done explaining what the educational advocate's role  
6 is.

7 A I think so. Just that they -- so they attend and  
8 are there to make sure that Ava gets all the services she  
9 needs and the advantage of having one is that they -- they  
10 know kind of the system much better than the parents do. And  
11 so they're just a good resource for the parents to have to  
12 make sure the kids are getting all the services they're  
13 entitled to.

14 Q Did you and Eugene agree on an ed -- educational  
15 advocate?

16 A No, we did not.

17 Q When -- well, first of all, do you have your own  
18 educational advocate for Ava?

19 A No. The last advocate we both -- both ended up  
20 using her.

21 Q Okay. Do you intend -- well, let -- strike that.  
22 Who is the educational advocate to Ava currently?

23 A So it's -- it's changed. The last advocate to  
24 attend the last meeting's name was Cheryl Jung (ph).

1 Q Okay. Who picked Cheryl Jung?

2 A So I -- Cheryl Jung was recommended -- strongly  
3 recommended to me by several people. I talked to her about  
4 joining. I asked Eugene to talk to her. Initially he refused  
5 to do so. He had said he already picked someone else. And  
6 that other person he had picked handled the first segment of  
7 the IEP meeting. The second segment of the IEP meeting I did  
8 then because I had concerns with the -- the other advocate  
9 that he selected and asked Ms. Jung to join the meeting.

10 Q Okay. Who was the first person?

11 A Her name is Robin Kincaid (ph) and she works for  
12 Nevada PEP.

13 Q And who selected Ms. Kincaid?

14 THE WITNESS: That's Amber.

15 MS. ROSENBLUM: Is that Amber?

16 THE WITNESS: Yes.

17 MS. ROSENBLUM: That's Ms. Harris.

18 MS. ISSO: All right. Let's call Mr. James -- I'm  
19 sorry, Dr. James -- Mr. -- Mr. James. It should only be like  
20 five minutes.

21 THE COURT: All right. So we're calling -- it's now  
22 Ms. Isso's witness?

23 MS. ISSO: Mark James.

24 THE CLERK: Mr. James, can you hear me?

1 MR. JAMES: Yes.

2 MS. ISSO: Thank you, sir. Could you please state

3 your name --

4 THE COURT: Hold on one second, Ms. Isso.

5 MS. ISSO: Oh.

6 THE COURT: We have to --

7 MS. ISSO: Yeah, I'm sorry. I'm sorry.

8 THE COURT: -- swear in witnesses --

9 MS. ISSO: I'm sorry. I'm sorry.

10 THE COURT: -- before they --

11 THE CLERK: Can you --

12 THE COURT: -- testify.

13 THE CLERK: -- please raise your right hand? You do

14 solemnly swear the testimony you're about to give in this

15 action shall be the truth, the whole truth, and nothing but

16 the truth, so help you God?

17 THE WITNESS: Yes.

18 MARK JAMES

19 called as a witness on behalf of the Plaintiff, having been

20 first duly sworn, testified upon his oath as follows on:

21 DIRECT EXAMINATION

22 BY MS. ISSO:

23 Q Could you please state your name for the record?

24 Could you please state your name for the record?

1           A     Mark James.

2           Q     Mr. James, what position do you hold?

3           A     I'm a speech language pathologist.

4           Q     And have you treated the minor child in this case?

5           A     Yes.

6           Q     About how many times?

7           A     I can count my notes.

8           Q     Like 20 times?

9           A     Maybe 25 -- 25 roughly.

10          Q     Did you treat the child at the facility or at the  
11 parties' homes?

12          A     Via Telehealth and at the parties' homes.

13          Q     Okay. And did you ever witness the child having  
14 temper tantrums?

15          A     Yes.

16          Q     And did you ever witness -- at Eugene's home, did  
17 you ever witness anything that was unusual?

18          A     No.

19          Q     And did you find that he participated in these  
20 meetings and was always susceptible or open to accepting  
21 medical information and advice regarding his child?

22          A     Yes.

23          Q     Did he follow your recommendations and referrals?

24          A     I don't know that I made any particular referrals,

1 but following recommendations, (indiscernible).

2 Q Was a referral made for Ava to be evaluated by a  
3 bilingual speech pathologist in March of 2021?

4 A That was a concern that he brought up and I do not  
5 recall whether I -- a recommendation for that to happen. I --  
6 I know that was a concern of his.

7 MS. ISSO: Okay. No further questions.

8 THE COURT: Ms. Rosenblum?

9 MS. ROSENBLUM: Nothing further. No questions.

10 THE COURT: All right, sir. I guess there's no more  
11 questions for you. Thank you for being here to testify today.  
12 That was three minutes --

13 THE WITNESS: Okay.

14 THE COURT: -- Ms. Isso that you used.

15 THE WITNESS: All right. Thank you.

16 THE COURT: So I guess we're back to --

17 MS. ROSENBLUM: Ms. Harris is on --

18 THE COURT: Oh.

19 MS. ROSENBLUM: -- also, so --

20 THE COURT: Who is?

21 MS. ROSENBLUM: Amber Harris.

22 THE COURT: I'm sorry.

23 MS. ROSENBLUM: Oh, Amber Har -- she was --

24 THE COURT: It's hard to keep track.

1 MS. ROSENBLUM: -- she was there, I thought, but now  
2 I see Dr. Gaspar. I think -- oh, no, wait. That's not Tanner  
3 Garcia (ph). I think she's the AD up top as Amber Harris.  
4 Can we call her?

5 THE COURT: Yeah, whose witness is this?

6 MS. ROSENBLUM: Mine.

7 THE COURT: Yours? Okay.

8 MS. ROSENBLUM: She's mine.

9 THE CLERK: Which one?

10 MS. ROSENBLUM: Amber Harris.

11 THE CLERK: Okay.

12 MS. ISSO: Was Marnie Lancz sworn in?

13 THE COURT: I'm sorry, who?

14 MS. ROSENBLUM: Ms. Lancz.

15 MS. ISSO: Marnie Lancz. Well, she's -- was she  
16 sworn in? Let's just go. Who's -- who's next?

17 THE COURT: I don't -- I don't recall.

18 MS. ISSO: Are we calling Amber Harris now?

19 MS. ROSENBLUM: Yes.

20 THE COURT: If necessary, if you believe that's  
21 going to be something that will flaw this, we will absolutely  
22 contact her and call her back. I don't know. Madam Clerk --  
23 we'll have Madam Clerk check at lunch and we can reaffirm that  
24 on the record.

1 THE CLERK: Ms. Harris, can you hear me?

2 MS. HARRIS: Yes, I can.

3 THE CLERK: Can you please raise your right hand?

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

7 THE WITNESS: Yes.

8 AMBER HARRIS

9 called as a witness on behalf of the Defendant, having been  
10 first duly sworn, testified upon her oath as follows on:

11 DIRECT EXAMINATION

12 BY MS. ROSENBLUM:

13 Q Ms. Harris, can you go ahead and state your full  
14 name for the record, please?

15 A Amber Lynn Harris.

16 Q And Ms. Harris, again, I want to thank you for your  
17 testimony today. I know this is disruptive to your schedule.  
18 So I'll try to be fast. Can you state your job title?

19 A Developmental specialist service (indiscernible)  
20 therapy.

21 Q And Ms. Harris, are you familiar with the parties in  
22 this case?

23 A Yes.

24 Q How do you know them?

1           A     Previous clients.

2           Q     And did you help -- did you participate with them  
3 with regard to their minor child Ava Garcia-Shapiro?

4           A     I did.

5           Q     Are you familiar with the CARS report that was  
6 created in this case?

7           A     Yes.

8           Q     Who created that report?

9           A     Myself and my team members, Ms. (Indiscernible) and  
10 Ms. (Indiscernible), her team therapist, Danielle Palmer (ph),  
11 and my nutritionist Kiera (ph). And I apologize, her last  
12 name escapes me at the moment.

13          Q     If you could for the record explain what the CARS  
14 report is.

15          A     It is the Childhood Autism Rating Scales and it is a  
16 -- an assessment that we use to determine whether there are  
17 red flags for autism.

18          Q     And in this particular case, the result of your  
19 assessments, did it demonstrate red flags for autism?

20          A     Yes.

21          Q     Did you provide a copy of the report to the parents  
22 in this case?

23          A     We are actually not allowed to provide a copy of the  
24 report. We've never provided copies to families. This was

1 actually the first family that requested and we provided  
2 copies to.

3 Q And Ms. Harris, upon providing the parties a copy of  
4 the report, did you receive objections to the report from  
5 either party?

6 A I did.

7 Q Who did you receive objections to the report form?

8 A Mr. Shapiro.

9 Q Do you happen to have a copy of the report in front  
10 of you?

11 A I can get it. I have it available.

12 Q Okay. So I also have a copy of it and I want to use  
13 the one they've already admitted.

14 MS. ROSENBLUM: And Judge, for the record, the TMG  
15 report has already been admitted by Counsel through  
16 stipulation. I believe it's Plaintiff's Exhibit --

17 THE COURT: Okay. It's been admitted.

18 Q And Ms. Harris, in the report did you note Dad's  
19 concerns with the report?

20 A Yes, both parents' concerns are noted in the CARS  
21 assessment. Now, the way that the previous CARS assessment is  
22 set up because it's a PDF and now I did not create the PDF,  
23 so I am not aware of how to fix it, but what happens is if  
24 there's additional information that goes outside of the box we

1 get a -- a little plus side on the side. If you have the  
2 editable version of the PDF, we can see that information which  
3 is exactly why we do not share this because once you print it  
4 out or you make it an -- editable, you cannot see that  
5 additional information. We did make an exception and find a  
6 way to manipulate the PDF and turn it in -- as into a Word  
7 document. So that's why the additional information is --

8 Q And you indicated that both parents I think had  
9 concerns about the report?

10 A As far as I know, the concerns that I have here are  
11 listed from an email from Mr. Shapiro.

12 Q And is -- in the report version that you have, are  
13 those concerns available to you?

14 A Yes.

15 MS. ROSENBLUM: And I would represent to the Court  
16 that they're at the end of Ms. Isso's Exhibit 33.

17 THE COURT: I need a Bates stamp if you're referring  
18 to --

19 MS. ROSENBLUM: I don't have the Bates stamps. It's  
20 the last two pages of that exhibit. It's starts -- at the  
21 top, it states additional notes page.

22 THE COURT: Last two pages of what exhibit?

23 MS. ROSENBLUM: Exhibit 33.

24 THE COURT: Okay.

1 Q Ms. Harris, do you have the -- that information  
2 available to you right now?

3 A Additional notes? Yes.

4 Q Do -- do you believe that these additional notes  
5 accurately reflect Mr. Shapiro's documented concerns with you  
6 about the CARS report?

7 MS. ISSO: What exhibit?

8 A All I did was copy the email he sent and paste it  
9 onto the additional notes. So --

10 Q Okay.

11 A -- whatever he said is there.

12 Q With regard to the concerns that Mr. Shapiro raised  
13 about the diagnosis, did you change any of your opinions or  
14 assessments with regard to Ava in the CARS report?

15 A No, our assessment and the way that we document our  
16 concerns really is based on -- of our observations. I mean,  
17 parents can say one thing or another.

18 Q In these additional notes pages, you indicate that  
19 -- and I'm looking -- one, two, three, four, five, six lines  
20 from the bottom. It -- it states father has stated that he  
21 doesn't know if Ava's being extremely musically talented as  
22 hereditary or part of autism or a combination of both. Is  
23 that a fair and accurate representation of what Dad expressed  
24 to you as part of his concerns with this report?

1           A     As I mentioned, it's just copy and pat -- pasted  
2 from his emails. So what --

3           Q     Okay.

4           A     -- Dad said is on this -- this page.

5           Q     And in the next statement, it states Father  
6 expressed he has concerns that he wanted to be addressed by  
7 medical professionals. Do you know what additional concerns  
8 he might have had?

9           A     No.

10          Q     Do you know if Dad ever sought additional medical  
11 professionals to address any other concerns?

12          A     If he did, that information was not shared with us.

13                MS. ROSENBLUM: I have nothing further for this  
14 witness, Judge.

15                THE COURT: Ms. Isso, do you have any questions of  
16 the witness?

17                               CROSS EXAMINATION

18 BY MS. ISSO:

19          Q     Is it common for parents to share concerns after  
20 there's been a report?

21          A     As I mentioned before, we've never provided -- this  
22 is the first family that I've provided a CARS report too.  
23 Typically this is kept in house and provided to our  
24 developmental pediatrician. So this is the first situation

1 that I've run into where we've had this issue.

2 Q Or if you just tell them what the overall assessment  
3 is or the outcome, is it common for -- for parents to ask  
4 questions or have concerns?

5 A I mean, they have questions and we discuss them, but  
6 for the most part I'm able to come to some kind of agreement  
7 with all of my families.

8 Q And -- and eventually was there an agreement reached  
9 here?

10 A Well, she received a diagnosis, so I guess so.

11 Q Okay. And has -- has Eugene participated in every  
12 appointment with TMG that you're aware of?

13 A That I'm aware of. Every visit in our notes we  
14 state who is present. The only time that I did not see Father  
15 was my in home visit with Nechole.

16 Q Okay. And, you know, did you witness anything that  
17 would give you concern that Eugene can't meet this child's  
18 needs?

19 A I'm not here to determine that.

20 Q But did you witness anything though?

21 MS. ROSENBLUM: Objection, Your Honor. The witness  
22 has already answered.

23 THE WITNESS: I -- that's not my call.

24 BY MS. ISSO:

1 Q Okay. And --

2 THE COURT: Wait. Listen, it -- not even as a  
3 professional, as a layperson. I believe she can answer that  
4 question as a -- even a layperson.

5 THE WITNESS: I -- I mean, I -- I want to make it  
6 extremely clear that our -- from our side and from our  
7 profession, our job is to make sure that our parents are  
8 provided with the tools that they need to support their child.  
9 That is my goal. That is my focus. My focus has always been  
10 on making sure that Ava has the tools that she needs. If at  
11 any point in time do I feel that a parent is not able to do  
12 that if it's, you know, a -- a safety issue, I'm a mandated  
13 reporter. Of course, I'm going to report that. But what goes  
14 on in the family's home and whether or not they pro --  
15 practice the strategies and follow those, I can't say one way  
16 or another.

17 Q And did you ever report anything against Eugene as a  
18 mandatory reporter?

19 A No.

20 Q Okay. And did Nechole -- when Nechole wasn't  
21 permitted to be part of an evaluation, did she allege  
22 discrimination?

23 A As far as making an actual report, I know that there  
24 was a complaint that was made and we took it to Part C (ph)

1 which is our office that is above us. We also took it to the  
2 District Attorney's Office and they examined the complaint and  
3 they let us know that we were following Part C and that's the  
4 information that I got.

5 Q So that was after she alleged discrimination,  
6 correct?

7 A To be honest, I was not part of any of that  
8 discussion. That all went on with Marnie. Once all of this  
9 occurred, I was pretty much removed.

10 Q But -- but she did allege discrimination when you  
11 guys were implementing COVID-19 procedures, right?

12 A I don't know the complaint is what I'm trying to get  
13 you to understand. This went above me. I don't know the  
14 nature of the complaint.

15 Q Didn't she complain of discrimination on a Zoom call  
16 along with you and your supervisor Jennifer Lokiano (ph)?

17 MS. ROSENBLUM: Objection, Your Honor. It's been  
18 asked and answered now three times.

19 THE COURT: Well, no. She testified to the  
20 complaint. She's now asking about a Zoom call. So she can  
21 ask that. Go ahead, Ms. Isso.

22 THE WITNESS: I don't have that note in front of me  
23 but I can look through my notes. Do you know a date?

24 BY MS. ISSO:

1 Q Do -- do you recall her doing that, Ms. -- it's just  
2 a really simple question.

3 THE COURT: She's just asking if you know by memory,  
4 ma'am. You don't need to look through your notes.

5 A By memory, I don't.

6 Q Did your -- did your office recommend that the --  
7 the child is getting juiced?

8 A Our nutritionist recommended.

9 Q And isn't it true that Nechole Garcia refused to  
10 follow the doctor's order regarding the juice?

11 A Absolutely not. That's not the case at all.

12 (COUNSEL AND CLIENT CONFER BRIEFLY)

13 Q Okay. So go to page -- go to page -- the last --  
14 the second to last page of the Exhibit 33. I'll just read it  
15 to you miss since it's not in front of you. Or maybe it is in  
16 front of you. Where is it again? It says that --

17 (COUNSEL AND CLIENT CONFER BRIEFLY)

18 Q -- later when -- when Eugene mentioned an error in  
19 the report, did you guys modify it to state what Eugene  
20 suggested which was Father successfully introduced juice,  
21 Mother decided not to introduce juice.

22 A That was the only change we made.

23 MS. ISSO: No further questions. How many minutes  
24 was that since we're --

1 THE COURT: Six minutes, Ms. Isso. Ms. Rosenblum?  
2 MS. ROSENBLUM: I don't have any follow up.  
3 THE COURT: All right. Thank you, ma'am. Thank you  
4 for being here to testify today. Have a good day. Stay safe  
5 and healthy.  
6 THE WITNESS: You as well.  
7 THE COURT: Unless somebody's calling someone else  
8 out of order, Ms. Rosenblum --  
9 THE CLERK: Did you want to get Marnie Lancz back on  
10 there? Do you want me to --  
11 MS. ISSO: Do you want to --  
12 THE COURT: I'm sorry?  
13 MS. ROSENBLUM: Marnie Lancz is back on the  
14 record --  
15 THE COURT: Okay.  
16 MS. ROSENBLUM: -- and Ms. Isso asked if she was  
17 sworn in.  
18 MS. ISSO: As long --  
19 THE COURT: Yeah, we'll --  
20 MS. ISSO: -- as it's not --  
21 THE COURT: -- go ahead and --  
22 MS. ISSO: As long as we're on --  
23 THE COURT: -- we'll go on an absolutely --  
24 MS. ISSO: -- as long as it's not --

1 THE COURT: -- perfectly --

2 MS. ISSO: -- against my time.

3 THE COURT: -- crystal clear record. So go ahead

4 and put her back on.

5 (WITNESS SUMMONED)

6 THE COURT: And if you want to ask the foreman what

7 she previously testified is true and accurate when you swear

8 her in.

9 MS. ROSENBLUM: I'm sorry, the question is is this

10 going against my time?

11 THE COURT: This one I'm not. You can see I'm not

12 writing anybody's --

13 MS. ISSO: It was her witness.

14 THE COURT: -- time down for right now.

15 MS. ISSO: It was her witness.

16 THE COURT: This is my --

17 MS. ISSO: No.

18 THE COURT: -- time --

19 MS. ISSO: It goes against her time.

20 THE COURT: -- because it was an oversight.

21 MS. ISSO: It was her witness.

22 THE COURT: I'm not taking away from either side.

23 It is the Court's time. It was --

24 MS. ISSO: When I'm talking --

1 THE COURT: -- an oversight.

2 MS. ISSO: -- you're like oh, where's notepad.

3 THE COURT: It was --

4 MS. ISSO: Let me document --

5 THE COURT: -- an oversight.

6 MS. ISSO: -- it. It's her witness. It goes  
7 against her time.

8 THE COURT: It was our oversight. It is my time.  
9 Go ahead.

10 MS. ISSO: It's still her time though.

11 THE CLERK: How did you want me to do it?

12 THE COURT: I need you to -- same question but what  
13 she previously testified to on the record is accurate and  
14 correct. So ma'am -- we forgot to swear you in, ma'am. So my  
15 Court Clerk is just going to swear you in and affirm what you  
16 testified to previously was accurate and correct. Okay? We  
17 -- it was just an --

18 MS. LANCZ: Okay.

19 THE COURT: -- over -- it was an oversight on our  
20 part.

21 THE CLERK: Can you please raise your right hand?  
22 You do solemnly swear that the testimony you have previously  
23 given was true and accurate --

24 THE COURT: To the best of your knowledge.

1 THE CLERK: -- to the best of your knowledge?  
2 THE COURT: Do --  
3 MS. LANCZ: Yes, it was.  
4 THE COURT: Do either Counsel have any questions or  
5 clarifications?  
6 MS. ROSENBLUM: No.  
7 THE COURT: Ms. Isso?  
8 MS. ISSO: No.  
9 THE COURT: All right. Thank you. Sorry about --  
10 sorry for the oversight.  
11 MS. LANCZ: Thank you.  
12 THE COURT: All right. Nobody was allotted with any  
13 of that. So Ms. -- are we going on with --  
14 MS. ROSENBLUM: Just we're an hour and 20 in. Is it  
15 possible to take a quick --  
16 THE COURT: Oh.  
17 MS. ROSENBLUM: -- quick break? Sorry, it's just --  
18 THE COURT: You're -- you're going to continue on  
19 with your witness?  
20 MS. ROSENBLUM: I am.  
21 THE COURT: Oh, it will be awhile.  
22 MS. ROSENBLUM: That -- that's --  
23 THE COURT: So --  
24 MS. ROSENBLUM: -- my intention and --

1 THE COURT: -- perfect time to take a break. It is  
2 -- we'll go by the courtroom clock. It is 10:20. We'll  
3 resume at 10:30.

4 (COURT RECESSED AT 10:20 AND RESUMED AT 10:31)

5 THE CLERK: We are back on.

6 THE COURT: Okay. As far as time wise, given what's  
7 been to date, everything to date broken down, Ms. Isso, you  
8 have one hour and fifty minutes left. Ms. Rosenblum, you're  
9 down to three hours even.

10 MS. ROSENBLUM: All right. Back to my client.

11 NECHOLE GARCIA

12 called as a witness on her own behalf, having been previously  
13 sworn, testified upon her oath as follows on:

14 DIRECT EXAMINATION CONTINUED

15 BY MS. ROSENBLUM:

16 Q Nechole, with regard to the autism diagnosis for  
17 Ava, do you have any reason to disagree with that diagnosis?

18 A No.

19 Q Do you have any reason to disagree with her  
20 recommended treatment plan?

21 A No.

22 Q Have you ever asked for a second opinion about the  
23 diagnosis?

24 A No.

1 Q Do you have any reason to disbelieve the severity of  
2 the CARS rating that was described for her?

3 A No.

4 Q Do you believe in your opinion has Eugene questioned  
5 that diagnosis?

6 A I'm not aware that he's actually questioned or  
7 disputed the diagnosis itself.

8 Q Do you believe that Eugene disputes the severity of  
9 Ava's autism?

10 A I -- yes. Yes.

11 Q And what makes you believe that?

12 A When we've had communications on OurFamilyWizard and  
13 I have mentioned that she has autism and he becomes -- he --  
14 he gets kind of defensive and he's then wants to kind of rate  
15 it while it's only mild or it's very high functioning. So --  
16 so yes, I do.

17 Q Has there ever been a conflict about Ava's treatment  
18 with Eugene?

19 A There's been several conflicts about Ava's  
20 treatment.

21 Q And tell me about those con -- what --

22 MS. ISSO: Objection, foundation.

23 THE COURT: I think that was going to be your next  
24 question --

1 MS. ROSENBLUM: Yeah, I --  
2 THE COURT: -- but I will rule --  
3 MS. ROSENBLUM: -- haven't even got --  
4 THE COURT: -- before --  
5 MS. ROSENBLUM: -- the question.  
6 THE COURT: Go right ahead.  
7 MS. ISSO: Well, I mean, what time frame are we  
8 talking --  
9 THE COURT: Sustained.  
10 MS. ISSO: -- about?  
11 THE COURT: It'll be sustained. She's going to --  
12 but I can tell by her next -- Go ahead. Sustained.  
13 BY MS. ROSENBLUM:  
14 Q Can you identify a specific conflict with regard to  
15 Ava's treatment?  
16 A Yes, we had a -- a conflict -- right after she was  
17 diagnosed I wanted her to receive an -- an assessment with an  
18 occupational therapist as part of her overall assessment with  
19 the school district. And Eugene rather than discussing it  
20 with me was just telling the school that he was not going to  
21 agree -- agree to that.  
22 MS. ISSO: Objection. Objection. He told the  
23 school? She lacks --  
24 THE COURT: I need the legal --

1 MS. ISSO: -- personal knowledge.

2 THE COURT: I need the legal terminology, Madam --  
3 Ms. Isso.

4 MS. ISSO: Lacks personal knowledge, speculation,  
5 foundation.

6 THE COURT: I'll go ahead and do it. I will --

7 MS. ISSO: Move to strike.

8 THE COURT: -- sustain the objection on hearsay.

9 BY MS. ROSENBLUM:

10 Q Did Eugene express to you an objection to the OT  
11 assessment?

12 A Yes. So we were on a group text with the school  
13 district and I requested -- and we got the (indiscernible)  
14 real quick. During the early intervention appointment with  
15 Therapy Management Group with that current occupational  
16 therapist, the recommendation was made to both of us to ask  
17 the school district for an assessment so that Ava could get  
18 those services at the school district. So later we were on a  
19 group text with the individual from Child Find, her name is  
20 Erin Shurry (ph), who was coordinating Ava's evaluation.

21 On that group text in which Eugene was a  
22 participant, I asked Erin to schedule the occupational therapy  
23 assessment. And rather than messaging me about it, Eugene  
24 would immediately respond at multiple times that he disagreed

1 with having her assessed, that she had been dragged to too  
2 many assessments already and didn't want her dragged to  
3 another one.

4 Q And if you could, Nechole, take a -- I believe it's  
5 in the first binder in front of you. And you said these are  
6 texts -- I'm sorry, I don't have them memorized at the top of  
7 my head. This is what happens when (indiscernible). All  
8 right. We'll go back and we'll ask for those texts to be  
9 admitted.

10 A Any other time that you can think of where there's  
11 been a conflict between yourself and Eugene regarding Ava's  
12 treatment?

13 Q Yes.

14 A And when was that?

15 Q Earlier I was talking about the educational advocate  
16 for Ava. Initially I contacted Eugene -- Eugene. I wanted us  
17 to --

18 THE COURT: Ms. Rosenblum, now it's you guys. Ms.  
19 Rosenblum?

20 MS. ROSENBLUM: Uh-huh.

21 THE COURT: Now --

22 MS. ROSENBLUM: Yeah.

23 THE COURT: -- it's --

24 MS. ROSENBLUM: I --

1 THE COURT: -- you guys talking that's distracting.  
2 So by writing, please.

3 BY MS. ROSENBLUM:

4 Q Go ahead.

5 A The educational advocate -- I wanted us to select  
6 the advocate together so that we could, you know, kind of  
7 present a united front to the school district. And Eugene  
8 instead picked one on his own and refused to pick to -- to  
9 work with me to select one and basically just told me he  
10 picked his, I can pick mine, and they can both just be present  
11 at -- at the IEP meeting.

12 Q Any other conflicts that you can think of regarding  
13 Ava's treatment? So we talked about the OT. We talked about  
14 the educational surrogate. Any --

15 A Yes.

16 Q -- other conflicts?

17 A Yes.

18 Q And what is the particular conflict that you're  
19 thinking about?

20 A Well, the conflict about being able to -- both of us  
21 being present for the evaluation in the room present for the  
22 autism evaluation with Dr. Gaspar.

23 Q And, again, if you can just briefly explain to the  
24 Court why you thought that it was important for you to be

1 there.

2           A     Well, I think an assessment through Zoom, it's  
3 difficult to get the full picture of what's happening. In  
4 this particular assessment, I was in an adjacent room but Dr.  
5 Gaspar had his back to me. So and -- and I was trying to hear  
6 and kind of get a full picture of what was happening. And I  
7 wanted to be able to fully understand everything so that she  
8 was diagnosed so that I can go on and -- and be that advocate  
9 for her. And then I also just thought that -- that it would  
10 Ava to have both of her parents there to support her through  
11 that -- through that process because there was some -- some  
12 testing involved.

13           Q     And you -- just -- let's just touch on that real  
14 quick. You've heard the allegation that somehow you alleged  
15 race or discrimination as a basis to be physically present.  
16 Did you ever make that allegation?

17           A     No.

18           Q     In your opinion, is Ava aware of the conflict  
19 regarding these issues --

20                   MS. ISSO: Objection.

21           Q     -- between you and Eugene?

22                   MS. ISSO: Objection, lacks personal knowledge,  
23 speculation, foundation, relevance.

24                   THE COURT: The only reason I'm going to sustain

1 that Ms. Rosenblum is we're talking about a three-year-old.

2 There is no way even with someone without -- so --

3 MS. ROSENBLUM: Okay. I -- I mean, has --

4 THE COURT: There's just -- there's just absolutely  
5 no way.

6 MS. ROSENBLUM: Sure.

7 BY MS. ROSENBLUM:

8 Q Has -- has Ava ever seen you and Eugene -- well, let  
9 me ask you. These conflicts, how do they arise? Is it  
10 verbally, confrontational, or is it in writing?

11 A A lot of them occur in writing, but there have been  
12 a couple at appointments where Ava was present.

13 Q In your opinion, has any of that conflict affected  
14 Ava in any way?

15 MS. ISSO: Objection.

16 THE COURT: In her opinion she can testify to.  
17 Overruled.

18 THE WITNESS: I think it has. E -- even though Ava  
19 can't fully understand what's happening she can hear, you  
20 know, if Eugene's angry and he's got a certain tone -- tone of  
21 voice and is making these comments about me to these  
22 professionals in front --

23 MS. ISSO: Objection.

24 THE WITNESS: -- of Ava.

1 MS. ISSO: Objection. We don't know -- she can't  
2 testify what the child heard.

3 MS. ROSENBLUM: She was there.

4 MS. ISSO: Move to strike.

5 THE COURT: She can testify as to the conflict and  
6 the fact that the child was there. That I have no problem  
7 with. So that part will be overruled to that level.

8 MS. ISSO: Objection, foundation.

9 THE COURT: Overruled.

10 THE WITNESS: So -- so I do think that she can sense  
11 that. You know, she can sense the anger and the tension  
12 between us at those appointments.

13 BY MS. ROSENBLUM:

14 Q When there is conflict between yourself and Eugene  
15 and Ava's present, does she act out in any way? That you've  
16 observed.

17 A No, she just get a little quieter. But no, she  
18 doesn't act out.

19 Q If you can look at the book, Exhibit Z. I just want  
20 to go back real quick. Z like zebra.

21 A Yes, I've got it here.

22 Q Okay. Are these the text messages that you were  
23 referencing regarding the issue with the occupational  
24 therapist?

1           A     Yes.

2           MS. ROSENBLUM: I would ask --

3           Q     And these are text messages between yourself and  
4 Eugene and Erin?

5           A     Eugene, Erin, and myself.

6           Q     Okay. Do the -- do you believe these represent the  
7 complete text messages regarding this issue between yourself,  
8 Eugene, and Erin?

9           A     Yes.

10          MS. ROSENBLUM: I would ask that Exhibit Z be  
11 admitted.

12          MS. ISSO: I got to look at it, Your Honor. I  
13 thought we weren't going to just admit documents of text  
14 messages that we're going to have to pinpoint it.

15          MS. ROSENBLUM: They're -- they're literally --

16          THE COURT: Three years.

17          MS. ROSENBLUM: -- like four pages.

18          THE COURT: So yeah, give me Bates stamps that you  
19 want me to refer to.

20          MS. ROSENBLUM: They're --

21          THE COURT: But I'm --

22          MS. ROSENBLUM: It's Exhibit Z. It's the -- it --  
23 it's four pages.

24          THE COURT: Okay. If it's only four pages, that'll

1 be admitted.

2 MS. ROSENBLUM: I'm sorry, it's 15 pages but a lot  
3 of them repeat. It -- because of the way they're  
4 photographed. So it's a text and then it repeats. So it's 15  
5 pages.

6 THE COURT: Well, if it repeats, why don't you just  
7 give me some specific Bates --

8 MS. ROSENBLUM: Okay.

9 THE COURT: -- stamps then?

10 MS. ROSENBLUM: So Exhibit Z-15, Z-13, Exhibit Z --  
11 it's 3 -- Exhibit Z-3.

12 THE COURT: Okay. Those three pages?

13 MS. ISSO: No.

14 MS. ROSENBLUM: Yes. Well, and that full text  
15 that's on three is actually on 4. It cuts off at the bottom.  
16 So I would -- not 3. It would be page 4.

17 THE COURT: Okay.

18 MS. ISSO: So what, there was Z-15, Z-13, Z-3, and  
19 what else?

20 MS. ROSENBLUM: Not Z-3. Z-4.

21 THE COURT: 4, 13, and 15.

22 MS. ROSENBLUM: Yeah.

23 MS. ISSO: It's just -- it's -- it's repetitive.  
24 You just explained to her to only pick one and now it's

1 repeating the same thing over and over again.

2 MS. ROSENBLUM: It's -- it's literally three pages.

3 THE COURT: Is it the exact same thing?

4 MS. ROSENBLUM: No.

5 THE COURT: Okay. All right.

6 (PLAINTIFF'S EXHIBIT Z, BATES Z-4, Z-13, Z-15 ADMITTED)

7 THE COURT: You can continue.

8 MS. ROSENBLUM: Thank you.

9 BY MS. ROSENBLUM:

10 Q Nechole, do you believe that your family would  
11 benefit from the assistance of parent coaching or parenting  
12 coordinator?

13 A Absolutely, yes.

14 MS. ISSO: I'm sorry, I didn't hear the question.  
15 Say that again?

16 Q Do you believe that your family would benefit from  
17 parent coaching or a parent coordinator?

18 A Absolutely, yes.

19 Q And why do you believe that?

20 A I am having a lot of difficulty communicating with  
21 Eugene, reaching agreements on things like pro -- providers,  
22 therapists, appointments. It -- it's -- it's extremely  
23 difficult. It's multi day discussions, sometimes -- you know,  
24 it -- -- it's -- it's just very difficult. He's very hostile.

1 And I just think that having a neutral party that can help us  
2 when we reach an impasse can help and -- and/or having someone  
3 help us, both, you know, I will own my own -- my part to the  
4 extent that I have a part in it, can help us both to learn to  
5 communication more constructively with each other.

6 Q What about family therapy? Have you thought about  
7 that?

8 A I have, yeah.

9 Q Do you think that would be helpful?

10 A Yes, as long as it's limited to helping us to  
11 co-parent with one another, yes.

12 Q When you limiting it, why do you want it limited?

13 A Well, I -- Eugene -- his communications with me, he  
14 -- he brings up a lot of past issues, a lot of things from the  
15 past and I -- I want just to be able to focus on Ava and focus  
16 on moving forward. And so if it -- if it entails dredging up  
17 past issues and who's at -- was at fault for this or that,  
18 that, that, no, but just let's focus on Ava and let's make it  
19 about her. That, yes, I would like to do.

20 Q We've spent a lot of time talking about Ava's  
21 therapy interventions. Are there any new interventions that  
22 you are aware of?

23 A Yes, so she now has -- she's going to be assessed  
24 for physical therapy as well through the school district.

1 Q And what --

2 A And if she qualifies, she's also going to be  
3 receiving physical therapy each week.

4 Q And will that be at the -- during the school time?

5 A It should be.

6 Q And why is she being -- why is physical therapy now  
7 on the table? Do you know?

8 A Yesterday when I picked her up from school her  
9 teacher expressed concerns about Ava's gait -- she called her  
10 waddly when she was out on the playground and asked if we  
11 would agree to have her assessed for physical therapy.

12 Q Do you know if you Eugene is aware of this  
13 recommendation?

14 A Yes. As soon as she asked me, I immediately  
15 messaged Eugene on OurFamilyWizard to see if he would agree.

16 Q Has he expressed any disagreement with the physical  
17 therapy?

18 A No, he agreed.

19 Q We talked about an educational advocate for Ava.  
20 You've also testified that you believe you are a -- in your  
21 own words a fierce advocate --

22 A Yes.

23 Q -- for Ava. I think we can agree that you would  
24 describe yourself as assertive in that regard; is that true?

1           A     Yes.

2           Q     Do you believe that your advocacy for Ava has helped  
3 her?

4           A     Absolutely. I -- I do. I mean, she got into early  
5 intervention and through early intervention she was able to  
6 see Dr. Gaspar much sooner than a lot of kids are able to see  
7 him. She was able to get placed into the Child Find program  
8 so as soon as, you know, she turned -- turned three she was  
9 able to get put into that program. And through Dr. Gaspar she  
10 was able to get the referrals for ABA therapy. So yes, I  
11 absolutely do believe it.

12          Q     We talked about -- well, just on that point, do you  
13 have an opinion as to whether or not Eugene is -- as -- as  
14 fierce an advocate as you are?

15          A     I don't think he is.

16          Q     Do you have any understanding of what Ava's  
17 developmental age is?

18          A     She --

19               MS. ISSO: Development -- I -- I couldn't hear.  
20 Developmental what?

21               THE COURT: I -- yeah, I didn't --

22               MS. ROSENBLUM: Age. Age. Her --

23               THE COURT: Okay.

24               MS. ROSENBLUM: -- developmental age.

1 THE COURT: Okay.

2 MS. ISSO: Wait, what's the -- what was the  
3 question?

4 THE COURT: Just does she know what her  
5 developmental age is?

6 THE WITNESS: She was assessed through the school  
7 district. And through that they found it was an interesting  
8 dichotomy that cognitively she was around the age of a  
9 one-year-old but that she also had some advance skills in  
10 counting and -- and memory of a four-year-old.

11 Q Okay. Do you think that the schedule that you  
12 currently have meets her developmental age?

13 A I think so.

14 MS. ISSO: Objection, calls for an expert opinion.

15 THE COURT: The question was whether she herself,  
16 correct?

17 MS. ROSENBLUM: Right.

18 THE COURT: She has the right to ask that. You can  
19 ask your own client the same question.

20 MS. ROSENBLUM: Yeah, but her -- her opinion should  
21 be given --

22 THE COURT: Overruled.

23 MS. ROSENBLUM: -- very little weight because she's  
24 not an expert.

1 THE COURT: Go ahead. Overruled.

2 BY MS. ROSENBLUM:

3 Q Do you believe that a week on week off schedule  
4 meets Ava's developmental age?

5 A I don't, no.

6 MS. ISSO: Objection, calls for an expert opinion.

7 THE COURT: She can testify as a layperson just as  
8 your client can testify as a layperson. Overruled.

9 BY MS. ROSENBLUM:

10 Q Do you believe that the schedules that Eugene has  
11 proposed regarding the two-two-three or a two-two-five or a  
12 two-five-five-two schedule meets Ava's developmental age?

13 MS. ISSO: Objection, calls for an expert opinion.

14 THE COURT: She -- for the record clear again for  
15 the third time, this is her own personal opinion, correct,  
16 Ms. --

17 MS. ROSENBLUM: Correct.

18 THE COURT: -- Ms. Rosenblum?

19 MS. ROSENBLUM: I'm not asking --

20 THE COURT: Okay.

21 MS. ROSENBLUM: She's not an --

22 THE COURT: I understand.

23 MS. ROSENBLUM: -- expert.

24 THE COURT: I understand.

1 MS. ROSENBLUM: I am stipulating she's not an  
2 expert.

3 THE COURT: Okay.

4 MS. ISSO: We know that.

5 THE WITNESS: So the answer is no.

6 BY MS. ROSENBLUM:

7 Q Do you believe that Ava is capable of expressing her  
8 own views or preferences about her day-to-day living  
9 arrangements?

10 A No, Ava has very little -- she has a lot of words  
11 she can say re -- repeating but she has a very hard time  
12 communicating her needs and her wants.

13 Q We've heard sort of tangentially in this case that  
14 Eugene has other children. Do you know those children?

15 A Yes. Yes.

16 Q What are their names?

17 A Eric and Adam.

18 Q And do you know what their ages are?

19 A I believe Eric is 13. I think he'll be 14 in  
20 February. And Adam is 11. I think he'll be 12 in I think  
21 April of next year.

22 Q Are you -- as you sit here today, are you familiar  
23 with the custodial schedule Eugene has with Eric and Adam?

24 A What I believe it is is that he has them every other

1 weekend starting Friday after school until Monday right before  
2 school he takes them to school.

3 Q What are your -- well, do you have concerns about  
4 incorporating for time for Ava with Eric and Adam?

5 A Yes.

6 Q What are those concerns?

7 A So Eric in particular in -- around February of 2020  
8 told Eugene -- or Eugene told me that Eric said that he had  
9 been molested and provides some pretty graphic detail by  
10 Eric's mother's former live-in boyfriend. Then later  
11 Eugene --

12 THE COURT: That I'm going to strike about --  
13 because that's about four hearsay times over. That one I'm  
14 going to do myself.

15 MS. ROSENBLUM: Okay.

16 THE COURT: She has direct knowledge or whatever,  
17 but not -- I -- there was four people just listed out. Heard  
18 from this, hard from this to this to this. So --

19 THE WITNESS: Then Eugene told me that Eric recanted  
20 that and just made it up because he was jealous of the  
21 attention that Eugene was get -- giving to Ava and to his  
22 other brother. And so I -- I just became concerned one way or  
23 the other either he had been molested and I was concerned  
24 because of the big age gap, Ava's inability to express herself

1 and communicate if anything was wrong. I -- I became  
2 concerned that unfortunately maybe he might perpetuate that  
3 abuse onto Ava or that he may act out because being jealous of  
4 the attention that Ava was given. So yeah, I did have those  
5 concerns.

6 MS. ISSO: Objection --

7 THE COURT: This is the --

8 MS. ISSO: -- hearsay.

9 THE COURT: -- time again where I'm going to -- I  
10 told you I was going to do it the other day where I insert  
11 where I do not get why we're getting to these levels of the  
12 bashing of the other party when the issue is what is going to  
13 be the best custody schedule. It is joint physical custody.  
14 I don't get the other stuff. I simply don't.

15 MS. ROSENBLUM: It -- I --

16 THE COURT: I simply don't.

17 MS. ROSENBLUM: I would argue to the Court that her  
18 concerns about creating a custody schedule that  
19 incorporates --

20 THE COURT: Obviously it never went anywhere because  
21 nothing ever happened.

22 MS. ROSENBLUM: It is part of Dr. Bergquist's report  
23 as well.

24 THE COURT: I remember seeing that part --

1 MS. ROSENBLUM: And --  
2 THE COURT: -- in there.  
3 MS. ROSENBLUM: -- part of Dr. Bergquist's  
4 recommendations as well.  
5 THE COURT: Okay.  
6 MS. ROSENBLUM: And specifically on that point.  
7 THE COURT: Okay.  
8 MS. ROSENBLUM: I would content to the Court that it  
9 is relevant.  
10 THE COURT: Again, it's the custody schedule. All  
11 right. I --  
12 MS. ROSENBLUM: It -- it relates specifically to the  
13 schedule --  
14 THE COURT: Correct.  
15 MS. ROSENBLUM: -- Your Honor. Specifically --  
16 MS. ISSO: Your --  
17 MS. ROSENBLUM: -- to the schedule.  
18 MS. ISSO: Your Honor, Dr. Bergquist made this, you  
19 know, discussion or recommendation based on information that  
20 Ms. Garcia gave her.  
21 MS. ROSENBLUM: That is --  
22 MS. ISSO: Fed her on a platter.  
23 MS. ROSENBLUM: -- absolutely --  
24 MS. ISSO: Ms. --

1 MS. ROSENBLUM: -- not --  
2 THE COURT: All right.  
3 MS. ISSO: Dr. --  
4 MS. ROSENBLUM: -- accurate.  
5 MS. ISSO: -- Bergquist never witnessed this. In  
6 fact, she observed the children together --  
7 THE COURT: Okay.  
8 MS. ISSO: -- the siblings together.  
9 THE COURT: I -- listen. I've seen that report at  
10 least three times. I recall that portion. Again, but for the  
11 overall purposes of today, go ahead, Ms. Rosenblum.  
12 MS. ISSO: So we move to strike all that testimony,  
13 Your Honor.  
14 MS. ROSENBLUM: I would --  
15 THE COURT: The Court will consider the portions  
16 that are contained in Dr. Bergquist's report.  
17 MS. ROSENBLUM: And, again, I just reiterate, that  
18 goes specifically to the schedule that --  
19 THE COURT: I understand.  
20 MS. ROSENBLUM: -- my client is asking this Court to  
21 implement.  
22 THE COURT: I understand.  
23 BY MS. ROSENBLUM:  
24 Q Outside of that report --

1           A     Yes.

2           Q     -- and those allegations, is there any other  
3 concerns that you had about incorporating Eric and Adam into  
4 the schedule that Eugene is proposing?

5           A     No. And I'm glad that she has that -- some time  
6 with them. He only sees them a couple times a month and I'm  
7 glad that she's able to -- to be included in part of that  
8 time.

9           Q     Okay. You agree that Ava is bonded to her brothers,  
10 isn't that true?

11          A     I think so.

12          Q     In that she loves them?

13          A     Yes.

14          Q     Is it fair to say that your concern is strictly from  
15 a safety standpoint?

16          A     Yes.

17          Q     With regard to your providers and caregivers, you've  
18 heard the concerns that Eugene has raised about your mother.

19          A     Yes.

20          Q     I believe those include the fact that she's  
21 diabetic, she's old, she's fat, she's mentally unstable,  
22 violent, and exposing and/or you to violence. You heard those  
23 allegations?

24          A     Yes.

1 Q Do you dispute those allegations?

2 A Yes, I did.

3 Q Do you believe that your mother is capable of  
4 watching Ava?

5 A Yes, I do.

6 Q Do you believe that your mother is mentally  
7 unstable?

8 A No, I don't think she's mentally unstable.

9 Q Okay. Can you explain the text message that you  
10 sent over two years ago?

11 A Yes. So my mother is very free with her opinions  
12 about child rearing. She's having raised four of us and  
13 having other grand -- grandchildren. She's very free with her  
14 opinions. And particularly when Ava was a baby, I was very  
15 sensitive about being a new mom and some of her advice. And  
16 thinking that I was venting to my boyfriend safe -- in a safe  
17 -- kind of safe space, I vented to him about it. But I in no  
18 way believe that my mom has any kind of mental health issues  
19 that render her unfit to -- to care for Ava.

20 Q Okay. I think in your testimony you said that your  
21 mom watches Ava in your home; is that correct?

22 A Yes. Yes, she only watches Ava in my home.

23 Q And is there a reason that she only watches Ava at  
24 your home?

1           A     I just -- I asked her to do that because there are a  
2 lot of people in her home, both my brothers and my brothers'  
3 two kids are in her home. One of my brother's daughter has  
4 autism. And so just based on that, I -- I feel like she can  
5 focus her attention and energy on Ava without all the extra  
6 people and distraction in my house.

7           Q     Let's talk about finances.

8           A     Okay.

9           Q     Again, your testimony is you work for the City of  
10 Henderson --

11          A     Yes.

12          Q     -- an attorney. Your income you -- I believe your  
13 testimony was a hundred and twelve thousand a year; is that  
14 correct?

15          A     Yes.

16          Q     Do you make any overtime?

17          A     No.

18          Q     Any additional pay?

19          A     No, we may get -- be eligible for a bonus, maybe a  
20 thousand dollars toward the end of the year, but that's about  
21 it.

22          Q     Have -- have you ever received a bonus as a City of  
23 Henderson --

24          A     Last year --

1 Q -- employee?

2 A -- I think I did receive maybe a thousand or \$2,000  
3 bonus.

4 Q Okay. With regard to medical, you provide medical  
5 insurance for Ava?

6 A I have since birth, yes.

7 Q Is that through your employer?

8 A Yes.

9 Q And do you know how much the health insurance costs?

10 A Ava's -- the cost for Ava's is \$78.78, I believe.

11 Q Is that per paycheck?

12 A I think that's a month.

13 Q A month.

14 A Per month.

15 Q And you're paying that?

16 A Yes.

17 Q Are there out-of-pocket medical expenses associated  
18 with Ava's care?

19 A Yes.

20 Q Can you give me an estimate about monthly what those  
21 look like?

22 A Yes. So there are co-pays for primary doctor visits  
23 are \$15 a month for specialty. The co-pays are \$25 a month.  
24 So for the therapies, they're considered specialty.

1 THE COURT: Hold on one second. I just want to make  
2 sure they -- Madam Clerk, can you tell that person whoever it  
3 is to mute their mic?

4 THE CLERK: I -- it's Dr. Carter.

5 MS. ROSENBLUM: Can I just finish with this question  
6 and then --

7 THE COURT: Yes.

8 MS. ROSENBLUM: -- if Ms. Isso wants to call her --

9 THE COURT: All right.

10 THE WITNESS: So specialty visits are \$25 a month  
11 and so specialty would be the ABA therapy, would be the speech  
12 and feeding therapy -- or not \$25 a month. \$25 per visit.

13 BY MS. ROSENBLUM:

14 Q Okay.

15 A Additionally, there is a deduction of a thousand  
16 dollars a year.

17 Q Okay. As far as the deductible for this year, have  
18 you paid that deductible?

19 A Yes.

20 Q Has Eugene reimbursed you for any portion of that?

21 A No.

22 Q As far as the out-of-pocket medical expenses, have  
23 you paid the expenses?

24 A Yes.

1 Q Has Eugene reimbursed you for any of that?

2 A No.

3 Q What is your request with regard to -- strike that.

4 Do you know if there's any government funding available for

5 Ava?

6 A That I don't know. Eugene in the past has told me

7 that he put Ava on his Medicaid, but then he later told me he

8 put her on his private insurance. So I'm not sure right now

9 if he has Medicaid coverage for her or not.

10 MS. ROSENBLUM: I'll -- I'll stop there if Ms. Isso

11 wants to call --

12 THE COURT: Okay. Give me one second to -- no --

13 MS. ROSENBLUM: -- Dr. Carter.

14 THE COURT: It is right at 11:00 o'clock. All

15 right, Madam Clerk. Apparently we have a --

16 THE CLERK: It's Dr. --

17 THE COURT: And who --

18 THE CLERK: It's Dr. Carter you said?

19 THE PLAINTIFF: Oh, sorry. Yes.

20 MS. ISSO: Dr. Carter, can you hear us?

21 THE COURT: Madam Clerk, before we forget, the -- it

22 should always be you swearing him in first, so --

23 THE CLERK: Yeah.

24 MS. ISSO: Okay.

1 THE COURT: At --

2 THE CLERK: Dr. Carter, can you hear me? Oh, your  
3 microphone is on mute if you can hear me.

4 MR. CARTER: Okay. I've unmuted it. Is that  
5 better?

6 THE CLERK: Yes. Are you able to unmute your video  
7 as well?

8 MR. CARTER: I can.

9 THE CLERK: Okay. And can you please raise your  
10 right hand? You do solemnly swear the testimony you're about  
11 to give in this action shall be the truth, the whole truth,  
12 and nothing but the truth, so help you God?

13 THE WITNESS: I do.

14 LESLIE CARTER  
15 called as a witness on behalf of the Plaintiff, having been  
16 first duly sworn, testified upon her oath as follows on:

17 DIRECT EXAMINATION

18 BY MS. ISSO:

19 Q Dr. Carter, could you please state your name, for  
20 the record?

21 A My name is Dr. -- my name is Dr. Leslie Carter.

22 Q It's kind of not clear. Leslie Carter?

23 A Yes.

24 Q Okay. Could you tell the Court about your

1 educational background?

2       A     Yes. I'm a licensed psychologist (indiscernible)  
3 and I've been licensed for 25 years. I have a doctorate in  
4 clinical psychology from Oklahoma State University in 1994 in  
5 neuropsychology and medical psychology. And I've been working  
6 in the field of autism since 2002 and have been running a  
7 parent support group since 2003 and have done approximately 11  
8 presentations in the autism area for doctoral level training  
9 as well as community education. And currently consult, I take  
10 -- three-quarters of my practice is consulting about autism  
11 related things for social security disability appeals, school  
12 districts, criminal, civil, and administrative  
13 (indiscernible).

14       Q     And how many times have you been retained as an  
15 expert?

16       A     Good question. For many years. Hundreds of cases,  
17 maybe.

18       Q     Okay. And have you written any publications?

19       A     No, I haven't -- I'm -- I'm not an academic.

20       Q     Okay. You're an actual --

21       A     So I'm private practice.

22       Q     Okay. Are you -- tell -- tell the Judge about the  
23 organization that you run also on the side.

24       A     I run a parenting caregiver support group for a

1 number of years -- since 2003 to present, just ran it last  
2 night for support of parents and caregivers. I've also done  
3 groups for teens who are (indiscernible) affected. And I also  
4 do a variety of other (indiscernible).

5 MS. ROSENBLUM: I'm having a really hard time  
6 hearing her.

7 THE COURT: Doctor, for some reason when you face  
8 forward you get a little garbled sometimes. When you turn to  
9 what would be your left seems to come in clearer. So I don't  
10 know if your microphone is off to the left more. But if you  
11 can maybe -- when you speak, aim to the left. There you go.

12 Q Could you tell the --

13 THE WITNESS: Okay. Is that better?

14 THE COURT: Much better.

15 Q Could you tell --

16 THE WITNESS: Okay.

17 Q -- the -- the Judge --

18 A I can do that.

19 MS. ISSO: Oh, she can't hear me either.

20 Q Could you tell the Judge what documents you  
21 reviewed?

22 A I have reviewed the ABA therapy plan for Ava. I  
23 have reviewed the pediatric evaluation, Dr. Bergquist's  
24 evaluation, the Therapy Management Group early intervention

1 evaluation, custody evaluation by Dr. Bergquist, and  
2 employment information on Mr. Shapiro and Ms. Garcia as well  
3 as mental health records and the evaluation of Dr. Pickar as  
4 well as I received recent documents on -- from the Firefly ABA  
5 program and early intervention programs.

6 Q And you re -- did you say you reviewed Dr. Kathleen  
7 Bergquist's report?

8 A I did.

9 Q Okay. And that report she recommended that custody  
10 is split 55/45 or 60/40, correct?

11 A Correct.

12 Q And can you tell me how that recommendation is  
13 supported by the different -- by the different -- how that  
14 recommendation is -- in congruence with a child that has ASD  
15 level one disorder. How is that -- how -- how does that  
16 recommendation support a child with that type of diagnosis?

17 MS. ROSENBLUM: Objection, foundation. Speculation.

18 THE COURT: Sustained. You'll have to provably  
19 break it down, Ms. Isso.

20 MS. ISSO: Okay.

21 BY MS. ISSO:

22 Q So in this -- in this particular case, the child was  
23 diagnosed with level one autism, correct?

24 A Correct.

1 Q Could you tell the Judge what that is?

2 A Autism Spectrum Disorder is a constellation of  
3 symptoms that include communication problems, social skill  
4 deficits, difficulty reading non-verbal queues in other people  
5 and giving off non-verbal queues to allow them to be  
6 understood (indiscernible). We think that non-verbal cues  
7 make up about 90 percent of a one-on-one communication. So  
8 that's a significant deficit. The words alone are about seven  
9 percent, I think. And then they also have repetitive  
10 behaviors and focused interests that are quite extensive and  
11 often have sensor integration problems.

12 So level one, we have three levels of autism, level  
13 one, two, and three. And the level one is considered the high  
14 functioning and relatively mild and usually quite responsive  
15 to training. Level three is more of the multiply handicapped  
16 complex medical presentations. Often they have significant  
17 language delays, have trouble speaking even later in school  
18 age and -- and have more personal problems. And then the  
19 level twos are somewhere in between.

20 Q Tell the Judge about the myth for the need of  
21 sameness, the need for sameness myth.

22 A Well, OCD symptoms, obsessive compulsive symptoms,  
23 where a person is -- who is mentally disorganized like a lot  
24 of early young children who have ASD have repetitive

1 behaviors. And that's because -- my opinion is that's because  
2 they're trying to make sense of the world. They are mentally  
3 disorganized. And so they discovered that during having a  
4 very small awareness of the world and in -- this would have  
5 been -- it's like (indiscernible) --

6 THE COURT: Doctor, you're -- Doctor, you're turning  
7 to your right again too much. I need you to turn to the left.  
8 That is where -- and, again, unless you need to move your mic.  
9 But you're breaking up from the record and we have to be able  
10 to hear you for the record.

11 THE WITNESS: Okay. Sorry about that.

12 THE COURT: There you go.

13 THE WITNESS: Is that better?

14 THE COURT: Yes, much better.

15 BY MS. ISSO:

16 Q Do you -- well --

17 THE WITNESS: Okay.

18 Q -- let me ask you this. Do you -- do you believe  
19 that after reviewing the documents and for a child that's  
20 three years old level one that there's a need to have things  
21 the same all the time?

22 A No. The need for sameness is a symptom for autism  
23 which needs to be treated. So we can have -- so as a result  
24 we can control meltdowns and temper tantrums because kids

1 resist variety in autism. That's a symptom. So we want to  
2 treat that. So what we do is we add little surprises but in  
3 an organized way because if -- if Ava's going to get good at  
4 going to school, she needs to tolerate having the principal  
5 pop his head in to speak to her teacher unexpectedly. She  
6 needs to tolerate changes in schedule. She needs to tolerate  
7 changes in environment. And level one students often are able  
8 to tolerate that in a (indiscernible) way so that they become  
9 more flexible. And that's a type of treatment for autism.

10 Q What did you say before flexible? The -- the what?  
11 Because your -- your mic broke up.

12 A Oh. Huh. Okay. The -- the treatment makes them  
13 more flexible. So what it -- it does is it allows us to make  
14 the more flexible -- give them no surprises and an ABA program  
15 will usually do that. And Ava's ABA program shows that she  
16 has been targeted for this type of treatment.

17 Q And would a custodial schedule including a  
18 two-two-three help treat -- treat that symptom?

19 A Yes, because you're getting exposure -- my  
20 understanding is is that Ava would have early intervention in  
21 the morning. She would have time with one parent on say  
22 Monday and Tuesday, another parent on Wednesday and Thursday,  
23 and then every other weekend which would allow her to  
24 transition from house to house, get used to the different

1 schedules on the different parenting styles as well as morning  
2 with early intervention and (indiscernible).

3 THE COURT: Doctor, again, you're -- I'm sorry, you  
4 are breaking up and you are turning to your right. I don't  
5 know what kind of microphone, if you have a built in  
6 microphone.

7 MS. ISSO: Does she have all of her bars? You guys  
8 don't know?

9 THE WITNESS: Let's see.

10 BY MS. ISSO:

11 Q What was the last thing you said, Doctor?

12 THE COURT: Hold on. Let her see if --

13 THE WITNESS: Okay. I've got lots of bars. So I'm  
14 -- and I'm using the regular microphone from my computer. And  
15 usually that works just fine. So I'm finding it interesting  
16 I'm having problems.

17 THE COURT: Right now we heard everything right.  
18 For some reason you tend to start turning to your right and  
19 when you turn to your right is when you start becoming  
20 garbled.

21 THE WITNESS: Okay.

22 Q What was --

23 THE WITNESS: I'll try and hold still.

24 THE COURT: There you go.

1 Q Thank you --

2 A All right.

3 Q -- Doctor.

4 A What was the question again?

5 Q What was the last thing you said; do you remember?

6 MS. ISSO: Or can we -- can we have it read from the

7 record?

8 THE COURT: No, we -- we don't have that access --

9 MS. ISSO: Oh.

10 THE COURT: -- Ms. Isso.

11 Q Do you remember the last thing you said?

12 A Okay. So the last thing I said was we were talking

13 about how the schedule that she -- that Ava participates in is

14 good for her because it -- it teaches her the different

15 parenting styles of her parents and teaches her flexibility

16 with her two different training programs, early intervention

17 and the afternoon and evening with her ABA program for autism.

18 Q So the mother just testified but never told the

19 Judge the schedule of the child. Are you able to tell the

20 Judge what the child's schedule is?

21 MS. ROSENBLUM: Objection, misstates testimony.

22 MS. ISSO: for example --

23 THE COURT: Hold on. Sustained then if you're going

24 to reask.

1 THE WITNESS: Okay. So my --

2 THE COURT: Hold --

3 THE WITNESS: -- understanding now --

4 THE COURT: Hold on.

5 THE WITNESS: -- the sch --

6 THE COURT: Ask --

7 BY MS. ISSO:

8 Q So yes, can you tell the Judge the child's schedule?

9 A The schedule is 8:00 a.m. to 10:30 with school  
10 district early intervention from noon to 3:00. And -- and --  
11 well, noon to 6:30 p.m. actually with ABA services. And that  
12 would be Monday through Friday with the afternoon program with  
13 ABA and Monday through Thursday with the early intervention.

14 Q Okay. So Monday through Thursday 8:00 a.m. til  
15 10:30 a.m. she's with -- at the school, right?

16 A Correct.

17 Q And then Monday through Friday 12:00 to 6:30 she's  
18 doing the ABA treatments at each parent's home, correct?

19 A Correct.

20 Q Okay. So how would a two-two-three schedule benefit  
21 a child that has a schedule of -- of this sort -- of this  
22 sort?

23 MS. ROSENBLUM: Objection, speculation. Incomplete  
24 hypothetical. Outside the scope.

1 THE WITNESS: Well, I -- as --

2 THE COURT: Hold on.

3 THE WITNESS: -- an autism expert --

4 THE COURT: Hold on. Your question again, Ms. Isso?  
5 I think I've heard most of it. Just rephra --

6 MS. ISSO: I said how is a -- a schedule -- I -- I  
7 -- how does a two-two-three schedule benefit a child that has  
8 this current school and ABA schedule?

9 THE COURT: That I'll allow.

10 THE WITNESS: The principle is we want to teach  
11 flexibility. So -- and there are always differences with the  
12 way children need to behave. For example, the grocery store  
13 versus at school versus Mom's house versus Dad's house. So  
14 the -- when a child has to learn in an organized way in  
15 several different environments, that is usually a good thing  
16 because they're learning about how to behave appropriately in  
17 different settings with different people.

18 BY MS. ISSO:

19 Q You've interacted with Eugene -- you spoke to him.  
20 What -- what is your opinion on how -- and has he ever denied  
21 that the child has ASD?

22 A No.

23 Q Has he ever, you know, shown you that he won't  
24 follow the schedules or participate or contribute to this

1 child?

2 A No.

3 Q Or support this child?

4 A He seems very supportive and he's actually learning  
5 ABA.

6 Q What is your opinion about having access, equal  
7 access to both parents for a child with this particular  
8 diagnosis and -- at this age?

9 A I think -- in general I think children benefit from  
10 the exposure to both parents on a regular basis.

11 Q But not in --

12 A It --

13 Q -- general.

14 A -- helps them promote bonding and consistency of  
15 that bonding, it reduces separation anxiety which can happen  
16 if one parent is -- does not have regular access to the child,  
17 particularly this age. Children who have a history of having  
18 access to a parent and then not being able to have access to  
19 that same parent often become anxious about when they're going  
20 to see that parent. So a consistent schedule is beneficial to  
21 the student for bonding purposes as well as continuing to  
22 benefit from gender differences, skill differences, interest  
23 differences that parents invariably bring to teaching and  
24 raising a child.

1 Q When you said in general, do you mean in general for  
2 a child of this age with this diagnosis? Is that what you  
3 meant?

4 A Right.

5 Q Okay. So is your opinion today that if the Judge  
6 limits Ava's access to one parent that it can be detrimental  
7 to her program's success later on?

8 A Yes, because --

9 Q Okay.

10 A -- ideally in an ABA program and in with children  
11 who are having problems learning skills initially is that  
12 ideally they should be exposed to on a regular basis everybody  
13 who is a regular caregiver. And ideally those people are  
14 trained in the ABA and early intervention goals so that they  
15 can continue to support that in the home --

16 THE COURT: You last word cut out. Sorry, Doctor.

17 A And -- and to continue to support the student in the  
18 home environment.

19 THE COURT: Thank you.

20 Q But what could you tell the Judge about the least  
21 restrictive environment theory?

22 A Well, the IDEA is a law that was put into place  
23 about education and we evaluate the needs of special needs  
24 students by placing them in the least restrictive environment.

1 The least restrictive environment means that if you have a  
2 smart student you don't want them to be placed in a say  
3 special educa -- a contained education classroom with a bunch  
4 of other peers who may not be intellectually similar. You  
5 want to ideally expose students to as many -- to same age and  
6 skilled peers and have them have access to as much regular  
7 education services as possible.

8 In turn with a young child who's in an ABA program,  
9 you don't want to (indiscernible) them to -- overly until  
10 there's some demonstration that the -- there's a need for ad  
11 -- additional structure. It's better to have a more  
12 naturalistic environment (indiscernible) and that naturalistic  
13 environment (indiscernible) -- living as much of a normal  
14 lifestyle despite their (indiscernible) possible. And as long  
15 as the frequency of frustration or temper tantrum does  
16 (indiscernible) are manageable.

17 Q So are you suggesting that a student should not be  
18 restricted to a more limited learning environment until they  
19 demonstrated failure of learning in the least instructive --  
20 least restrictive environment?

21 MS. ROSENBLUM: Objection, relevance.

22 THE WITNESS: Yes.

23 THE COURT: I'm -- hold on before she -- relevance  
24 is overruled, but it was a leading question. If you want to

1 ask it in a different way.

2 BY MS. ISSO:

3 Q So what are you -- so what are you telling on the  
4 Judge that -- what is your opinion on that issue then?

5 MS. ROSENBLUM: I make the same objection. It --  
6 I'll fix it in cross. That's fine.

7 THE COURT: All right. She can answer. Go ahead.

8 BY MS. ISSO:

9 Q So what is your opinion on the least restrictive  
10 environment theory?

11 MS. ROSENBLUM: Objection, relevance.

12 THE COURT: Overruled.

13 THE WITNESS: In my opinion in Ava's case, my  
14 understanding from reviewing the ABA documents is that she  
15 does not require more restrictions or more structure at this  
16 time than what the ABA programs are (indiscernible) and that  
17 she is adapting well to the amount of structure that is being  
18 pro -- provided by each household and their sayings under ABA  
19 direction.

20 BY MS. ISSO:

21 Q And -- and Ava was placed in a generalized  
22 classroom, correct?

23 A Correct.

24 Q And the A -- Ava's ABA program talks about

1 increasing flexibility. Could you tell the Judge a little bit  
2 about that?

3 A Yes. Her ABA program specifically states that she's  
4 a good candidate for teaching increased flexibility because of  
5 her level one mild -- milder symptoms, that she doesn't need  
6 excessive amounts of structure at this time and she's  
7 responding well to their program of providing little surprises  
8 and helping her expand her interests in other toys, other  
9 types of food, those types of things are -- so that she  
10 expands her repertoire and -- skills in feeding and activities  
11 and things like that.

12 Q And I apologize, this might be a dumb question but I  
13 don't know much about ASD. Could you just tell us what is  
14 high functioning mean?

15 A High functioning is level one. So that means that  
16 she is more verbal and has fewer other developmental delays  
17 that might complicate her presentation.

18 Q Like will she be able to make friends in the future?

19 MS. ROSENBLUM: Objection, speculation.

20 MS. ISSO: Well, someone -- does -- someone that --  
21 someone --

22 THE COURT: Hold on.

23 MS. ISSO: Oh.

24 THE COURT: Wait for the ruling. Just like --

1 MS. ISSO: Sorry.

2 THE COURT: -- you like --

3 MS. ISSO: Sorry. Sorry.

4 THE COURT: -- to wait for it.

5 MS. ISSO: Sorry. Sorry. Sorry.

6 THE COURT: Sustained. Go ahead and --

7 MS. ISSO: Okay.

8 THE COURT: -- rephrase.

9 BY MS. ISSO:

10 Q Is -- is someone with a level one, ASD, you know,  
11 capable or able to hold a job, get married, make friends in --  
12 in the future, things of that sort?

13 MS. ROSENBLUM: Objection, compound, calls for  
14 speculation, incomplete hypothetical.

15 THE COURT: The compound I will sustain. If you  
16 want to break it up, Ms. Isso.

17 BY MS. ISSO:

18 Q Is someone with ASD level one that is high  
19 functioning able to -- I mean, do -- do these individuals end  
20 up getting married in the future?

21 A Yes, usually.

22 Q Do they end up getting jobs?

23 A Yes.

24 Q Are they able to -- you know, do they -- do they end

1 up going to, you know, high -- high -- do they end up -- end  
2 up obtaining higher education?

3 A Yes.

4 Q So are they functioning citizens and people in  
5 society that are able to contribute to society?

6 MS. ROSENBLUM: Objection, speculation.

7 A Yes.

8 THE COURT: Overruled.

9 BY MS. ISSO:

10 Q So they're not like sitting in a straightjacket in a  
11 padded room, right?

12 A Correct.

13 Q I don't know. I'm sorry. And then --

14 MS. ISSO: Oh, we -- we move to admit Exhibit Number  
15 33 which is her expert report.

16 THE CLERK: 33 is already admitted.

17 MS. ISSO: Oh, sorry. I'm sorry. 56. I'm sorry.

18 THE COURT: Any objection?

19 MS. ROSENBLUM: I mean, other -- other than she  
20 hasn't asked the doctor if that's her report or --

21 MS. ISSO: Oh.

22 MS. ROSENBLUM: -- authenticate that I heard, but --

23 BY MS. ISSO:

24 Q Is -- is --

1 THE COURT: If you want to --

2 Q -- that -- that -- is that your report, the -- the  
3 one -- the one that you wrote?

4 A Yes.

5 MS. ISSO: Okay. I move to admit that. No further  
6 questions.

7 (PLAINTIFF'S EXHIBIT 56 ADMITTED)

8 THE COURT: All right. Give me one second. 11:25.  
9 Okay, Ms. Rosenblum.

10 CROSS EXAMINATION

11 BY MS. ROSENBLUM:

12 Q Good morning, Dr. Carter. Can you tell the Court  
13 how many parenting plans you've created for ASD children?

14 A Helped with a few of them.

15 Q When you saw a few, more than 10?

16 A Let's see. I've consulted on custody cases probably  
17 total of 10 times. Probably -- that's probably right -- about  
18 right.

19 Q And in those cases, have you created parenting plans  
20 for children?

21 MS. ISSO: Objection, outside of the scope.

22 MS. ROSENBLUM: It's absolutely

23 THE COURT: Overruled.

24 MS. ROSENBLUM: Thank you.

1 BY MS. ROSENBLUM:

2 Q Go ahead.

3 A I usually consult on the parenting plans, but it's  
4 usually the custody evaluator who -- who writes it or the --  
5 the courts.

6 Q Are you member of the AFCC?

7 A I'm not sure what -- what's that acronym stand for?

8 Q Let me ask you it a different way. Ma'am -- Dr.  
9 Carter, are -- what certifications do you hold?

10 A I'm a licensed psychologist. Let's see. I am an  
11 Oregon forensic evaluator. And I belong to some professional  
12 organizations.

13 Q I would rec -- sorry.

14 A I'm not -- I'm -- I'm not a -- I don't do custody  
15 evaluations. I consult about them for autism cases, but I  
16 don't write them. Is that your question?

17 Q Well, when you say you consult about them for  
18 custody cases, generally what is the scope of your  
19 consultation?

20 MS. ISSO: Objection, foundation, relevance,  
21 outside --

22 THE COURT: Overruled.

23 MS. ISSO: -- the scope.

24 BY MS. ROSENBLUM:

1 Q Go ahead.

2 THE COURT: Clarifying her scope of what she just  
3 indicated she does.

4 A Okay. I -- often people have questions about how  
5 autistic people benefit from certain schedules. And I consult  
6 about that.

7 Q And Dr. Carter, for the record, the AFCC stands for  
8 the Association of Family and Conciliation Courts. Are you a  
9 member of that organization?

10 A No.

11 Q Are you familiar with their recommendations and  
12 guidelines creating parenting plans for children with special  
13 needs?

14 A I've read Dr. Pickar's articles and the -- his  
15 report.

16 Q Okay.

17 A But I have not -- but I don't know that I've read  
18 that particular document that you're referring to.

19 Q Do you believe that there is a standard across  
20 therapists and cus -- custody evaluators regarding the  
21 creation of a parenting plan involving a child with special  
22 needs?

23 A Makes sense that there should be some basic  
24 guidelines. My concern is general guidelines do not always

1 suit individual children. And so I recommend that you go with  
2 -- here we have a child who has been diagnosed for two or  
3 three months. And we have some --  
4 MS. ROSENBLUM: Your Honor --  
5 A -- good recent --  
6 MS. ROSENBLUM: -- I move to strike --  
7 A -- data --  
8 MS. ROSENBLUM: -- as --  
9 A -- that's very --  
10 MS. ROSENBLUM: -- non-responsive.  
11 A -- specific to her needs.  
12 THE COURT: If you're asking it --  
13 THE WITNESS: So --  
14 THE COURT: Hold --  
15 THE WITNESS: -- generally (indiscernible) --  
16 THE COURT: Doctor, hold on one second because it  
17 was asked in the form of a yes or no, correct?  
18 MS. ROSENBLUM: Correct.  
19 THE COURT: She asked that question in the form of a  
20 yes or no. Ms. Isso can ask you a question to expand if  
21 needed, but right now that --  
22 THE WITNESS: Okay.  
23 THE COURT: -- question is just a yes or a no.  
24 THE WITNESS: Can you restate the question?

1 BY MS. ROSENBLUM:

2 Q Do you believe that there are standards with regard  
3 to the creation of a parenting plan for children with special  
4 needs?

5 A Yes.

6 Q And do you know what those standards are or where  
7 they're found?

8 MS. ISSO: Objection, foundation, ambiguous.

9 THE COURT: Overruled.

10 MS. ISSO: She said special needs. That can mean a  
11 million things.

12 THE WITNESS: I'm not an expert on those.

13 MS. ISSO: What special needs are you talking about?

14 BY MS. ROSENBLUM:

15 Q Dr. Carter, with regard to your report, you make a  
16 statement. It states it's helpful for -- for all -- I'm on --  
17 sorry, I believe it's page 2. Page 2 of 5 under the  
18 acceptance fo the ASD diagnosis you state if it's helpful for  
19 all caregivers involved with a special needs child to accept  
20 the medical diagnosis given and educate themselves about  
21 parenting adjustments that need to be made. Since each child  
22 with ASD has unique needs, participation, and edu --  
23 educational programs and then you go on. Do you see that  
24 statement?

1           A     I do.

2           Q     Would you agree that it is important in this  
3 particular case that Eugene accept the diagnosis of ASD?

4           A     Yes.

5           Q     Do you agree that it is important and actually  
6 critical for Ava's well-being that Dad be supportive of her  
7 treatment and support that diagnosis?

8           A     Yes.

9           Q     In this case, your testimony earlier was that you  
10 met with Dad or talked to Dad; is that correct?

11          A     Correct. I've spoken with him.

12          Q     Did you have the opportunity to see or observe Ava?

13          A     No.

14          Q     It -- did you ask to speak with my client?

15          A     No.

16          Q     Why did you only speak with Dad?

17          A     I was not asked to -- I was asked to consult --  
18 MS. ISSO: Objection, outside of the scope.

19          A     -- about --

20                THE COURT: Overruled.

21                MS. ISSO: No, she made the same objections --

22                THE COURT: Overruled.

23                MS. ISSO: -- when I was asking her expert, that she  
24 would say outside the scope and you were sustaining it.

1 THE COURT: Okay. That's overruled.

2 BY MS. ROSENBLUM:

3 Q Go ahead.

4 A Restate the question.

5 Q Why did you not speak with Nechole in this case?

6 MS. ISSO: That was outside the scope what she was  
7 hired for. That was the same objection --

8 MS. ROSENBLUM: That can be her --

9 MS. ISSO: -- she was raising --

10 MS. ROSENBLUM: -- testimony.

11 MS. ISSO: -- when I was asking her expert that  
12 question.

13 THE COURT: She can answer that then. Overruled.

14 MS. ISSO: But why didn't her expert answer it?

15 THE COURT: She can answer it that way. Overruled.

16 THE WITNESS: Yes, I was not asked to assess  
17 anybody.

18 BY MS. ROSENBLUM:

19 Q Do you believe that it would have been important to  
20 speak with Nechole before completing your recommendations in  
21 this case about the proposed schedule of --

22 THE COURT: No we're edging into the same thing  
23 where we were objecting and -- and it was sustained. So --

24 MS. ROSENBLUM: She's here making her recommendation

1 that a two-two-three schedule is what's in this child's best  
2 interest and I'm asking her if it's important that she speak  
3 with my client and get my client's opinion and my client's  
4 perceptions.

5 MS. ISSO: Her expert was talking about charts and  
6 all these different jurisdictions and when I questioned him  
7 about the chart, you guys said oh, it was outside the scope of  
8 what he was retained for.

9 MS. ROSENBLUM: No.

10 MS. ISSO: He sat there for 30 --

11 MS. ROSENBLUM: This is not --

12 MS. ISSO: -- minutes like a --

13 MS. ROSENBLUM: -- outside the scope.

14 MS. ISSO: -- talking head talking about his -- how  
15 -- how wonderful he is. But when I questioned him about it,  
16 you objected -- you sustained it.

17 MS. ROSENBLUM: This expert is here today making a  
18 specific --

19 THE COURT: She is making --

20 MS. ROSENBLUM: -- parenting plan --

21 THE COURT: -- more --

22 MS. ROSENBLUM: -- recommendation.

23 THE COURT: She is making a more in depth statement  
24 and/or recommendation than what was made by the Defendant's

1 expert. So go ahead. You can ask.

2 MS. ROSENBLUM: Okay.

3 BY MS. ROSENBLUM:

4 Q Again, Dr. Carter, when you may -- you -- you  
5 answered Counsel's questions about a two-two-three schedule.  
6 Do you believe that having my client's input prior to making  
7 that recommendation would be important?

8 A Generally I think that a two-two-three pro -- that  
9 shared time --

10 MS. ROSENBLUM: Your Honor, I --

11 A -- that is fairly --

12 MS. ROSENBLUM: -- I move to strike.

13 A -- (indiscernible).

14 THE COURT: She asked it in a yes or no form, I  
15 believe.

16 THE WITNESS: Okay.

17 THE COURT: Do you want to reask the question?

18 THE WITNESS: There wasn't time and it wasn't part  
19 of what I was asked to do because I just found out about that  
20 last night.

21 MS. ROSENBLUM: Again, Your Honor, I would move to  
22 strike as non-responsive.

23 THE COURT: It'll be stricken. Ask the question  
24 again.

1 BY MS. ROSENBLUM:

2 Q Dr. Carter, again, my question is specifically a yes  
3 or no question. Before you made the recommendation for a  
4 two-two-three schedule or any schedule, do you believe that it  
5 would have been important to have the input of my client?

6 MS. ISSO: Objection, Your Honor. This is outside  
7 of the scope of what she was retained. And Eugene didn't give  
8 her any input. He just called to retain her. We were -- he  
9 didn't give her any input about what he thinks should --  
10 should be done.

11 THE COURT: She testified --

12 MS. ISSO: Ms. Garcia --

13 THE COURT: -- she met with them.

14 MS. ISSO: -- is not a doctor. Her input is not --

15 THE COURT: She testified that --

16 MS. ISSO: -- really that important.

17 THE COURT: -- she met with --

18 MS. ISSO: She's not a doctor.

19 THE COURT: -- him. She --

20 MS. ROSENBLUM: Okay.

21 THE COURT: She testified that she met with him for  
22 the third time in a row.

23 MS. ISSO: She didn't meet with him. She --

24 THE COURT: Doctor, did you not --

1 THE WITNESS: Yes.

2 THE COURT: -- state that you met with the  
3 Plaintiff?

4 THE WITNESS: I spoke with him by phone.

5 THE COURT: Thank you.

6 THE WITNESS: Yes.

7 THE COURT: Okay.

8 THE WITNESS: So and I was --

9 THE COURT: The -- there's no question until Ms.  
10 Rosenblum asks you a question. Hold on one second.

11 BY MS. ROSENBLUM:

12 Q Again, it's the same question. Doctor --

13 A Okay.

14 Q -- prior --

15 A It would -- it would be -- it would certainly be  
16 beneficial, but I was not retained for that purpose.

17 Q And so is it fair to say that the recommendations  
18 you're making here today regarding a specific parenting plan  
19 or timeshare are outside of your retention?

20 MS. ISSO: Objection, Your Honor. She's talking  
21 about children with ASD and her experience working with  
22 children with ASD and what kind of schedule she think would be  
23 suitable for a --

24 THE COURT: She's --

1 MS. ISSO: -- child.

2 THE COURT: -- made a statement particularly about  
3 the two-three -- two -- two-two-three. Unless you want to  
4 strike that entire line, she has a right to ask that question.

5 MS. ISSO: Okay. Let her ask. What was the  
6 question?

7 THE WITNESS: State the question again.

8 BY MS. ROSENBLUM:

9 Q Dr. Carter, you've come today to make  
10 recommendations about the schedule; is that correct?

11 A That is one of the questions I was asked. Yes.

12 Q Okay. Was that within your scope in preparing and  
13 becoming an expert in this case?

14 A I think so. Yes.

15 Q Okay. And your testimony today is that you did not  
16 receive my client's input into making those recommendations;  
17 is that correct?

18 A Correct.

19 Q And do you believe that your report is biased in  
20 favor of the Plaintiff?

21 A Could be given that I didn't even know about the  
22 schedule until last night. There wasn't time. I would be  
23 happy to --

24 Q There's --

1 THE COURT: No, there's --

2 A -- with time --

3 THE COURT: -- not a --

4 Q Ma'am --

5 THE COURT: -- question --

6 Q -- there's no --

7 THE COURT: -- in front of you.

8 Q -- question pending. In your report on page 3 under  
9 subsection 3 where you talk about ABA programming and parental  
10 involvement, you indicate -- and you -- and I'm questioning  
11 you've indicated that substantially limiting the access of one  
12 parent would be detrimental to program's success. Do you see  
13 that?

14 A Right.

15 Q When you say substantially limiting the access of  
16 one parent, what do you mean?

17 A Having the child not being able to see the parent in  
18 a roughly 50/50 sort of visitation time.

19 Q But your statement states limiting the access of one  
20 parent would be detrimental to program success. Can you  
21 explain how that limiting their access translates to success  
22 of a child in their ABA program?

23 A Well, because ABA programs are based on the  
24 principle that all -- ideally all caregivers who have

1 substantial roles in a child's life get trained in the ABA  
2 skills because they're intensive and they take time to  
3 complete. And ideally they should be completed even after the  
4 ABA therapist goes home, that all parents need -- all  
5 caregivers need to be trained in that and continue to provide  
6 that service to the child --

7 Q And Doctor, you --

8 A -- and that if that doesn't happen and then an  
9 untrained individual spends a whole bunch of time with the  
10 student, then the student has -- then the untrained caregiver  
11 who doesn't have experience with the child and potentially not  
12 reenforce the behaviors that the ABA program is focusing on  
13 and could lead to the failure of the program or confusion of  
14 the child as far as achieving the goals in the program.

15 Q Doctor, you would agree with me though that that  
16 doesn't necessarily mean a 50/50 custody schedule; is that  
17 correct?

18 A Well, the students -- my students benefit from a  
19 variety of caregivers and I believe even access to both  
20 parents.

21 Q Okay. But certainly Dad could participate in  
22 therapies in Mom's home and that would be access to the ABA  
23 program, correct?

24 A Correct.

1 Q And Mom could participate in therapies in Dad's home  
2 and that would be equal access to the therapies, correct?

3 A Correct.

4 Q And their respective caregivers could participate in  
5 the therapies and that would give them access, correct?

6 A Correct.

7 Q And that doesn't necessarily mean that you need to  
8 have a two-two-three schedule or some sort of exactly equal  
9 timeshare, correct?

10 A Correct.

11 Q You -- in November 4 -- and Counsel asked you about  
12 the sameness myth. Would you agree with me that the idea of  
13 sameness as part of the DSM?

14 A ASD affected people have obsessive compulsive dis --  
15 disorder symptoms that are lighter than the actual diagnosis.  
16 So they have repetitive behaviors that can be very ridden. So  
17 it is a sameness in something that is seen in their behaviors  
18 and it is a symptom that needs to be treated.

19 Q And it is part of -- of the DSM, correct?

20 A It's a DSM symptom. Yes.

21 Q And it's -- it -- the idea of sameness is in a myth,  
22 right? It's an actual symptom in the DSM, true?

23 A Well, technically it's seen as repetitive behaviors.  
24 That's how it's described in DSM.

1 Q Doctor, you -- you would -- I think we -- you  
2 touched on it, but depending on the severity of the ASD  
3 diagnosis, there may be some -- the child may -- may show some  
4 -- more rigidity or less rigidity; is that true?

5 A Correct.

6 Q With regard to this particular child, you reviewed  
7 the TMG records, true?

8 A True.

9 Q And you reviewed the CARS assessment, true?

10 A Correct.

11 Q And you're familiar with the scoring on the CARS  
12 assessment; is that true?

13 A True.

14 Q Do you recall what Ava's CARS score was?

15 A I believe it's 35.

16 Q Okay. And do you know what the scoring would be to  
17 put Ava into a level two autism diagnosis? The CARS doesn't  
18 have a way to assess level one, two, and three within its  
19 forum system. It has mild to moderate, moderate to severe,  
20 which is different than level one, two, and three.

21 A Okay. Do you believe that Ava is of the high end of  
22 the mild to moderate range based on her score?

23 Q The CARS 2 was done entirely by video conference.

24 And so I -- I -- when I do an assessment of a child, I always

1 have to spend some time in person with them because it -- I am  
2 unable to do high quality observations of things like degree  
3 of eye contact, degree of fine and gross motor skill  
4 capabilities, by video conference. So we also need to  
5 remember that the CARS 2 evaluating team concluded that they  
6 were -- saw autistic symptoms but chose not to formally  
7 diagnose. And I assume that -- that may have been because it  
8 was school district people and they don't have that tradition  
9 could have been because they were doing video conference and  
10 didn't feel as confident in their ratings because of the COVID  
11 restrictions.

12 A Doctor, are you questioning the TMG CARS assessment?

13 Q I would be unable to do a CARS assessment. I do  
14 them on a weekly basis without having in person contact with  
15 the student.

16 A So is it your testimony today that the CARS  
17 assessment conducted in this case is inaccurate?

18 MS. ISSO: Objection, misstates prior testimony.

19 THE COURT: Overruled.

20 THE WITNESS: I suspect that there is more  
21 variability in the scores that -- than if we had -- if the  
22 evaluators had had the benefit of being in person with her.

23 BY MS. ROSENBLUM:

24 Q And with that based on your opinion, it -- Ava's

1 symptoms can be more severe; is that true?

2 A Or milder.

3 Q Correct. But they can also be more severe; is that  
4 correct?

5 A Correct.

6 Q Okay. Ava's just over three years old, true?

7 A True.

8 Q Would you agree that the abil -- her ability to be  
9 taught flexibility at this age is -- is questionable?

10 A No, she -- the -- my understanding from the ABA  
11 notes so far is that she's responsible adequately to the  
12 training she's been provided about flexibility. That's based  
13 on notes. I had not observed her personally.

14 Q You would agree that being able to tolerate change  
15 is part of an ongoing diagnosis; is that correct?

16 A The tendency toward repetitive restricted behaviors  
17 is part of autism. Yeah. And it needs to be treated by  
18 teaching flexibility.

19 Q Doctor, you were asked questions about the idea  
20 theory. Do you recall those questions? Yes?

21 MS. ISSO: What period?

22 A The IDEA.

23 Q IDEA. Yeah.

24 A Yeah. Okay.

1 Q And the IDEA is something that's used in an  
2 educational setting; is that correct?

3 A Correct.

4 Q Is it your recommendation or your -- your expert  
5 opinion that the idea of least restrictive should be -- or  
6 that IDEA theory should carry over into parenting plans?

7 A Ava is being --

8 Q Doctor, it's a yes or no question.

9 A Okay. Yes.

10 Q So your position is that for -- I want to be sure  
11 I'm understanding what you're opining today. You're opining  
12 today that the IDEA of a least restrictive setting is used in  
13 a school or educational situation should also be the standard  
14 for creating parenting plans. Am I understanding that  
15 correctly?

16 A I think it should -- yes, it should be considered.

17 Q And what documentation, literature, studies do you  
18 have to suppose that theory?

19 A In Ava's case --

20 Q No.

21 A -- she's being --

22 MS. ROSENBLUM: Judge --

23 THE COURT: No, you asked an open ended question,  
24 Ms. Rosenblum.

1 MS. ROSENBLUM: I asked her what --

2 THE COURT: She can --

3 MS. ROSENBLUM: -- what literature, what studies.

4 THE COURT: But we're talking about Ava. She just  
5 prefaced it by in Ava's case --

6 MS. ROSENBLUM: Okay.

7 THE COURT: -- and then --

8 MS. ROSENBLUM: All right.

9 THE COURT: -- go ahead, Doctor. She just prefaced  
10 it by in Ava's case.

11 A In Ava's case, she is -- part of her parenting plan  
12 at this time is that parents agree that she should be in  
13 educational programs like early intervention and ABA which are  
14 educational programs. So from that perspective, her -- IEPs  
15 and IFSPs associated with educational programs are driving and  
16 affecting her -- her parenting plan whether the Court wants to  
17 acknowledge that or not.

18 THE COURT: That was non-responsive. You can ask  
19 the question again. Doctor, listen to her question again.  
20 That is the not the question she asked.

21 THE WITNESS: Okay.

22 BY MS. ROSENBLUM:

23 Q Okay. Doctor, I -- I feel like we're speaking two  
24 different languages here. The ID --

1           A     Possible.

2           Q     The IDEA theory regarding least restrictive, right,  
3 you would agree with me it talks about school environments,  
4 correct?

5           A     Correct.

6           Q     That if you --

7           A     Uh-huh (affirmative).

8           Q     -- have a special needs child, you're not going to  
9 put them in a self-contained classroom if it would be less  
10 restrictive to have them in general education, correct?

11          A     Correct.

12          Q     With regard to this case, do you believe there's a  
13 dispute with regard to Ava's education?

14          A     I don't know. It doesn't appear to be.

15          Q     Okay. So again, I'm trying to understand this IDEA  
16 theory. Is it your opinion today that that same theory that  
17 if the least restrictive for these parents is 50/50 custody,  
18 are you trying to transpose that IDEA theory into a custodial  
19 situation or a parenting plan?

20          A     What I am trying to do is -- let's see. How to  
21 explain this. I believe children with special needs should  
22 have -- should have access to as much opportunity as possible  
23 for flexibility and learning. Special needs students should  
24 not be denied that simply because of their diagnosis. So I

1 worry that general guidelines overlook the needs of individual  
2 students. And I don't want students to be seeing as needing  
3 extra restrictions when in fact just because just because they  
4 have an ASD or other developmental disability sort of  
5 diagnosis. Does that clarify?

6 Q Yes.

7 MS. ROSENBLUM: I don't have any further questions.

8 THE COURT: Hold on one second. Let me get my  
9 timestamp up.

10 MS. ISSO: How much time do I have left?

11 THE COURT: You have one hour and 25 minutes. I'll  
12 have to add yours up. Was that --

13 MS. ISSO: How do I only have --

14 THE COURT: Was that --

15 MS. ISSO: -- one hour and twenty --

16 THE COURT: -- Ms. Isso?

17 MS. ISSO: -- five -- I had one hour and fifty  
18 minutes a minute ago.

19 THE COURT: Correct. And you had 25 minutes of  
20 questioning her.

21 REDIRECT EXAMINATION

22 BY MS. ISSO:

23 Q Since the CARS assessment was done via Zoom, is  
24 there a possibility that her symptoms or readings could be

1 less severe?

2 A Correct.

3 Q When you gave your recommendation on a two-two-three  
4 schedule, was that based off of the documents that you  
5 reviewed?

6 A Yes.

7 Q And were one of those documents Dr. Kathleen  
8 Bergquist's report?

9 A Yes.

10 Q And did that report contain Ms. Garcia's concerns?

11 A It did.

12 Q So you're not actually biased, correct?

13 A I hope not. No.

14 Q How long have you treated or worked with children  
15 that are autistic?

16 A Extensively since 2002.

17 Q Two -- so how many years is that?

18 THE COURT: I'll take judicial notice that from 2002  
19 is 18, 19 years.

20 Q And you --

21 A Right.

22 Q -- and you work with them one-on-one?

23 A I do.

24 Q Okay. And are you court appointed in Oregon for

1 this type of issue?

2 A Yes.

3 Q How many times have the courts appointed you in the  
4 last 18 years, approximately?

5 A For autism generally or for --

6 Q Sure, autism. That's what we're here for today. So  
7 let's talk about autism.

8 A Specific to autism, I don't know, hundreds of times.

9 Q Okay. And did they ask for your opinion on the  
10 parenting plans?

11 A Yes.

12 MS. ISSO: Okay. No further questions. No further  
13 questions.

14 THE COURT: That's it? Okay. Thank you for being  
15 here to testify today, Doctor.

16 THE WITNESS: Thank you.

17 THE COURT: Hold on. One second, Counsel, so I can  
18 give you guys a tally and decide where we're going from there.

19 MS. ROSENBLUM: At 12:00 o'clock. So are we doing  
20 lunch? Are we just going to get right into it? We can finish  
21 early. I don't really need lunch.

22 THE COURT: Things are starting to even up a little.  
23 Ms. Isso, you have one hour and 23 minutes left. Ms.  
24 Rosenblum, you have two hours and three minutes left. So I

1 don't know how do you want to --

2 MS. ROSENBLUM: I wouldn't mind an extended potty  
3 break.

4 THE COURT: Well, we'll -- we'll do --

5 MS. ROSENBLUM: Fifteen minutes?

6 THE COURT: -- lunch if you --

7 MS. ISSO: Well, is --

8 THE COURT: -- guys want to --

9 MS. ISSO: Is she done with Ms. Garcia?

10 THE COURT: I don't think so, but --

11 MS. ISSO: Well, let's ask her. Let's not assume.  
12 Are you done with Ms. Garcia?

13 MS. ROSENBLUM: I don't think so.

14 MS. ISSO: Okay.

15 MS. ROSENBLUM: I wouldn't mind --

16 MS. ISSO: So no.

17 MS. ROSENBLUM: -- just reviewing my notes real  
18 quick to --

19 MS. ISSO: Calls for a yes or no --

20 MS. ROSENBLUM: -- see.

21 MS. ISSO: -- answer.

22 MS. ROSENBLUM: If I'm not -- and, again, I don't  
23 want the time to be taken away, so -- since we left off at the  
24 -- yeah, I don't mind -- now, see I just have maybe like three

1 more minutes worth of questions.

2 MS. ISSO: Let's just --

3 THE COURT: How many --

4 MS. ROSENBLUM: Maybe three. Do you want me to  
5 finish Nechole and then we can take a little break or --

6 THE COURT: That's fine. We'll do -- we'll do lunch  
7 then at that point.

8 MS. ROSENBLUM: Okay. Yeah, that's fine.

9 MS. ISSO: Like a lunch or extended potty break?

10 MS. ROSENBLUM: I mean, I was thinking like -- '

11 THE COURT: I'll talk to staff. I understand,  
12 but --

13 MS. ISSO: They're looking at me like what, no  
14 lunch?

15 NECHOLE GARCIA

16 called as a witness on her own behalf, having been previously  
17 sworn, testified upon her oath as follows on:

18 DIRECT EXAMINATION CONTINUED

19 BY MS. ROSENBLUM:

20 Q All right. Nechole, I'm not sure we ever got to a  
21 total -- total on the out-of-pocket medical expenses. I'm not  
22 sure it really matters. At one point you mentioned that you  
23 believe Eugene had private insurance; is that correct?

24 A Yes.

1 Q I'm sorry, I do want to go back to one other  
2 exhibit. So looking in our book at Exhibit V.

3 A D as in dog?

4 Q V like Victor.

5 A Oh, okay. Okay.

6 Q Does this -- tell the Court what this is.

7 A It's a letter from the City of Henderson Human  
8 Resources breaking down the amount of the premium for Ava's  
9 insurance.

10 Q Does this accurately reflect the letter you  
11 received?

12 A Yes.

13 MS. ROSENBLUM: I'd ask for Exhibit V like Victor to  
14 be admitted.

15 MS. ISSO: That's fine. No objection  
16 (indiscernible).

17 THE COURT: Exhibit D will be admitted.

18 MS. ISSO: No. V -- V as in Victor.

19 MS. ROSENBLUM: V like --

20 THE COURT: V.

21 MS. ROSENBLUM: -- Victor.

22 THE COURT: I'm sorry.

23 (DEFENDANT'S EXHIBIT V ADMITTED)

24 MS. ROSENBLUM: Yeah. It's just the letter that

1 talks about the insurance.

2 BY MS. ROSENBLUM:

3 Q Okay. So again, Nechole, going back to insurance,  
4 have there been any issues with regard to the -- to Ava's  
5 insurance for treatment?

6 A Yes.

7 Q And can you explain when the issue occurred?

8 A The issue occurred last month.

9 Q And what occurred?

10 A So Eugene sent me a message on OurFamilyWizard  
11 telling me that he had gotten private coverage for Ava and  
12 under the birthday rule his insurance would become primary. I  
13 asked him whether he had verified whether Firefly even took  
14 the insurance, what the ABA coverage limits were. He had not  
15 but assured me it wouldn't be a problem.

16 A day or two later Firefly informed both of us that  
17 they had to -- to stop Ava's ABA therapy because they weren't  
18 a provider under Eugene's insurance and there was no prior  
19 authorization. Eugene then -- I was trying to get Eugene to  
20 communicate with me about what was happening. It was very  
21 difficult. I was finding out what was happening because  
22 Firefly was emailing both of us updates, but Eugene spent the  
23 next few days trying to push through an authorization so that  
24 his insurance can remain primary while Ava went without the

1 services.

2 And once Firefly told us both that the insurance was  
3 not going to rush through anything. Then Eugene finally  
4 cancelled that coverage and Ava was able to resume services  
5 under my insurance.

6 Q Prior to changing insurance, did Eugene discuss that  
7 with you?

8 A Not at all.

9 Q Were you surprised by the fact that he had obtained  
10 private insurance?

11 A I was very surprised and this was the second time  
12 that he changed Ava's coverage and hadn't told me about it.  
13 So that was concerning.

14 Q And why were you concerned?

15 A Because Ava, it's -- her therapies are so important  
16 and it's so important that they maintain consistency. And  
17 it's also important that he and I discuss and agree on  
18 coverages so that she can maintain those services. And so  
19 just changing it without doing any research, any checking, or  
20 any discussion directly impacted her -- her care. And I'm --  
21 and I am concerned that's going to happen again in the future.

22 Q Are you asking -- let me ask -- I -- do you know if  
23 you had an order from this Court your insurance would be  
24 primary if that would have avoided that situation?

1           A     I do because I asked Firefly and they said that they  
2 -- a court order would trump the birthday rule. So yes.

3           Q     Are you asking this Court for a court order to  
4 prevent that your insurance be primary to prevent that  
5 situation from occurring in the future?

6           A     Yes, I am.

7           THE COURT: Let's -- is there an objection to that?

8           MS. ISSO: To what?

9           THE COURT: To her insurance coverage --

10          MS. ISSO: Be primary?

11          THE COURT: -- being first -- being primary. Because  
12 it caused problems before. \$78 a month.

13          (COUNSEL AND CLIENT CONFER BRIEFLY)

14          MS. ISSO: As long as they're going to move to  
15 strike what they're trying to state that he was like  
16 intentionally changing the coverage --

17          THE COURT: I'm -- I'm not taking that into  
18 consideration.

19          MS. ISSO: We'll -- we'll -- then we'll -- we'll  
20 agree to that.

21          THE COURT: We'll --

22          MS. ISSO: Yeah.

23          THE COURT: -- stipulate to that. Okay. So her  
24 insurance. We now have a stipulation.

1 MS. ISSO: Right.

2 THE PLAINTIFF: Yeah, that's fine --

3 THE COURT: We have one --

4 THE PLAINTIFF: That's --

5 THE COURT: -- stipulation --

6 MS. ISSO: But as long as the child's --

7 THE COURT: -- going on in this court.

8 MS. ISSO: -- insured that's what matters.

9 THE COURT: And we also agree since we're on the

10 stipulation stuff any unreimbursed costs --

11 MS. ISSO: 30/30?

12 THE COURT: 30/30 rule --

13 MS. ISSO: Yes.

14 THE COURT: -- submitted through the OurFamilyWizard

15 program.

16 MS. ISSO: Yes.

17 MS. ROSENBLUM: I --

18 THE COURT: See, there we go.

19 MS. ROSENBLUM: I think there's a different proposal

20 from our end on -- on medical expenses.

21 THE COURT: Okay. We'll strike that last part.

22 MS. ROSENBLUM: That's all the questions I have for

23 you.

24 THE COURT: Before that was five minutes. So you

1 have one hour and fifty-eight minutes, Ms. Rosenblum. You  
2 have one hour and twenty-three minutes. My staff need a half  
3 hour break --

4 MS. ROSENBLUM: Okay.

5 THE COURT: -- so we will resume -- let me let you  
6 guys get adjusted. We'll make it 35 minutes. So 1:40 by that  
7 clock, we'll go ahead and resume.

8 MS. ROSENBLUM: 12:40.

9 THE COURT: I'm sorry, 12:40.

10 THE PLAINTIFF: 12:40?

11 THE COURT: 12:40.

12 THE PLAINTIFF: Okay.

13 THE COURT: Thirty-five minutes.

14 THE PLAINTIFF: Okay.

15 MS. ROSENBLUM: 35 minutes.

16 (COURT RECESSED AT 12:05 AND RESUMED AT 12:55)

17 THE COURT: Madam Clerk, if you want to -- all  
18 right. Now we're on the record. We're back on the record in  
19 the -- the Shapiro case.

20 MS. ROSENBLUM: Dr. Gaspar will be on at 2:00. So  
21 he should be up on the screen at 2:00. So --

22 THE COURT: Okay.

23 MS. ROSENBLUM: -- I guess wherever we are if it's  
24 okay to get him in. He's got a full practice.

1 THE COURT: Okay.

2 MS. ROSENBLUM: Okay. So --

3 MS. ISSO: So I -- I plan on calling Eugene today  
4 for rebuttal. And I might call Montana for a few minutes.  
5 And --

6 THE COURT: Again, you have one hour and  
7 twenty-three minutes including cross. So how ever you want to  
8 use it, Ms. Isso. I would say since we started with the  
9 Defendant's direct, we -- are you done --

10 MS. ROSENBLUM: Yes.

11 THE COURT: -- with -- okay. So we're back to them?

12 MS. ROSENBLUM: Correct.

13 THE COURT: Okay. So whoever you want next, Ms.  
14 Isso.

15 MS. ISSO: Okay. I guess we'll call -- let's call  
16 Ms. Montana Garcia who -- who is Nechole's mother.

17 THE CLERK: They're on.

18 MS. ISSO: And then after, that I'll call Eugene.

19 THE CLERK: And Mr. Blackham is --

20 MS. ROSENBLUM: Well --

21 THE CLERK: -- her attorney --

22 MS. ROSENBLUM: -- hold on a second. Before we  
23 start all of this, so I want to be sure we're clear. Is Ms.  
24 Isso not going to cross examine Nechole?

1 MS. ISSO: I'm -- I'm just going to call Eugene --  
2 THE COURT: Okay.  
3 MS. ISSO: -- as an ex --  
4 THE COURT: I don't know.  
5 MS. ISSO: -- as --  
6 THE COURT: She has --  
7 MS. ISSO: -- as a rebuttal.  
8 THE COURT: She technically -- has she called her  
9 yet? I mean, she has the right to call her in her case still.  
10 MS. ROSENBLUM: She's already called her in her  
11 case.  
12 THE COURT: Okay.  
13 MS. ROSENBLUM: I just finished my direct. I didn't  
14 know if she was going to -- if she planned on crossing her or  
15 not.  
16 THE COURT: Okay.  
17 MS. ISSO: Considering the time constraints and I  
18 spoke to my client about it, he wants me to --  
19 THE COURT: Okay.  
20 MS. ISSO: -- call him as a rebuttal --  
21 MS. ROSENBLUM: Okay.  
22 THE COURT: Okay.  
23 MS. ISSO: -- to address the --  
24 MS. ROSENBLUM: And I still have the right to call

1 him in my case in chief.

2 THE COURT: Correct.

3 MS. ISSO: Okay.

4 MS. ROSENBLUM: Right. Okay.

5 THE CLERK: Mr. Blackham you said is Ms. Garcia's  
6 attorney?

7 MS. ROSENBLUM: Yes.

8 THE CLERK: Okay.

9 MS. ISSO: How much time do I have left?

10 THE COURT: One hour and 23 minutes left.

11 MS. ROSENBLUM: Has there coming a -- Jennifer, do  
12 you plan on calling Dr. Bergquist today? Is she going to --

13 MS. ISSO: Unh-unh.

14 MS. ROSENBLUM: -- show up today? Okay.

15 MS. ISSO: We don't -- we don't have time.

16 THE CLERK: Ms. Garcia, can you hear me? Your  
17 microphone is muted if you're -- if you can hear me.

18 MS. ISSO: Turn on your video, please.

19 MS. GARCIA: Okay.

20 THE CLERK: Okay. Can you please raise your right  
21 hand? You do solemnly swear the testimony you're about to  
22 give in this action shall be the truth, the whole truth, and  
23 nothing but the truth, so help you God?

24 THE WITNESS: Yeah.

1 MONTANA GARCIA  
2 called as a witness on behalf of the Plaintiff, having been  
3 first duly sworn, testified upon her oath as follows on:

4 DIRECT EXAMINATION

5 BY MS. ISSO:

6 Q Ms. Garcia, how are you relate -- I'm sorry, Ms.  
7 Montana --

8 MS. ISSO: Say Montana?

9 THE PLAINTIFF: Yes.

10 Q How are you related to Nechole Garcia?

11 A I'm her mother.

12 Q Are you babysitting her child when she's at work?  
13 I'm sorry?

14 A Yes.

15 Q Okay.

16 THE COURT: I --

17 Q And how --

18 THE COURT: I need her volume turned up, Mr.  
19 Blackham, for -- it's really low in our courtroom.

20 MR. BLACKHAM: Montana, did you hear that?

21 THE WITNESS: Yes, I got it up to 100 percent. Can  
22 you hear me?

23 THE COURT: Then I need you to scoot --

24 THE WITNESS: Speak up?

1 MR. BLACKHAM: I --

2 THE COURT: -- closer to the something.

3 MR. BLACKHAM: Yeah, can -- can you move closer to  
4 the mic?

5 THE WITNESS: Can you hear me? Hello?

6 THE COURT: That right there is probably the best so  
7 far. And so maybe if you stay right there. All right.

8 THE WITNESS: Okay.

9 Q And how many days a week are you babysitting the  
10 child?

11 A One to two days a week. It depends on when do they  
12 have the child. One day a week. Well, he has her Monday,  
13 Tuesday, Wednesday and Sunday, Monday, Tuesday. I have her  
14 Wednesdays and Thursdays.

15 Q So when Eugene doesn't have the child and Nechole's  
16 working, you're babysitting the child?

17 A Yes.

18 Q And about how many hours is that for at a time?

19 A I would say on an average it -- it's about eight  
20 hours because she usually comes home for lunch for about an  
21 hour, maybe an hour-and-a-half, and spends time with the  
22 child.

23 Q Okay. But if she doesn't come home for lunch, it's  
24 at least 10 hours, right?

1           A     Yes. And she usually comes home at -- I would say  
2 only once per month she doesn't come home.

3           MS. ISSO: Move to strike. I called for a yes or no  
4 answer.

5           THE COURT: Sustained. Ma'am, she's asking yes or  
6 no questions, so you'll have to answer yes or no.

7 BY MS. ISSO:

8           Q     So when she --

9           THE WITNESS: Okay.

10          Q     -- doesn't come --

11          THE WITNESS: I'm sorry, could you repeat the  
12 question?

13          Q     So when she doesn't come home, it's -- you're  
14 babysitting for at least 10 hours in a shift, right?

15          A     Yes.

16          Q     Ms. -- there's been some allegations regarding your  
17 ability to properly care for the child. Could you show me --  
18 could you please stand up and get down on your knees and then  
19 get back up?

20          MS. ROSENBLUM: I'm --

21          A     In front of the --

22          MS. ROSENBLUM: Your Honor --

23          A     -- camera?

24          MS. ROSENBLUM: -- I'm going to --

1           A     I don't know if I can --  
2           MS. ROSENBLUM: I'm going to object to --  
3           THE COURT: Sustained.  
4           MS. ROSENBLUM: -- this.  
5           MS. ISSO: It goes to her physical ability --  
6           MR. BLACKHAM: Join.  
7           MS. ISSO: -- to care for the child if she can't  
8 bend down over down to her knees or stand up. So how is she  
9 taking care of a three-year-old?  
10          THE WITNESS: I can.  
11 BY MS. ISSO:  
12          Q     Okay. Well, then please show the court.  
13          MS. ROSENBLUM: Objection, Your Honor.  
14 Argumentative.  
15          MR. BLACKHAM: Join.  
16          THE COURT: I'm not -- it's going to be sustained.  
17 You could have -- you could have subpoenaed records or  
18 anything else or had a video. But for right now given these  
19 circumstances under these conditions, I'm not going to have  
20 her do physical modalities in front of us. So --  
21          MS. ISSO: Okay. Here's the thing. Okay. She  
22 can't -- she can't do it. That's the problem.  
23          THE COURT: I --  
24          MS. ISSO: If she could do it --

1 THE COURT: It's been alleged.  
2 MS. ISSO: -- she would have done it.  
3 THE COURT: It's been alleged.  
4 MS. ISSO: If you could do it, you would actually  
5 get down --  
6 THE COURT: It's been alleged.  
7 MS. ISSO: -- down on your knees and get back up,  
8 but in fact --  
9 MS. ROSENBLUM: Your Honor --  
10 MS. ISSO: -- you can't do that --  
11 THE COURT: It's been alleged.  
12 MS. ISSO: -- without holding onto furniture.  
13 THE COURT: I'm not allowing it.  
14 MR. BLACKHAM: Objection, argumentative.  
15 THE COURT: It's been --  
16 MR. BLACKHAM: Harassing.  
17 THE COURT: -- sustained, Mr. Black -- it's been  
18 sustained.  
19 MS. ISSO: Okay. No further questions. I'm not  
20 wasting more time.  
21 THE COURT: Do you have any questions of --  
22 MR. BLACKHAM: Is my client released?  
23 THE COURT: I got to ask Ms. Rosenblum.  
24 MS. ROSENBLUM: I have no questions of this witness,

1 Judge. I have no questions.

2 THE COURT: All right. Yes, apparently that was it,  
3 Mr. Blackham. So thank you for hanging around for a  
4 day-and-a-half.

5 THE WITNESS: Thank you, Your Honor.

6 MR. BLACKHAM: Thank you, Your Honor.

7 THE COURT: Have a good day.

8 MR. BLACKHAM: You too.

9 THE WITNESS: You too.

10 MS. ISSO: I'll call Eugene next, Your Honor.

11 MS. ROSENBLUM: Well --

12 MS. ISSO: Or did -- did you get someone else? It's  
13 1:00 o'clock.

14 MS. ROSENBLUM: At 2:00 o'clock I do. But --

15 THE COURT: So now --

16 MS. ROSENBLUM: Yeah, I mean, I'm going to have an  
17 opportunity to cross examine him, right?

18 THE COURT: Yeah, if she --

19 MS. ROSENBLUM: If she's redirecting.

20 THE COURT: -- if she calls -- yeah.

21 MS. ROSENBLUM: I'm going to ask to just to exceed  
22 the scope since I'm not calling him in my case in chief.

23 THE COURT: That's --

24 MS. ROSENBLUM: I'll just reserve --

1 THE COURT: -- got to be by stipulation.

2 MS. ISSO: I'm calling him for rebuttal purposes.

3 THE COURT: Then she's going to call him in her

4 chief I gue -- then you'll have to call him in your chief.

5 MS. ISSO: Okay.

6 MS. ROSENBLUM: Unless you want to -- you agree you

7 want to call him now and I'll just exceed the scope and ask

8 the other questions I have.

9 MS. ISSO: But I wanted to do that with Montana and

10 you didn't agree to that. But not Montana, Nechole. You

11 didn't agree.

12 MS. ROSENBLUM: No, it's fine.

13 MS. ISSO: Okay.

14 THE COURT: Go ahead.

15 MS. ROSENBLUM: I'm -- I'm calling him in my case in

16 chief, yeah?

17 THE COURT: You have the right to. Yeah.

18 MS. ROSENBLUM: Okay. But she's calling him for

19 rebuttal now.

20 THE COURT: She's calling him for rebuttal --

21 MS. ROSENBLUM: Okay.

22 THE COURT: -- now.

23 MS. ROSENBLUM: That's fine.

24 MS. ISSO: Eugene -- can --

1 THE COURT: Yes. Yes, ma'am.

2 EVGENY SHAPIRO

3 called as a rebuttal witness on his own behalf, having been  
4 previously sworn, testified upon his oath as follows on:

5 DIRECT EXAMINATION

6 BY MS. ISSO:

7 Q Ms. Garcia claims that you took the baby proofing  
8 out after you had installed the baby proofing; is that true?

9 A No.

10 MS. ROSENBLUM: Objection --

11 A That's a lie.

12 MS. ROSENBLUM: -- misstates testimony.

13 MS. ISSO: She stated that he removed the baby  
14 proofing after he had installed it in the house. I'm asking  
15 him about that. I wrote down what she said, everything she  
16 said.

17 THE COURT: Overruled. The other thing is I got to  
18 inform you. The same as the Defendant. You were sworn in  
19 yesterday. We're not going to reswear you in again. I know  
20 you're not an attorney or an officer of the court, but we were  
21 just going to re-advise you you're still under oath under --

22 THE WITNESS: Thank you, Your Honor.

23 THE COURT: -- the per -- penalties --

24 MS. ISSO: No --

1 THE COURT: -- of perjury.

2 MS. ISSO: -- he's more honest then.

3 THE COURT: Okay?

4 THE WITNESS: Absolutely.

5 THE COURT: Okay.

6 THE WITNESS: Absolutely.

7 THE COURT: All right.

8 BY MS. ISSO:

9 Q Okay. And then she made allegations of your son  
10 being molested. Could you tell the Judge about that?

11 A That's a lie. That never happened.

12 Q She claims that when the child dropped the sippy  
13 wrist on her -- a sippy cup on her wrist that you didn't take  
14 the child to the -- to the emergency or doctor. What happened  
15 there?

16 A That's absolutely -- that's a lie. I was watching  
17 Ava and went -- and -- and she came home and I told her what  
18 happened. And I -- I offered to take the child to -- to the  
19 doctor because she was working. And she got upset with me,  
20 mad, and kicked me out and then texted me through -- you know,  
21 texted -- texted me come to the appointment which I -- which I  
22 did.

23 Q Are you hostile or disagreeable?

24 A Absolutely not.

1 Q In fact, did any of the professionals that work with  
2 you say that about you?

3 A No.

4 Q Did she interrupt you and disparage you at doctor  
5 appointments?

6 A Oh, absolutely.

7 Q What --

8 A She --

9 Q -- did she say about you?

10 MS. ROSENBLUM: Objection, relevance.

11 MS. ISSO: That's what she said --

12 THE COURT: Sus --

13 MS. ISSO: -- he did --

14 THE COURT: Overruled. Okay. Ms. Isso, don't get  
15 -- just wait for the ruling and then --

16 MS. ISSO: I'm sorry.

17 THE COURT: -- you can --

18 THE WITNESS: Yes.

19 THE COURT: Sustained.

20 THE WITNESS: Absolutely. Many, many times. An  
21 example of their witness --

22 THE COURT: Sustained. Overruled. Sorry.

23 THE WITNESS: -- Ms. Harris on the Zoom call that  
24 she -- she alleged that I have ADHD. She very often during

1 the appointments get upset and mad at me if I -- if I say  
2 something. And that's -- that's routinely happened.

3 BY MS. ISSO:

4 Q Do you -- do you assist in finding the therapist and  
5 doctors for the child?

6 A Yes, absolutely. All the time.

7 Q Did you ever say that she shouldn't be evaluated?

8 A No, never.

9 Q Or participate in early intervention?

10 A No, never.

11 Q What did Dr. Hutchings say at the app -- appointment  
12 that Nechole discussed during her case in chief?

13 MS. ROSENBLUM: Objection, hearsay.

14 THE COURT: Sustained. Hold on. I'm sorry, who  
15 said?

16 MS. ISSO: Dr. Hu -- Hutchings.

17 THE COURT: What did the doctor say? That --

18 MS. ISSO: About the --

19 THE COURT: That's hearsay.

20 MS. ISSO: -- speech therapy.

21 THE COURT: That's sustained.

22 BY MS. ISSO:

23 Q What do you believe was your understanding about the  
24 recommendations regarding speech therapy?

1           A     The recommendations in general were that Ava might  
2 have speech delay due to bilingualism. He said at first to  
3 wait, to -- to see if she has more delay and then he would  
4 infer to her -- to early intervention. We have decided  
5 together that we're going to refer -- not -- not going to wait  
6 and refer her to -- to the early intervention which we did.

7           Q     So did you go against the doctor's recommendation?

8           A     No, not at all. In fact, all her pediatricians said  
9 from the beginning of her birth that bilingualism causes  
10 speech delay. Dr. Bergquist said that during her deposition  
11 with the Defendant. And Dr. Gaspar said that during his --

12           MS. ROSENBLUM: Judge --

13           A     -- (indiscernible).

14           MS. ROSENBLUM: -- I got to move to strike the  
15 hearsay statements.

16           THE COURT: Those parts are sustained.

17 BY MS. ISSO:

18           Q     When Ava started school, did she cry or have temper  
19 tantrums?

20           A     No, she very easily adapts to the environment. I  
21 mean, she's unhappy for a second but in fact Ms. Dembrasky  
22 (ph), Ava's teacher, suggested that we --

23           MS. ROSENBLUM: Your Honor, I got to move to strike  
24 the hearsay statement.

1 THE COURT: Sustained.

2 BY MS. ISSO:

3 Q How do you believe she's doing in school?

4 A She's doing wonderfully. She's -- she -- she has  
5 adapted really well. She's playing. She's playing with the  
6 other kids. She's sharing. No -- no tantrums whatsoever.

7 Q Were any concerns ever communicated by her tea so  
8 far?

9 A The only concern we had recently was that she was  
10 wobbly on the playground which we -- we are going to address.  
11 I absolutely of course agree to have her evaluated but in  
12 terms of everything else she's doing fantastically well.  
13 She's adopting to the environment of being around neurotypical  
14 kids. She's playing with them. She's sharing. She's very  
15 happy. She's doing potty training. I see her. When I pick  
16 her up, she smiles at me. She knows she's going to school and  
17 she says that. I taught her how to say that in both  
18 languages. So -- so her -- her first week was -- was  
19 extremely successful at school.

20 Q Did you tell Nechole to get rid of the dog?

21 A Yes, absolutely I have.

22 Q And what happened there?

23 A She would never consider that. She -- in fact, she  
24 didn't tell her mother that -- that she -- that -- that Ava

1 was allergic to the dog.

2 Q Did -- did -- was Ava bonded with the dog?

3 A No, in fact, Nechole raised issues that she was  
4 afraid that the dog might be hostile to -- to -- the -- the  
5 dog growled at Ava a couple times and she was -- she wasn't  
6 sure, you know, what -- what to do with it honestly.

7 Q Eugene, are you capable of managing Ava's behaviors  
8 and appointments?

9 A Oh, yes. Absolutely.

10 Q We already told the Judge the child's schedule. Are  
11 you able to manage services provided to Ava?

12 A Yes.

13 Q Ms. Garcia claimed that at -- at exchanges the  
14 transition is hard. The child will cry very hard. And then  
15 you'll give her a toy, turn up the music, and whisk away in  
16 the car. What is your response to that?

17 A That's just a simple lie. I mean, Ava is a  
18 three-year-old child and of course she might not be, you know,  
19 always happy. She -- for most of the time first of all she's  
20 very happy to see me. She smiles. She -- she give -- she  
21 gives me a kiss and so and so forth. But Ava's a typical  
22 child. So she might, you know, have a, you know, a -- a  
23 second of, you know, not being happy and -- you know. And --  
24 and then she's absolutely fine. In fact, I provide daily

1 progress on -- on OurFamilyWizard showing pictures of Ava  
2 have --

3 Q Did you like turn up the music and whisk away?

4 A No, of course not. I have music on because she  
5 loves singing in the car. And we do that because I'm a  
6 musician and I teach my daughter how to sing. I want her to  
7 be a professional singer. I think she's extremely talented  
8 and I think she can be the new Whitney Houston or Madonna and  
9 that's what I'm trying to nurture. But absolutely not. I  
10 don't want to stand in the Defendant's way of -- because, you  
11 know, she has her car there and she needs to go to work. So  
12 as soon as I pick her up, I put her in a car seat and I buckle  
13 her up and I leave. The same thing she does at my house.

14 Q When Nechole kept the child away for you for 33  
15 days, did you notice any changes in her Russian speaking?

16 MS. ROSENBLUM: Objection --

17 A Yes, she --

18 MS. ROSENBLUM: -- assumes --

19 A -- ha --

20 MS. ROSENBLUM: -- facts not in evidence.

21 MS. ISSO: That is in evidence and that's in Dr.  
22 Bergquist's report too.

23 THE WITNESS: Dr. Gaspar's.

24 MS. ROSENBLUM: That's what he's reported.

1 THE WITNESS: It's Dr. -- it's in Dr. Gaspar's  
2 report.  
3 MS. ROSENBLUM: That's what --  
4 MS. ISSO: She kept the child for  
5 MS. ROSENBLUM: -- he reported.  
6 MS. ISSO: She kept the child for 33 days.  
7 MS. ROSENBLUM: Objection, assumes facts not in  
8 evidence.  
9 THE WITNESS: She kept --  
10 MS. ROSENBLUM: And just because Mr. --  
11 THE WITNESS: -- kept the child.  
12 MS. ROSENBLUM: -- Ms. Isso keeps saying it doesn't  
13 mean it's in evidence.  
14 MS. ISSO: No --  
15 THE COURT: Ask --  
16 MS. ISSO: -- we talked about it. I asked him about  
17 it on his --  
18 THE COURT: Okay.  
19 MS. ISSO: -- his direct.  
20 THE COURT: Then ask the question first and then --  
21 MS. ISSO: Okay.  
22 THE COURT: -- ask the --  
23 BY MS. ISSO:  
24 Q So --

1 THE COURT: -- follow up --

2 Q -- did she hold --

3 THE COURT: -- question.

4 Q Did -- did she --

5 THE COURT: Just take --

6 Q -- ever withhold the child from --

7 THE COURT: Just splitting it up.

8 Q -- you recently?

9 A Yes.

10 Q For how many days?

11 A 33 days.

12 Q Okay. And did you notice any delays in her speaking

13 Russian during that time?

14 A When Ava -- I got Ava back, she forgot most of the

15 Russian that I taught her.

16 Q Like which words?

17 A She used to say many different things. I mean, she

18 -- she didn't remember any of them.

19 Q Nechole's trying to claim that you were in denial

20 and interrupting her at doctor appointments. Is that true?

21 A No, that's a lie. I'm not denial. I know my

22 daughter has autism, mild autism level one with speech delay.

23 I have accepted the -- the diagnosis. I have been

24 participating in all of the appointments as has been stated

1 multiple times. I am myself learning to be an RBT so I can  
2 giver her firsthand support that she needs. I did not hear  
3 the Defendant say that she's studying to be an RBT.

4 Q She's claiming that when, you know, at times the  
5 child gets -- you know, that -- that at appointments you get  
6 overwhelmed. You know, she claimed that with the child you  
7 get overwhelmed, frazzled, and then you look at Nechole to  
8 take over; is that true?

9 A No, that's -- that's a lie. I mean, the -- she gets  
10 overwhelmed. If -- if I bring something to the appointment,  
11 she's so -- she's so afraid of other people that if I bring a  
12 toy or a book to appointments and try to get Ava engaged she  
13 gets upset about that. She got upset once that I brought --

14 Q Who is --

15 A -- Ava --

16 Q -- she?

17 A The Defendant.

18 Q What did she get upset about?

19 A If I bring a toy -- while we're in the waiting room  
20 I will bring a toy or a book to read to -- to Ava. She gets  
21 upset about that because she's -- she's conscious of other  
22 people's reaction like I'm screaming at something -- or  
23 something like that. She --

24 Q She gets upset if you bring a book or a toy to --

1 A Yes.

2 Q -- the child?

3 A And I start reading in a -- in a waiting room. She  
4 got upset that I -- I brought the child wearing my clothes.  
5 She always want -- if -- in -- in few instances and since  
6 there's only been a few that -- that I actually brought Ava to  
7 something because most of the time she schedules the  
8 appointments on her own time and -- and doesn't even give me a  
9 chance to respond. But in the few instances that I brought  
10 the child then, the Defendant -- the first thing she does, she  
11 goes on pick A -- and, you know, of course I don't fight her,  
12 but the first thing she does is picks up Ava from me. She  
13 doesn't even let me hold Ava which is what she's done when --  
14 when she was withholding Ava from me and I had to follow them  
15 like a dog in a park for 25 minutes.

16 Q So she's scheduling doctor appointments without  
17 consulting with you first?

18 A Absolutely. Consistently, strategically for --  
19 since Ava was born and even now she does that.

20 Q She's claiming that's it's difficult to com --  
21 opposing party is claiming that it's difficult to communicate  
22 with you regarding routine, structure, or providers. What is  
23 your respond to that?

24 A That is absolute nonsense. And you just have to go

1 to OurFamilyWizard which I believe was submitted as -- as  
2 Exhibit 2 and -- and just type any appointments and see what  
3 comes back. And I'll let Your Honor decide on that. Because  
4 you see on -- on those -- on those exchanges that she -- I  
5 asked her specifically to let me know before she calls the  
6 appointments or to alternate the appointments. And she  
7 doesn't do that. She ignores me and does whatever -- whatever  
8 she wants. I commu -- communicate everything with her. I  
9 post daily progress. I post daily progress of ABA therapy  
10 specifically describing what we are working on.

11 And her -- if you look at her moments in the  
12 journal, she basically lets me know that Ava's alive. Ninety  
13 percent of her entries in the -- in the -- in the moments  
14 basically say Ava's doing great today. That is all she does.

15 So no, absolutely not. I communicate with her. I  
16 schedule appointments. I -- I am all for co-parenting. I'm a  
17 reasonable person. I am a person who's willing to comp --  
18 compromise. I wanted to compromise. I did not want to be in  
19 court as I stated on Wednesday. I have done everything  
20 possible. I went to the settlement conference and sat there  
21 for six hours. I did everything possible to -- to reach an  
22 agreement with -- with the Defendant.

23 But everybody who knows me including my bosses and  
24 Dr. Bergquist interviewed, testified that I'm a reasonable

1 person. I teach students for God's sake. I deal with  
2 students every day that want to get -- you know, that are  
3 failing and -- and going to pass the class. And I have to  
4 deal with them and -- and reach an agreement. So that -- that  
5 -- those statements are -- are just slander. What she engaged  
6 in --

7 Q Let me -- let me ask you this. When you were --

8 A Yes.

9 Q -- cleaning for her, taking care of her dog, cooking  
10 for her, grocery shopping for her, was she complaining that  
11 you were difficult?

12 A No.

13 Q No, she wasn't. Okay. And let me ask you this.  
14 Was there a toy -- the CC -- toys that the CCSD recommended?

15 A Yes, we have written Ava's IEP plan. They -- they  
16 wrote in that she is allowed to have a fidget spinner which  
17 the ABA therapist had testified yesterday Heather Tauchen  
18 recommended. And I -- Ava has one at my house which she's  
19 very attached to. And I emailed the Defendant and told her --  
20 the radio that she was talking about earlier, Ava's not  
21 attached to a radio --

22 MS. ISSO: Your Honor, are you paying attention? I  
23 feel like you're like sending an email or something.

24 THE COURT: I am typing notes from what he's saying.

1 MS. ISSO: Are you sure?

2 THE COURT: Oh, my God. Move on with your question.

3 BY MS. ISSO:

4 Q Go on. Go on, Eugene.

5 A I'm sorry. So that -- okay. So the radio that she  
6 was -- was talking about before, that radio -- Ava's not  
7 attached to it anymore. It's not -- and she passed -- she's  
8 three years old. That radio was with her. And -- and we  
9 still transfer it. I don't have any problems with the radio  
10 or anything else that she wants to transfer. I'm all -- I'm  
11 -- I'm all for it. But I -- I offer it before the school  
12 started and also because I give -- because of the temporary  
13 schedule, I was the one who brought Ava to school for the  
14 first -- this -- this weekend is two days.

15 And so I -- I emailed the Defendant and offered it  
16 to her. I said I have a toy -- fidget toy that -- that -- and  
17 I spoke to her teacher and I brought it to Ava to have that  
18 toy. And I said --

19 THE COURT: I'm sorry, what toy?

20 THE WITNESS: It's a fidget spinner.

21 THE COURT: Fidget toy.

22 THE WITNESS: Fidget spinner. Yes.

23 A And so I wanted to share because Ava -- you know,  
24 she -- that's written in her IEP plan that she -- you know,

1 she needs that to -- that's what a lot of autistic people do.  
2 You know, they need to -- and -- and so I offered the  
3 Defendant to -- to share that toy and she declined. She said  
4 that she has other toys with -- at the -- at -- at -- tons of  
5 other -- other fidget spinners.

6           So when -- the issue here that -- that I have is  
7 that when it comes from me, it's always -- it's always a  
8 denial. Okay. The Defendant clearly hates me. And the only  
9 reason she's trying to do this is she doesn't want me in the  
10 child's life or -- I'll stipulate. She wants me in the  
11 child's life on her own schedule. And she knows that. She's  
12 not looking at me, but she knows that. Okay. That's --  
13 that's been the case from the very, very beginning and I want  
14 the Court to know. Okay. I'm a good person. I'm a --

15           THE MARSHAL: Sir, I'm going to ask you to direct  
16 your attention to either the --

17           THE WITNESS: Sure.

18           THE MARSHAL: -- Judge or one of these attorneys.

19           THE COURT: To her Coun -- to his --

20           THE WITNESS: Sure.

21           THE COURT: -- Coun --

22           A     So the only reason the Defendant is doing this is  
23 because she hates me. And she only wants me in the child's  
24 life on her own schedule. This is why she's spending

1 thousands of dollars. This is -- this is why she's making me  
2 spend thousands of dollars. But I make three times less than  
3 her. And -- and it's a financial burden on me. Just to bring  
4 these folders right here behind me, \$1800. Okay. That's what  
5 I have to pay Ms. Isso. I still owe Ms. Isso \$20,000. But so  
6 -- so the -- the clear case here is that when it come -- comes  
7 from me, it's never going to be accepted. When it comes from  
8 her, then I have to accept. And most of the time I do. Okay.

9 Q And Eugene, she's claiming that your parenting style  
10 is laid back, no routine, no structure. What is your response  
11 to that?

12 MS. ROSENBLUM: Objection, misstates testimony.

13 MS. ISSO: That's what she said.

14 THE COURT: Overruled. That's what was said.

15 THE WITNESS: Again, that's a bold lie. I -- I keep  
16 the same schedule as her. We -- but -- and the reason for  
17 that is simple because were together. So we did that schedule  
18 together. It -- this is the same schedule where Ava wakes up  
19 and -- and goes to -- and takes her naps and -- and goes to  
20 bed. It's the same schedule. And I was there. I was never  
21 absent. Okay. I was never absent. They claimed in her first  
22 -- in their first motion, they claimed that I did not --

23 MS. ROSENBLUM: Your Honor, I move to strike as  
24 non-responsive.

1 THE COURT: He's narrating at this -- sustained.  
2 He --  
3 MS. ISSO: Okay. Let's --  
4 THE WITNESS: The routines have been followed to a  
5 T.  
6 THE COURT: That -- that means stop when I say  
7 sustained.  
8 THE WITNESS: Okay.  
9 BY MS. ISSO:  
10 Q Just look -- look at the Judge when you're  
11 talking --  
12 A Sure.  
13 Q -- because --  
14 THE COURT: No. No. I --  
15 A No, he want me to --  
16 THE COURT: I've --  
17 A -- look at him.  
18 THE COURT: I've already directed them to talk to  
19 you guys because I'm watching it on the monitor.  
20 MS. ISSO: Oh, okay.  
21 Q So look at me, I guess.  
22 A Yes, I am.  
23 Q Okay.  
24 THE COURT: Unlike what was alleged previously. But

1 go ahead. That is -- I've told you before, that's why I look  
2 this way. This is the stuff I --

3 MS. ISSO: Your Honor --

4 THE COURT: -- type.

5 MS. ISSO: -- I'm sorry. I just --

6 THE COURT: This is the stuff --

7 MS. ISSO: -- felt --

8 THE COURT: -- how I watch the witnesses.

9 MS. ISSO: I apologize. Okay. I --

10 THE WITNESS: Yeah, I'm looking at Mrs. --

11 MS. ISSO: I apologize --

12 THE WITNESS: No worries.

13 MS. ISSO: -- for that. I retract that. I move to  
14 strike that.

15 THE COURT: Thank you.

16 MS. ISSO: I move to strike that. I apologize.

17 Move to strike my own statement. I apologize, Your Honor.

18 BY MS. ISSO:

19 Q Okay. Let's go to -- so you do actually have  
20 routines and structure?

21 A Yes, absolutely. But I do the same thing. Wakes up  
22 around 7:00 o'clock in -- in the morning, goes to bed right --  
23 right after her ABA therapy at 6:30. I give her a bath, put  
24 her to bed. The same thing. I -- I was the one actually when

1 -- when the ABA therapy started and we -- and they told us  
2 it's going to be six hours , I -- I was the one who suggested  
3 okay, but let's not give her naps, you know, if the therapy is  
4 cancelled so she can get used to it. Yes, absolutely.  
5 Everything is down to -- to -- Ava has a -- if not exact  
6 schedule, a very similar schedule. I -- I mean, I've -- this  
7 is my third child. I have raised two kids and the Defendant  
8 has never changed a diaper before the -- Ava was born.

9           So to -- to allege that -- that -- at 43. And --  
10 and so to allege that I don't follow the schedule, that I'm  
11 this laid back and relaxed guy, no, not at all. Not at all.  
12 And that's not even in my culture. We were talking about  
13 culture on Wednesday. That's not --

14           Q     Let me ask you --

15           A     -- in the culture.

16           Q     -- this question. Let me ask you this question.  
17 Did Nechole ever suggest that the child is home schooled?

18           A     No.

19           Q     So when the child started school, was there any  
20 concern from Nechole that the child was not going to be able  
21 to adapt?

22           A     No, not at all.

23           Q     Okay. And then -- and -- and when Nechole  
24 testified, she said that she wanted the weekends because it

1 would maximize the time with each parent, right? That's what  
2 she testified?

3 A Yes.

4 Q And then later she changed her testimony saying oh,  
5 no, because the child doesn't adapt, right?

6 A Yes.

7 Q So she's not been --

8 MS. ROSENBLUM: Objection, Your Honor.

9 Q -- consistent.

10 MS. ROSENBLUM: It's a mischaracterization in the  
11 testimony.

12 THE COURT: Got to sustain it. You can make that as  
13 the argument. I understand what you're trying to say, but  
14 given what's come out today but as far as the question, I will  
15 sustain that objection.

16 MS. ISSO: Okay.

17 BY MS. ISSO:

18 Q What is your work schedule right now?

19 A Right now I mostly work Monday through Thursday.

20 Q Okay. And then you've had holidays because of the  
21 holiday schedule that was in place.

22 A Yes, I have

23 Q How -- how did those go?

24 THE COURT: Okay. Hold on one second so I can fill

1 it in. That's going to be -- Monday through Friday what time  
2 to what time?

3 THE WITNESS: It depends. My schedule depends on --  
4 on every day. I teach sometimes in person. Sometimes I -- I  
5 teach online. But I -- I work approximately 30 plus -- 30 --  
6 between 30 and 36 hours Monday through Thursday.

7 Q Nechole states that you said that you should have  
8 Ava during the hours that she's working because -- were you  
9 available at that time?

10 A Not always.

11 Q But -- but when you -- did you make that comment to  
12 her?

13 A No, I never made that comment.

14 Q Okay.

15 A No --

16 Q And -- and then --

17 A -- I never made that comment.

18 Q -- how did the child do during the holiday schedule  
19 this last year?

20 A Well, it was wonderful. I mean, I -- I already  
21 thanked Judge Harter for that schedule. It's wonderful. I  
22 mean, every -- any parent wants to spend time with their --  
23 with their children. Again, I do not quite understand -- I --  
24 I do. I know why, but I do not quite understand how any

1 reasonable parent can think that their -- their child doesn't  
2 want to spend time with their parent over the weekend. And  
3 Judge Hater himself was saying to take the child to  
4 Disneyland, to spend time with their other kids and so on and  
5 so forth. I honestly do not understand that.

6 Q Were there any issues when the child was with you  
7 during those long stretches of time?

8 A No, absolutely not.

9 Q Was there police --

10 A Ava --

11 Q -- ever called on you?

12 A No.

13 Q C --

14 A No.

15 Q -- PS?

16 A Ava loves spending --

17 Q Was the child in the hospital because of --

18 A No.

19 Q -- injury?

20 A No, Ava loves spending time with me.

21 Q Were the -- were your -- were your sons there too?

22 A Yeah, a part of the time, yes.

23 Q Did they have fun together?

24 A Yes, they have wonderful time together. They love

1 each other. They are very close. We have witnesses testify  
2 to that.

3 Q Okay. Let's talk about the educational advocate  
4 issue that Nechole brought up. Tell the Judge about that.

5 A Of course. It was recommended in fact by the  
6 witness Amber Harris when they were preparing for -- for  
7 August 10th for a possible autism diagnosis. Prior to that,  
8 she recommended getting an advocate. And I immediately jumped  
9 in and -- and found an advocate, Ms. Robin Kincaid (ph), from  
10 Nevada PEP, who's a wonderful person and -- and I let the  
11 Defendant know that I found an advocate. And the advocate was  
12 helping me throughout -- she has a lot of knowledge in -- in  
13 disabilities and autism and she was supporting me. When  
14 Nechole insisted on -- on finding her own advocate, she --  
15 first of all, I'm sorry, I forget this. She procrastinated.

16 She hasn't done anything for two months. There's a  
17 statement on OurFamilyWizard that she say oh, it's too -- too  
18 early to do that. We can do that if -- you know, closer to  
19 the -- when -- when it gets, you know, to the -- to -- to the  
20 CCSD assessment. And that's not how I operated.

21 So I found an advocate and the advocate was  
22 supporting me. And then she jumped in and said she wants to  
23 bring her own advocate. And I said that's fine, no problem at  
24 all. We -- we can do both. Okay. And then what happened

1 before the CCSD assessment is that her advocate had a death in  
2 the family. And so she had no choice but to accept mine,  
3 which, again, this wasn't my -- it's the advocate for the  
4 family. It's Ava's family. It's not my advocate or her  
5 advocate. But she accepted Ms. Kincaid and Ms. Kincaid  
6 participated in the first IEP meeting.

7           And then she claimed that Ms. Kincaid was giving her  
8 wrong information and -- and brought back her advocate. And  
9 Ms. Kincaid had to pull out of it because according to Nevada  
10 PEP policies, they cannot participate with -- if -- if there's  
11 not an advocate present. And so I said okay, that's fine.

12           And so what happened was that -- and she claimed  
13 that Ms. Kincaid was giving her a wrong schedule or was not  
14 talking about the classes correctly and so and so forth. So I  
15 spoke to her advocate and the result of the IEP meeting is  
16 exactly the same as it did with the first advocate, Ms.  
17 Kincaid, as with Ms. Jung. They both recommended the  
18 inclusive classroom and that's what Ava got.

19           So, again, that is just an example of her my way or  
20 the highway attitude. The advocate was not -- I -- I enjoyed  
21 being supported by Ms. Kincaid, but she -- she spoke to the  
22 Defendant and -- and gave her information needed. And she was  
23 there for Ava. She wasn't there for either one of us. So was  
24 Ms. Jung. The end result is exactly the same. It's the in

1 the best interest of Ava --

2 Q Okay.

3 A -- to be in all inclusive --

4 Q Nechole said that you refused to talk to an advocate  
5 or something --

6 A No --

7 Q -- is that true?

8 A -- that's absolutely not true. At the time that she  
9 contacted me I already had an advocate.

10 Q Did you -- did -- did you disagree with the  
11 diagnosis or treatment of any -- of any treatment for Ava?

12 A Absolutely not.

13 Q Did you ask for a second opinion?

14 A No.

15 Q Did you ask for a second diagnosis?

16 A No.

17 Q Do you dispute the severity of the diagnosis autism?

18 A Absolutely not. I am not a medical doctor.

19 Q So Nechole made an issue on her direct about  
20 occupational -- an issue that happened -- happened with  
21 occupational therapy. Could you tell the Judge about what  
22 happened --

23 A Absolutely.

24 Q -- there?

1           A     Again, it's -- it's just blatant lie. So Dr. Gaspar  
2 at -- it was suggested on August 10th appointment that Ava  
3 gets ABA therapy and a private speech therapist. Okay.  
4 Because CCSD therapists are horrible. That's what was said.  
5 And so I immediately emailed her right after that appointment  
6 and laid out my vision for ABA and said I wanted the private  
7 speech therapist. She ignored that. Now we already had  
8 scheduled CCSD appointment for the IEP. And that appointment  
9 did not include a speech therapist because I -- my  
10 understanding is that they normally do not include a -- a  
11 speech therapist. Okay.

12                     And she was trying to schedule another appointment.  
13 Now Ava had three appointments in the span of just a few  
14 weeks. And her -- yesterday -- or I'm sorry. On Wednesday,  
15 she testified herself that she wants the OT be -- to be at the  
16 time of ABA because she doesn't want Ava to be dragged to  
17 other appointments which I absolutely agree with.

18                     And that was my point with the -- with the  
19 occupational therapist. I said Ava just had assessment with  
20 Dr. Gaspar. She has upcoming appointment IEP. And then she  
21 also has exit appointment with TMG which included the speech  
22 therapists. How -- so the -- these text messages which we --  
23 we showed are -- are not complete. That is just a part of it.

24                     The second part of it was that I contacted the Child

1 Find person who -- who was at the -- at the time and explained  
2 the situation to her. And she was able to move us to a  
3 different team and -- and change the evaluation date. And  
4 that team got the speech therapist.

5 My concern was that this -- this -- in a COVID time,  
6 okay, with -- with -- and -- and the child being three years  
7 old why drag her to a separate appointment when that was not  
8 suggested. I'm sorry to say, CCSD does a lot of things right,  
9 but their speech therapists are not very good. And that was  
10 what's stated to us. So --

11 Q By Dr. Gaspar?

12 A By Dr. Gaspar. Correct.

13 Q So you weren't denying the child -- that -- that the  
14 child should be assessed or treated. You just said let's push  
15 the appointment because she had multiple treatments already  
16 during that time.

17 A That's absolutely true and then she was -- she has  
18 been evaluated by a speech therapist.

19 Q So Nechole's statement that you did not want her to  
20 get assessed is not true.

21 A No, that's a blatant lie.

22 Q Nechole's insisting on a parent coaching  
23 coordinator. What is your thoughts about that? What are your  
24 thoughts about that?

1           A     I don't think it's needed. I -- again, they're  
2 trying to make -- to -- I understand what they're trying to  
3 do. And this is simple. I want the Court to know that  
4 there's no conflict here. Okay. I am a very reasonable  
5 person. And -- and I -- I can always compromise. And that's  
6 what I've done.

7           Q     If the Judge does order that, are you going to  
8 request that Nechole pays for it?

9           A     Yes, I've heard that this -- this is thousands of  
10 dollars. Again, Your Honor can go through the communication  
11 and -- and he can see that -- that our com -- communications  
12 are civil. But, I -- I mean, I -- I was married before and I  
13 know that people who are married don't agree on everything. I  
14 mean, that is just how life is. You talk about and then you  
15 make a decision together. But there's been no hostility in  
16 communications. Ava has received every possible service and  
17 will. In fact, that's my goal as her parent that she receives  
18 every possible service. And, again, that's why I'm  
19 training --

20          Q     Do you think --

21          A     -- myself to be a professional.

22          Q     Do you think she's requesting that just so she  
23 doesn't have to co-parent with you?

24          A     Of course.

1 Q Mom is claiming that her fierce advocacy is the word  
2 she used. Her fierce advocacy is the one -- is -- is the  
3 reason why there was early intervention and she got into  
4 Firefly and Dr. Gaspar for the child. What's your response to  
5 that?

6 A No, that's simply not true. It was a mutual  
7 decision by both of us. I want the best for my daughter.

8 Q So were you advocating as well?

9 A Yes, of course. All the --

10 Q And what is it --

11 A -- time.

12 Q -- I guess --

13 A I -- I was just talking about getting an advocate  
14 where she -- where she procrastinated for two months.

15 Q I guess my --

16 A It was my -- be -- even before the -- this was  
17 before Dr. Gaspar's assessment where she was diagnosed and  
18 before the IEP meeting. So if that doesn't show that I was  
19 proactive. And she didn't like that. And why didn't she like  
20 it? Because I did something by myself before she did because  
21 everything has to be done to a T to how she's -- she's an  
22 extremely rigid person. And so everything has to be done  
23 exactly to a T of how she perceives things to be. But that's  
24 simply not true. In fact, I don't think parents should fight

1 on that. I -- I think parents should be united and parents  
2 should do what -- what's best for their child which is what  
3 I'm doing.

4 Q Did you ever tell Nechole that Eric, your son, is  
5 jealous of Ava?

6 A No, absolutely not.

7 Q Or jealous of your other son?

8 A No, absolutely not.

9 Q Had there been any issues with the siblings being  
10 together?

11 A No, absolutely not. They have a wonderful  
12 relationship. In fact, Heather Tauchen testified to that on  
13 -- on Sun -- on Wednesday. They love each other. They --  
14 they enjoy playing together. She's learned so much from them.  
15 I mean, it -- it's -- it's bogus. It's -- it's a -- it's a  
16 lie.

17 Q Nechole testified that she had issues with with her  
18 mom in the beginning because she was sensitive about being a  
19 new mom. Do you believe Nechole is still sensitive?

20 A Nechole is lying. Nechole cannot stand --

21 Q No. No. Do you believe Nechole is still sensitive  
22 and --

23 A Oh, is she still sensitive? Yes, she absolutely is.  
24 What --

1 Q Is she -- is she like super sensitive about every --

2 A Extremely.

3 Q -- little thing?

4 A You cannot -- you cannot criticize her on anything.

5 I mean, there's text message where I recommended her to drive  
6 her car for -- for -- because her car -- she has two cars and  
7 one was not driven and she got upset about that.

8 Q Nechole's claiming that, you know, you did something  
9 and you -- you messed up the child's insurance and this and  
10 that. Tell the Judge about that.

11 A Again, that is just simply not true. First of all,  
12 I did not know anything about her insurance. She never told  
13 me. And -- and she was (indiscernible) by Medicare. But what  
14 happened is I got private insurance and like any parent I  
15 wanted to put Ava on my insurance which I let her know. I  
16 spoke to Heather Tauchen and -- and BCBA therapy and on the  
17 Firefly Behavioral Services and we submitted evidence that on  
18 their website I took screenshots that their -- their website  
19 says that they accept the insurance that I currently have,  
20 Health Plan of Nevada.

21 In fact, it says that they work with any plan as  
22 long as they -- as long as they provide ABA therapy. And I  
23 called Health Plan of Nevada and made sure that they do  
24 provide and -- and the conditions were very similar to her

1 insurance. Just like any parent in this country the way it  
2 works, which is unfortunate in my opinion, however, I wanted  
3 to have my daughter on -- on my insurance and also to  
4 participate in expenses.

5 And so but once I did, then Firefly turned around  
6 and said oh, by the way, we are not -- even though it says it  
7 on our website but we have not yet -- we are -- we are not in  
8 all the way yet. And so what I did immediately, I was trying  
9 to -- to both (indiscernible) documented on OurFamilyWizard.  
10 I tried cancelling the insurance and seeing if they would  
11 accept it. And I said -- again, this is OurFamilyWizard, that  
12 whichever one comes in first it doesn't matter to me which  
13 insurance Ava has. But I was trying to cancel it and/or to  
14 make it accepted as a -- as a takeover because I wanted Ava to  
15 stay with the same provider.

16 We like Behavior -- Firefly Behavioral Services.  
17 And so I was able to in the very short period of time, okay,  
18 because I -- again, I am Ava's best advocate. And I was able  
19 to get it cancelled. That's what happened.

20 Q And was the issue remedied quickly?

21 A Yes. Yes.

22 MS. ISSO: Okay. How much time do I have left,  
23 please?

24 THE COURT: You'll have to give me a second to --

1 since we don't have math classes in law school and it's been  
2 awhile.

3 MS. ISSO: I used to be a math teacher now. I have  
4 two teaching duties.

5 THE WITNESS: I love math.

6 THE COURT: All right. 105 to 36. So 30 -- I'm --  
7 I'm just going to give you an approximation. About 50 minutes  
8 left.

9 MS. ISSO: Okay.

10 BY MS. ISSO:

11 Q What specific two-two-three schedule are you  
12 requesting?

13 A Okay. So I'm requesting the following. Week one  
14 currently under the temporary schedule. Week one, Monday,  
15 Tuesday, Eugene, Wednesday, Thursday, Nechole, Friday,  
16 Saturday, Eugene.

17 Q And Sunday.

18 A Friday -- I'm sorry, Friday, Saturday, Sunday.  
19 Thank you. Friday, Saturday, Sunday, Eugene. And then week  
20 two, Monday, Tuesday, Nechole, Wednesday, Thursday, Eugene,  
21 and then Friday, Saturday, and Sunday, Nechole.

22 Q When Nechole was asked about family therapy, she --  
23 she was hesitant, right?

24 A Yes.

1 Q But then did you -- you do believe she wants you  
2 present in the child's life?

3 A Only through the extent where she wants me to be.  
4 Only on her own terms. Only when it suits her. Only when --  
5 when it's good for her. But no, otherwise absolutely not.

6 Q Montana Garcia, you've -- you've seen her in person,  
7 correct?

8 A Oh, yeah. Many times.

9 Q Have -- have you witnessed her having any  
10 difficulties moving, getting up, getting down?

11 A Oh, yeah. That's all on video that they've  
12 submitted. Even in a few videos that they submitted as I  
13 stated on Wednesday --

14 Q Well -- well --

15 A -- show --

16 Q -- tell the Judge about that.

17 A Yeah. Montana Garcia cannot get down on her floor  
18 and get up without holding onto something. She cannot. And  
19 -- and I don't have any -- any issues with her. She's a --  
20 she's a nice woman. But she cannot -- they are both lying --

21 Q And --

22 A Okay. So --

23 Q -- does she wear grip socks?

24 A She does wear grip socks because she's afraid of

1 falling and she's -- during her deposition she said she  
2 recently fell. She cannot -- she -- she cannot follow the  
3 child without getting up. That's why one of the videos shows  
4 her getting out of the room on her knees because she cannot  
5 get up.

6 Q Do you have safety issues or concerns regarding Ms.  
7 Garc -- Montana Garcia watching the children --

8 A Absolutely.

9 Q -- for --

10 A Absolutely. She -- I -- I do not believe that she  
11 is -- is capable of watching Ava especially as Ava now is  
12 getting older, she's mobile, she can run, and so on and so  
13 forth. No, she cannot.

14 Q Has Nechole told you any health issues her mother  
15 has had?

16 A Yes.

17 Q What is she --

18 A She has diabetes, she -- she has anxiety, she has  
19 depression, she's overweight. She weights a hundred and  
20 ninety pounds.

21 MS. ISSO: No further questions.

22 THE COURT: Okay. Just a second. That will be  
23 1:39.

24 MS. ROSENBLUM: Am I up?

1 THE COURT: Are we -- I -- I think so.

2 MS. ROSENBLUM: Yeah. I'll be quick.

3 CROSS EXAMINATION

4 BY MS. ROSENBLUM:

5 Q Eugene, circling back on Ms. Garcia, have you  
6 expressed your concerns in writing to Nechole about Montana  
7 watching your child?

8 A Have I expressed writings about my -- my --

9 Q Have you --

10 A -- concern --

11 Q -- expressed your concerns in writing about Montana  
12 watching your child?

13 A No, I have not.

14 Q Have you contacted CPS about your concerns for your  
15 child's safety in Montana's care?

16 A No, I don't think like that.

17 Q Have you contacted law enforcement --

18 A No --

19 Q -- about --

20 A -- I have not.

21 Q -- your concerns for your child's safety while in  
22 Montana's care?

23 A No.

24 Q Is it fair to say that today and for the purposes of

1 this litigation you're raising these concerns?

2 A No, that is not a -- that -- that is a lie.

3 Q With regard to the insurance --

4 A Uh-huh (affirmative).

5 Q -- prior to changing your health insurance that  
6 ended up potentially affecting Ava's therapies, did you notify  
7 Nechole that you were thinking about changing insurance?

8 A Yes, I notified her that I'm going to change the  
9 insurance. Abs --

10 Q How did you notify her?

11 A Via OurFamilyWizard.

12 Q And you did that prior to actually changing it.

13 A I told her that I'm going to -- I -- I -- let me  
14 step back. First I told you that she's under Medicaid and  
15 then I provided her the -- the numbers for the health  
16 insurance, whatever that is, and then I have told her that I  
17 am -- I was able to get insurance at my work and -- and so I'm  
18 going to be changing Ava's -- Ava's insurance to my insurance.

19 Q And you notified her of that before you actually  
20 changed it or after it was already changed.

21 A At the same time as I was doing it.

22 Q So you had already made up your mind to change the  
23 insurance before you notified Nechole.

24 A I just answered the question. I said at the same

1 time.

2 Q Did you give any consideration to whether or not  
3 that might affect Ava's therapies?

4 A Yes, I absolutely. As I just explained to Ms. Isso,  
5 I have done extensive research. I -- I call the insurance to  
6 make sure that they do ABA therapy. I make sure that -- that  
7 -- these are compatible hours that she's getting that -- that  
8 -- in hours a year. And I -- I made sure that that insurance  
9 is accepted as -- as I just explained. Firefly's website list  
10 my insurance which you can look it up right now. You can take  
11 it -- take it out. But I have screenshots that I provided as  
12 evidence that my -- that my insurance is accepted. In fact,  
13 they actually accept any insurance they claim. I love  
14 Firefly. I think that Ms. Tauchen is wonderful. RBTs are  
15 wonderful. But -- but they -- it -- it's a misstatement I  
16 believe on their part.

17 I don't run their business but it shouldn't say that  
18 certain insurances are not accepted. And they stated that --  
19 that all of the insurance -- in fact, they said if -- if the  
20 insurance is not listed, contact us. If they accept ABA, we  
21 will work -- my insurance will specifically list it in -- in  
22 fact, next to your client's insurance. So yes, absolutely I  
23 did the research. And, again, it's -- any -- any parent dream  
24 in this country where the health insurance is not mandatory

1 and it's not universal unlike for example, you know --

2 MS. ROSENBLUM: Your Honor, I move to strike this as  
3 non-responsive.

4 THE COURT: He's -- he is narrating at this point.  
5 Do you want to ask your next question, Ms. Isso?

6 MS. ISSO: Ms. -- Ms. Rosenblum's asking questions,  
7 no?

8 BY MS. ROSENBLUM:

9 Q Eugene, you've --

10 A I'm explaining what -- what she asked me about.  
11 Okay.

12 Q You've -- you've referred to Nechole several times  
13 just in this time you've been up on the stand and -- and on  
14 Wednesday as a liar.

15 A Correct.

16 Q Do you have anything good to say about her?

17 A Yes, absolutely.

18 Q What can you say good about her?

19 A Absolutely. I think Nechole is a smart person.

20 She's very bright. I loved her sense of humor. I enjoyed

21 spending time with her when she was not upset. But I think

22 we've had many good times together. We had vacations

23 together. We watched movies together. I enjoyed talking to

24 her about politics which we have very similar political views.

1 I also enjoyed talking to her about similarities in our  
2 upbringing. Not everything, but we have -- we shared  
3 something which is that we both grew up in countries where we  
4 were minorities. I as a Russian Jew in former Soviet Union  
5 and Russ -- Russia and her in this country as an  
6 African-American woman. And we shared some of the things that  
7 we -- micro-aggressions and -- and, you know, hatred that we  
8 -- it -- that we experienced. So yes, absolutely.

9 Q You -- your testimony -- well, let me ask you just  
10 based on this last answer. Are you sad that your relationship  
11 with her is over, that your romantic relationship is over?

12 A No.

13 Q Are you angry that the relationship is over?

14 A No, I moved on with my life. In fact, there is no  
15 -- there is no -- you stated earlier that there -- there is --  
16 or -- or your client stated that -- that there is -- your  
17 client, I'm sorry, stated that there is -- I bring up the  
18 past. And I challenge you to find one entry in  
19 OurFamilyWizard where I talk about my relationship with your  
20 client. I challenge you to do a search right now and find one  
21 where I say oh, it was never. I accepted that the  
22 relationship is over. I was sad because I wanted to have a  
23 family. Yes. Unfortunately, I found the wrong person, but we  
24 are still family. So a romantic relationship has ended;

1 however, we are still family and we're going to be until the  
2 day we die because we share a daughter. But I -- I moved on  
3 and I wish Ms. Garcia all the best. I hope that she finds  
4 what she's looking for and I hope that she -- if -- if she's  
5 looking for -- I am not looking her -- looking for a romantic  
6 relationship, but if she is, I hope that she finds a person  
7 that -- that satisfies all of your needs.

8 Q So despite this, you would still describe Nechole as  
9 uncooperative?

10 A At times. Absolutely, yes.

11 Q A bully?

12 A Yes, if -- it -- so -- so your client can be very --

13 Q I'm --

14 A -- reasonable, but --

15 Q Sir.

16 A -- but -- yes?

17 Q Yes?

18 A Yes.

19 Q Unwilling to compromise?

20 A Yes.

21 Q Un -- controlling?

22 A Yes.

23 Q No integrity to be a prosecutor?

24 A I believe on -- on what I've read about --

1 Q Yes or no, sir?

2 A Yes. Yes.

3 Q Impossible to deal with?

4 A Very challenging to deal with. Yes.

5 Q Constantly upset?

6 A That is my -- my experience in -- I was talking

7 specifically about my relationship with her. Yes.

8 Q Aggressive?

9 A Yes, she's very aggressive. As I testified, she

10 pushed me out of the house.

11 Q And a liar.

12 A And a liar.

13 Q And yet it remains your testimony today that you're

14 not angry or upset with her.

15 A Ms. Rosenblum, there are different --

16 Q Yes or no, sir?

17 A Ask me again, please?

18 Q It remains your testimony today that you're not

19 upset with --

20 A I am not upset with Ms. Garcia at all.

21 Q And it remains your testimony today that despite

22 describing her as all of those things --

23 A Uh-huh (affirmative).

24 Q -- impossible, controlling, aggressive, unable to

1 communicate, lacking integrity, and a liar, you don't need a  
2 parenting coordinator.

3 A As I testified before --

4 Q Yes or no, sir?

5 A No.

6 Q You believe you can adequately co-parent with this  
7 person that you've just described as a liar, controlling,  
8 aggressive, impossible to communicate with.

9 A Yes. And if you want me to explain, I will explain  
10 why. But I guess you don't.

11 Q Your testimony when your Counsel asked you about the  
12 holidays were that your holidays were wonderful. You would  
13 agree with me that last year the Christmas holidays were  
14 modified by this Court different than the parenting plan you  
15 have now; is that true?

16 A I am talking about the holidays that were -- since  
17 they were modified. Yes.

18 Q So last Christmas this Court changed -- modified  
19 away from the default schedule, correct?

20 A It was only modified in terms of me not having  
21 overnights. Is that --

22 Q Right.

23 A -- what you're talking about?

24 Q Correct. You did not have overnights, true?

1           A     For -- well, actually I had because that was an  
2 error and I did for a few days and then I didn't and then --  
3 and then I did again after -- after Bergquist's report came  
4 in.

5           Q     Okay. But as far as the Christmas holiday in 2020,  
6 you did not have overnights, correct?

7           A     Not true. Yes, I had.

8           Q     Not the whole time.

9           A     That's correct.

10          Q     Okay. So it was modified --

11          A     It was only --

12          Q     -- from the --

13          A     -- modified because of --

14          Q     Hold on. Let me get the question all the way out.  
15 It was modified from the way the schedule currently exists; is  
16 that true?

17          A     Only because your client -- your client --

18          Q     I --

19          A     -- filed a motion.

20          Q     Yes or no, Mr. --

21          A     Yes.

22          Q     -- Shapiro? Your testimony on -- with Ms. Isso  
23 asked you is that you worked Monday through Thursday --  
24 Thursday -- 30 to 36 hours Monday through Thursday, correct?

1           A     Correct.

2           Q     When did you start that schedule?

3           A     I spoke to you about my schedule during your  
4 deposition.

5           Q     Sir, when did you start the schedule, month --

6           A     This semester.

7           Q     -- and year? This semester. So in August --

8           A     Correct.

9           Q     -- of 2021; is that correct?

10          A     Correct.

11          Q     And you no longer work Friday, Saturday, Sunday; is  
12 that correct?

13          A     That's correct.

14          Q     No gigs?

15          A     No.

16          Q     No part-time employment at The Venetian?

17          A     I never worked at The Venetian on -- on the  
18 weekends.

19          Q     No private lessons or anything like that?

20          A     I don't do private lessons right now. It's COVID.

21          Q     While you're at work 30 to 36 hours Monday through  
22 Thursday, who watches Ava?

23          A     I watch Ava myself because I -- my -- my work right  
24 now is asynchronous a lot of it so I can do it when Ava goes

1 to sleep. I also have my brother who's helping me. But most  
2 of the time it's myself.

3 Q Does your mother ever watch Ava?

4 A No, she hasn't watched Ava in a -- in a very long  
5 time.

6 Q When was the last time?

7 A The last time? I cannot recall exactly. It's been  
8 awhile. She's my backup, but most of the time right now it's  
9 my brother.

10 Q And your mother is your backup?

11 A In case, but I have not used her since maybe -- I'm  
12 guessing since maybe January of this year.

13 Q How old is your mother?

14 A My mother is 79.

15 Q And at 79 years old, she has no medical issues?

16 A Way less than your -- your client's mother.

17 Q I'm sorry, yes or no? She has no medical issues?

18 A I don't believe she has.

19 Q No medical issues at all.

20 A Nothing that would interfere with her -- with her  
21 ability to watch over. My mother can actually bend down and  
22 get up from the floor unlike your client's mom.

23 Q There was discussion about scheduling appointments.

24 A Correct.

1 Q And Counsel asked you about scheduling the  
2 appointment for the CCSD OT assessment; is that correct?

3 A That's correct.

4 Q And your testimony I believe was that you didn't  
5 want to schedule the appointment that they had recommended  
6 because she had already had multiple appointments the same  
7 day; is that correct?

8 A It's part of it.

9 Q What was the other part of it?

10 A The other part of it was it was not recommended.  
11 That's something that she made up. The -- what was  
12 recommended on -- on August 10th appointment was ABA therapy  
13 and private OT. The doctor specifically stated that the CCSD  
14 OT is horrible. That's what he said.

15 Q And your testimony is that there was no need for  
16 CCSD OT, correct?

17 A No, that was not my issue. My issue was that Ava  
18 already had the CCSD assessment. I have no problem getting  
19 Ava assessed but at that point she already had three  
20 appointments that go back-to-back. And so my issue was why  
21 drag her -- just like she said on Wednesday. Why drag her to  
22 another appointment? But once we moved it to a different team  
23 that included OT, she was assessed. I absolutely have no  
24 issues with her being assessed by a speech therapist. That

1 was one of my concerns was speech delay, bilingualism. And  
2 that -- so absolutely. I have no issues with that. I just  
3 had issues with she already has appointments, why drag her  
4 through another appointment. And then I was myself who  
5 facilitated. I was the one who facilitated getting a  
6 different team and -- and having her evaluated.

7 Q Mr. Shapiro, I would ask you to look at the book in  
8 front of you, please --

9 A Sure.

10 Q -- that's marked as Defendant's exhibits, the big  
11 one.

12 A Yeah, this one?

13 Q Yes. I'm looking at the exhibit marked -- I think  
14 it's H which is the OurFamilyWizard -- no, I'm sorry. It's I.

15 A I? Okay.

16 Q Yes. Which is the OurFamilyWizard. And you'll see  
17 at the bottom right the exhibits are paginated. You're going  
18 to have to go about midway through that stack.

19 THE COURT: Again, if we can get a --

20 MS. ROSENBLUM: 633.

21 THE COURT: -- specific date and time, the entire  
22 fam -- and we did -- I think my law clerk texted me late  
23 yesterday. We got the custodian of records that entire --  
24 through -- and we started trial on Wednesday. All those

1 entries will come in. I think it's Court's Exhibit 2?

2 MS. ROSENBLUM: Uh-huh.

3 THE COURT: So for today's pur -- these portions  
4 where you guys try to submit them as exhibits will not come  
5 in.

6 MS. ROSENBLUM: No, I'm not trying to submit them.  
7 I'm asking him to look at it --

8 THE COURT: I understand that. I understand.

9 MS. ROSENBLUM: -- to refresh recollection.

10 THE COURT: But -- but if you will just for my  
11 purpose give me a date and a time.

12 MS. ROSENBLUM: Sure. It's --

13 THE COURT: Sure.

14 MS. ISSO: And --

15 MS. ROSENBLUM: It's --

16 MS. ISSO: -- our -- our exhibits too, right, for  
17 the --

18 THE COURT: Yeah.

19 MS. ISSO: -- text messages?

20 MS. ROSENBLUM: Yeah.

21 THE COURT: That --

22 MS. ISSO: That --

23 THE COURT: Since they're all sporadic and broken  
24 up, they -- it won't come in because they're all --

1 MS. ROSENBLUM: Right.  
2 THE COURT: -- encompassed in the Court's Exhibit 2.  
3 MS. ISSO: Well, how about --  
4 MS. ROSENBLUM: Okay.  
5 MS. ISSO: -- our text messages? I think it was  
6 Exhibit Number what --  
7 MS. ROSENBLUM: 25. No.  
8 THE COURT: It -- what?  
9 THE WITNESS: 25.  
10 MS. ISSO: Yeah. Yeah.  
11 MS. ROSENBLUM: We've already had --  
12 MS. ISSO: You had said --  
13 MS. ROSENBLUM: -- this --  
14 MS. ISSO: -- it was admitted.  
15 MS. ROSENBLUM: This is taking from my time now.  
16 So --  
17 MS. ISSO: Yeah, but --  
18 THE COURT: Okay. We --  
19 MS. ISSO: -- is that one admitted as well?  
20 THE COURT: We will deal with the housekeeping stuff  
21 in -- in just a minute.  
22 MS. ROSENBLUM: Okay.  
23 THE COURT: Or -- or at a break.  
24 MS. ROSENBLUM: So I'm looking, Your Honor, at the

1 messages that are from August -- I believe they start August  
2 10th.

3 MS. ISSO: What Bates stamp?

4 MS. ROSENBLUM: And go through August 12th.

5 MS. ISSO: Do we have a Bates stamp on those

6 MS. ROSENBLUM: And just for the sake of time and  
7 the Court, I know at one point Your Honor had referenced like  
8 if there was specifics that we wanted you to look at because  
9 they've already been admitted, do you want us just to submit a  
10 list?

11 THE COURT: Of OurFamilyWizard --

12 MS. ROSENBLUM: Of the --

13 THE COURT: -- exhibits?

14 MS. ROSENBLUM: -- OurFamilyWizard exhibit?

15 THE COURT: Yes, but we're going to get to a point  
16 when we start talking about that and Ms. Isso's text messages.  
17 I'm going to limit it because obviously they're going to be  
18 similar. I'm not --

19 MS. ROSENBLUM: Right.

20 THE COURT: -- doing cumulative. I'm not doing --

21 MS. ROSENBLUM: No. No. I just -- I mean, because  
22 I can move on from this. There's like three pages and --

23 THE COURT: Okay.

24 MS. ROSENBLUM: -- if they're already admitted, I

1 don't need to cover it.

2 THE COURT: That's fine. I'll take --

3 MS. ROSENBLUM: Okay.

4 BY MS. ROSENBLUM:

5 Q Eugene, sorry. Let's --

6 A No problem.

7 Q -- flip to the May OurFamily -- May 5th

8 OurFamilyWizard.

9 A You said Exhibit I. That's --

10 Q Yes, it's our -- it's Exhibit I. On my exhibits,  
11 it's page 0388.

12 A Exhibit I is -- is September 18th, 2020. So I -- I  
13 -- it -- I rather not --

14 Q It should be a giant stack of OurFamilyWizard  
15 exhibits. I -- I like igloo. Yeah.

16 A Yeah, I'm looking at it right now.

17 Q Is there another book there?

18 MS. ISSO: I what?

19 A This is Exhibit I I'm looking at, correct?

20 Q 0388. Yeah.

21 A Okay.

22 Q Okay. So --

23 A So it start --

24 Q -- if you look on the bottom righthand corner,

1 they're paginated, right? It says Defendant EX- --  
2 A Yes.  
3 Q Okay. So -- I'm on page 388 --  
4 A Oh, I see.  
5 Q -- of that exhibit.  
6 A 388? Okay. Okay.  
7 Q Okay. So are you with me?  
8 A No, I haven't found it yet.  
9 Q Okay.  
10 A I'm sorry. 3 -- so -- so again, I don't understand.  
11 Is it the actual page or it says Defendant EXI --  
12 Q Well --  
13 A -- and -- and then --  
14 Q -- it'll say Defendant EXI0388 but right above it,  
15 it says page --  
16 A Page.  
17 Q -- 388 of 725.  
18 A Page 388.  
19 MS. ISSO: Is it 388 of 900?  
20 A 388. Yes.  
21 MS. ISSO: Is it Bates --  
22 A I'm looking --  
23 MS. ISSO: -- Stamp --  
24 A -- at it.