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IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHANIE RUBIDOUX,

Appellant,

vs.

DANIEL RUBIDOUX,

Respondent.

Case No.: 83628

**APPELLANT'S APPENDIX,
VOLUME II**

APPEAL

Appellant's Appendix, Volume II

DATED this 10th day of December, 2021.

/s/ Alex Ghibaud

ALEX B. GHIBAUDO, Nevada Bar No. 10592

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Pursuant to NRAP 25, on December 10th, 2021 APPELLANT'S
APPENDIX, VOLUME II was served upon each of the parties to appeal 82444 via
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/s/ Alex Ghibaud

An Employee of Alex B. Ghibaud, PC



RUBIDOUX v. RUBIDOUX

Docket No. 83628

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1 up with this one. You heard the argument given by Daniel's
2 Counsel that they want Riley to attend private school. Where
3 do you want Riley to attend school this coming fall?

4 A Sheila Tarr magnet school. She was accepted. It's
5 an IV school international baccalaureate program. It focuses
6 a lot on inclusion and diversity and international like
7 working together and success. And I think they have a
8 program, after school activities, electives, just a lot more
9 things that offer for Riley's interest than the private school
10 does. They're very limited on after school activities and in
11 school activities.

12 Q What's the distance from that particular school from
13 your house?

14 A Sheila Tarr is off of like Alexander 215 in that
15 area. And so it's probably about 10 minutes from my parents'
16 house and about --

17 Q Okay.

18 A -- 10 minutes --

19 Q So along the related lines of schooling, what
20 benefits can you provide for Riley's academic progress that
21 you don't believe Daniel is able to provide?

22 A I was an elementary teacher so I'm able to teach all
23 the subjects K through 5, obviously certified even in middle
24 school, but specialized in social studies. But I can identify

1 if she's lacking in reading. I can identify if she's lacking
2 in writing, math, and I can provide interventions, whatever
3 she needs to get her to where she should be on grade level.

4 Q What specific skills do you have? What structure
5 can you provide for Riley to make sure that she progressed as
6 well as she can academically as is possible?

7 A I can ensure that she's in -- in bed at a proper
8 hour, that she's -- she's relieving -- she's living in a
9 positive environment in the household, that I'm interacting
10 with her school, that I'm making sure she's involved in after
11 school activities that are going to build herself, her
12 personality.

13 Q As part of the compare and contrast, what concerns
14 do you have as to Daniel's ability to provide that similar
15 structure?

16 A He often times works past 6:00 o'clock and that
17 would be past most Safekeys that -- that would be open for him
18 to pick her up. And since he's often working late, that
19 doesn't really give him a lot of quality time for -- for him
20 to have with her if he has her, you know, in a week off week
21 on schedule. And it -- you know, I do worry like I said about
22 the -- the drinking and the anger and his temperament.

23 Q Okay. Are there times when Riley has good times and
24 sometimes Riley has bad days?

1 A Yes.

2 Q What are your concerns that --

3 MR. BLACKHAM: Objection, vague.

4 THE COURT: Sustained.

5 BY MR. PAGE:

6 Q What's a good day for Riley?

7 A She wakes up. She's really happy and excited to do
8 a lot of things. And we play together and read books
9 together, watch movies together. She's just -- you know, she
10 listens and she does really well.

11 Q What's a bad day for Riley?

12 A She's -- she's obviously feeling anxious. She might
13 be putting her fingers in her mouth, sucking her thumbs, still
14 working on breaking that. She might not listen and, you know,
15 struggle with like following directions.

16 Q What are your concerns with Riley if she's having a
17 bad day and she's with Daniel?

18 A I do worry about the parenting style. If the -- the
19 tone that we witnessed on the videos, if that tone is -- is
20 tied with her that she's not going to be able to process right
21 and wrong, she's not going to be able to process like how to
22 move forward with things if she's being berated and attacked
23 and cussed at.

24 Q What are your concerns if you're not there as a

1 buffer for Daniel's impulses?

2 MR. BLACKHAM: Objection, leading.

3 THE COURT: Overruled.

4 THE WITNESS: I would worry that -- that she's going
5 to fall victim to his anger and his -- and his out of control
6 drinking and that she is going to inadvertently get hurt or
7 she's -- her inner -- like her inner self is going to be
8 destroyed due to, you know, putting up a brave wall. She's --
9 she seems to -- she -- I think she feels responsible to take
10 care of him.

11 BY MR. PAGE:

12 Q If you're not there for Daniel to vent on, what are
13 you afraid's going to happen with -- with Riley?

14 A That he's going to manipulate and twist her and --
15 and just totally destroy her inner spirit and the way -- she's
16 -- she's a very happy bubbly child. She's just a very joyful
17 kid. And I do worry that all of that is just going to crumble
18 and she's going to become very angry and bitter and mimic the
19 behavior she sees.

20 Q One of the questions was that Daniel's never
21 physically harmed Riley. You've testified as to the times
22 that he's been physical with you. What is your concern if
23 you're not there and he has the urge to get physical and it's
24 only Riley?

1 A That he's going to get physi --

2 MR. BLACKHAM: Objection, leading.

3 MR. PAGE: That's an open ended question.

4 THE COURT: Overruled.

5 THE WITNESS: That he's eventually going to get
6 physically -- physically aggressive towards Riley. He could
7 push her, slam her down to the ground, pin her down to the
8 ground, not allow her to have any safe space for her to calm
9 down to deal with her own personal emotions that he's going to
10 continue to batter her and harass her and follow her around
11 the house like he did to me.

12 BY MR. PAGE:

13 Q And so obviously if you were in the house along with
14 Daniel and Riley, he would never be able to -- be allowed to
15 do the things to you that -- he wouldn't be allowed to do the
16 things to Riley that he's done to you.

17 MR. BLACKHAM: And Your Honor, I'm going to object
18 to this whole line of questioning. It is incredibly
19 speculative and frankly, I -- I don't see the relevance and
20 when it comes to actual best interest. She doesn't get to
21 speculate what might happen based upon things that she -- that
22 she believes were done to her. It's an entirely different
23 context. I don't understand -- it -- I just -- it's gone
24 on --

1 THE COURT: Sustained on --

2 MR. BLACKHAM: Thank you.

3 THE COURT: -- speculation.

4 MR. BLACKHAM: And move to strike.

5 THE COURT: Granted.

6 BY MR. PAGE:

7 Q Do you have concerns that Daniel may physically harm
8 Riley?

9 A I do.

10 Q Why?

11 A Because he's physically harmed me and I believe that
12 eventually he's going to one day harm her. She's going to
13 become a teenager and teenagers can be difficult to deal with.
14 At that point, something can happen to her. And I'm not there
15 to advocate for her. I'm not there to protect her.

16 MR. BLACKHAM: Objection, narrative.

17 THE COURT: Overruled.

18 MR. PAGE: I'm sorry?

19 THE COURT: I said overruled.

20 BY MR. PAGE:

21 Q Let's flip over to Exhibit B. I'm going to ask --
22 talk about that for a little bit. What was the context in you
23 sending that text message to Mr. Rubidoux? Why did you send
24 it to him?

1 A My lawyer, at the time, hadn't been representing me
2 to the best of his ability. I was very stressed out with his
3 representation and I was being harassed daily with, you know,
4 exceeding amounts of text messages about trying to get me to
5 settle, him berating me that, you know, even criminals get --
6 get 50/50 custody, that this is ridiculous that I'm fighting
7 for this. And so I was like okay, well, maybe we could settle
8 this out of court so we could try and be cohesive and try and
9 work together. Even if we weren't together, we could try and
10 get along for Riley. And, you know, upon research, you know,
11 60/40 just seemed like, you know, not ideal but with his work
12 schedule, maybe 60/40 would be okay.

13 Q What was your hope as to Mr. Rubidoux's serially
14 contacting you would occur if you just threw this out there to
15 him?

16 A I was hoping that we could just get along, move on,
17 and not have these -- these constant messages every single
18 day. You know, I wanted to move forward with my day and he'll
19 just spend it with Riley. I felt like the harassment that was
20 in the house when I was living in the marital home was now
21 continuing through my phone. And I didn't -- I -- I didn't
22 know how to stop it or end it. I couldn't get a protection
23 order anymore and I just thought that maybe if I agreed to
24 this we could be passive with one another.

1 Q Okay. When you filed your complaint for divorce you
2 asked for primary physical custody?

3 A Yes.

4 Q Okay. When you filed your prior complaint for
5 divorce, did you ask for primary physical custody?

6 A Yes.

7 Q Did you also draft a joint petition for Mr. Rubidoux
8 to sign?

9 A Yes.

10 Q In that joint petition, what did you ask for?

11 A We both had agreed that I would have primary
12 custody.

13 Q When you sent this to Mr. Rubidoux, approximately
14 what time of the day was it?

15 A It was 9:45 at night.

16 Q Was it the end of a long day?

17 A I assume so. I --

18 MR. BLACKHAM: Objection, leading.

19 MR. PAGE: Oh, I'll rephrase it.

20 BY MR. PAGE:

21 Q Do you recall what your day was like then?

22 A It was -- it was -- we were still working because
23 the quarantine hadn't hit so I was working --

24 MR. BLACKHAM: Objection, non-responsive.

1 MR. PAGE: She -- she explained what her day was
2 like.

3 MR. BLACKHAM: It's a yes or no question.

4 THE WITNESS: I'm sorry, can you repeat the
5 question?

6 MR. PAGE: No, it wasn't. It was -- that's a closed
7 ended -- I can ask her one question.

8 MR. BLACKHAM: You asked her --

9 MR. PAGE: That's not --

10 MR. BLACKHAM: -- do you recall.

11 MR. PAGE: It's open ended.

12 THE COURT: Okay. Ask -- ask again, Mr. Page.
13 Start that over.

14 BY MR. PAGE:

15 Q What was your day like that day, if you recall?

16 A I would have been working full-time at the time
17 because we had not been shut down yet. It was March 9th, so
18 it was prior to March 15th. Obviously, like the COVID warning
19 was coming up. So I was constantly trying to make sure the
20 students would keep their hands off of each other and not
21 touch each other. And then, obviously, I'm dealing with a lot
22 of messages from Dan about settling this divorce and getting
23 this stuff over with. And it was just a very meek moment
24 where I was just trying to appease him and cordially work toge

1 -- cordially work together.

2 Q What was going on in the world as it relates to the
3 impeding corona shutdown?

4 A I -- it was just -- it was chaos. A lot of schools
5 -- the major school districts had shut down. Clark County is
6 one of the -- the top largest ones in -- in the nation and it
7 -- and it had to close down. We weren't told when it was
8 going to shut down. I'm trying to prepare my students and
9 trying to prepare myself and I'm also working on my national
10 board at this time submitting my final documents and preparing
11 to take my test. So it was, you know, very stressful.

12 Q And when did everything finally shut down for
13 coronavirus? About how long after that?

14 A I believe it was March 15th. I have to look at the
15 calendar and double check.

16 Q About six days later?

17 A Yeah. It was a Sunday.

18 Q Who else was Daniel bothering as it relates to
19 trying to resolve matters outside of court?

20 A He would send messages to my parents if he couldn't
21 get a hold of me, you know, asking for -- for them to have me
22 call him or, you know, just messaging them about getting me to
23 respond to his messages.

24 Q Was the -- was Daniel contacting your parents

1 getting to them as well?

2 A I think at one point might have --

3 MR. BLACKHAM: Objection, calls for --

4 THE WITNESS: Sorry.

5 MR. BLACKHAM: -- speculation and I believe they're
6 here to testify.

7 MR. PAGE: I'll ask them about that when they're on
8 the stand.

9 THE WITNESS: Okay.

10 BY MR. PAGE:

11 Q To your knowledge, how frequently was Daniel
12 contacting your parents at that time?

13 A I would say several times a day at that time.

14 Q About the same thing?

15 A Yeah, about the same thing. Just getting me to
16 respond.

17 Q And let's see. Oh, what was the reason why -- and
18 since we're talking about credibility here, did you say that
19 he could -- you can split the equity in the house?

20 A I didn't have a copy of the -- the paper that was
21 drafted up that we submitted. I believe Daniel must have
22 taken it out of the house. It wasn't until I was going
23 through my pictures that I realized I had actually taken a
24 picture of it. So I didn't -- I didn't bring it up before

1 because I -- I didn't have it. So it wouldn't be credible.

2 Q You didn't have it with you to reference.

3 A I didn't have a physical copy of it and I didn't
4 realize I took a picture of it.

5 Q You were asked about your vacation days and whether
6 it's fair to break them up. What is the reason you may want
7 to break those vacations up sometimes?

8 A I -- I have her Monday through Friday so I don't see
9 a reason to use my vacation days on my own time when I already
10 have her. The time that I would want to do vacations would
11 typically be on the weekend. You know, I -- I used it so we
12 can do a Halloween activity and I used it so she can attend my
13 friend's daughter -- her name's Mia (ph). They've been
14 friends since they were a little baby. She went to Mia's
15 birthday party and my mom's birthday party. And so we can do
16 a Christmas acti -- activity in December.

17 Q Do you want to break up the days this summer? Do
18 you want to go to Florida?

19 A Yeah. Yeah. We have a trip planned for Florida and
20 I like to break them up for -- I think I need like a day or
21 two because I have 4th of July as my holiday time.

22 Q Okay. Have you approached that with Daniel?

23 A Yeah, I sent him a message letting him know that we
24 had planned the trip. I was kind of hoping that this would

1 have been resolved in February but it was postponed again.
2 And so I -- I wanted to say hey, if -- if you are going to
3 plan a vacation, that's fine. Just please don't plan it
4 during this time like we have a trip planned.

5 Q Okay. What was his response? Do you want to take a
6 -- a couple extra days so you can do the trip?

7 A He said that I'm exceeding my vacation time by
8 requesting that but then he said okay, have fun.

9 Q When was -- when was Riley accepted into the magnet
10 school?

11 A It was I think like January or February of this
12 year. I -- I applied to some charters and some magnet
13 schools. I asked Dan for his input so we can kind of
14 collectively, you know, apply for some schools for her but he
15 just did not want to --

16 MR. BLACKHAM: Objection --

17 A -- work with me.

18 MR. BLACKHAM: -- non-responsive. Move to strike
19 everything at -- when.

20 THE COURT: Oh, overruled and denied.

21 BY MR. PAGE:

22 Q You can go ahead and finish your answer.

23 A I -- I tried reaching out to him several times, you
24 know, which magnet schools, which charter schools would you

1 like to apply for. I like for her to have lots of
2 opportunities for us to choose for for her to pick -- for her
3 to go to a school that's going to be a best fit for her. But
4 every time I reached out he just -- he just continued to tell
5 me that he wanted to keep her at Good Samaritan and he
6 wouldn't be open to a discussion at all.

7 Q How long after you sent this particular text message
8 to Mr. Rubidoux did you realize it wouldn't be in your best
9 interest or Riley's best interest to do something like that?

10 A In reference to?

11 Q In -- the text message that was sent on -- the --
12 the -- doing a 60/40 split wouldn't be a good idea for Riley.

13 A Can you repeat the question?

14 Q Sure. When did -- how much -- how long or after
15 this text message did you realize it wouldn't be a good idea
16 for Riley to do a 60/40 split?

17 MR. BLACKHAM: I'm going to object as leading. It's
18 -- it assumes facts not --

19 MR. PAGE: I asked him when -- asked her when.

20 THE COURT: Overruled.

21 THE WITNESS: I mean, I -- I knew that this wasn't a
22 good idea at all. I just was trying to resolve this so we
23 can move on with our life. I just -- I wanted to finally have
24 peace and quiet and I didn't want to have anymore battling --

1 MR. BLACKHAM: Objection --

2 THE WITNESS: -- and --

3 MR. BLACKHAM: -- non-responsive.

4 THE COURT: Overruled.

5 BY MR. PAGE:

6 Q You can keep answering.

7 A I -- I didn't -- I -- I didn't want to go to court
8 and go through this. This is a stressful experience. Our
9 lives have all been put on hold. And I didn't want to go
10 through with that.

11 Q But even though -- what caused you to conclude that
12 it wouldn't be in Riley's best interest to do anything that
13 would approximate joint physical custody?

14 A Can you rephrase that?

15 Q What made you conclude that a joint physical custody
16 arrangement would not be in Riley's best interest?

17 A I've always felt that joint custody would not be in
18 Riley best interest because the domestic violence and also
19 because Dan wasn't present throughout Riley's life. Most of
20 the daycare, the sign in and the drop offs, that was me. The
21 dentist appointments, that was -- that was me. The doctor's
22 appointments, that was me. The -- the after school
23 activities, those are me. Taking her to events and fun thing
24 and scheduling, that has been me. I -- I had begged and

1 pleaded for him to be more involved. And, you know, I was met
2 with domestic violence and force.

3 The -- the only time that Dan has actually take an
4 interest in -- in Riley is since this divorce proceeding has
5 began. And, I mean, I -- I hope it remains because, you know,
6 it's in the best interest of Riley that they have a
7 relationship. But this -- I didn't see any of this. I didn't
8 see him taking her and dropping her and picking her up. I
9 didn't see that he was taking her to send a school. You know,
10 this is all new.

11 Q After this, did Daniel stop harassing you? After
12 the text message, did Daniel stop harassing you?

13 A No, they still continued. Even when we would try
14 and get to some point of agreeing it would go back and forth.
15 I mean, like I said, we had the -- the draft with the
16 paralegal. Like we would have something setup and then he
17 would change his mind. And so this happened again where we
18 were like we had something set up and he would change his
19 mind. And it wasn't until I retained you as a counselor that
20 I felt like my interest and Riley's safety was actually being
21 taken seriously.

22 Q Since Judge Henderson's orders have been in place,
23 how would you describe Riley as having -- how has the schedule
24 impacted her? And that's really -- I want to reach -- I want

1 to rephrase that question. In what ways did that schedule
2 work for Riley, that --

3 A I mean --

4 Q -- Judge Henderson --

5 A -- at -- at the time we were -- we were quarantined
6 so I was -- I was working from home. So I mean, it wasn't --
7 it wasn't difficult. I was spending a lot of time with her.
8 When I wasn't teaching, I was able to teach, then hang out
9 with her teacher, then hang out with her. And then, of
10 course, we jumped in the summer and so I had all my time
11 during the week. But since now, you know, there -- the
12 quality of time with her and I has just been very limited.
13 And, you know, I do worry about what could happen on the
14 weekends with -- with Dan and Riley.

15 Q Are you aware if Daniel has entered into Alcoholics
16 Anonymous?

17 A No, I'm not aware.

18 Q Are you aware if Dan is currently involved in any
19 counseling for his issues?

20 A Not that I'm aware of.

21 Q You -- you showed us in Exhibit 31 the holes in the
22 walls. What apology has Daniel ever given to you for that?

23 A none.

24 Q For the time we saw in the garage where he attacked

1 you, what apologies has he ever given you for that?

2 A None.

3 Q For the times that he's pinned you down or screamed
4 at you, what -- what apologies has he given you for that?

5 A If there's been any apologies, it's been just to get
6 me to come back. It's not been sincere. I'm sorry, I'm going
7 to stop doing this, I realize my actions are wrong and this is
8 not going to happen again. It was to appease me to come back.
9 So nothing --

10 Q For --

11 A -- sincere.

12 Q For the things that he's been charged with and
13 convicted of, whose fault does he say that is?

14 A They're mine.

15 Q Okay. What remorse has Daniel ever shown?

16 A None. He told me that if we ever got another place
17 together he would never install cameras in the house again.

18 Q And since Daniel has indicated for the things that
19 we've seen on the video he has no remorse for, what concerns
20 does that extent as to Riley?

21 MR. BLACKHAM: Objection, vague.

22 MR. PAGE: If she knows.

23 THE COURT: Overruled.

24 THE WITNESS: I -- if he doesn't have any remorse or

1 self reflection of his own actions with me, I very much worry
2 he's not going to have that remorse or self reflection with
3 himself parenting our child.

4 BY MR. PAGE:

5 Q Oh, yeah. One of the things that came -- that was
6 brought into evidence were -- was Exhibit A which was
7 photographs of -- of Riley and Dan. Where did Dan take some
8 of those photographs from?

9 A My Facebook during the discovery.

10 MR. BLACKHAM: I'm -- I'm going to object to the
11 extent that there's no foundation. It hasn't been established
12 how she would know that.

13 BY MR. PAGE:

14 Q How do you know that?

15 A They're my pictures.

16 Q So Daniel's tried to attach, include a bunch of
17 pictures with him and Riley. Do you have a bunch of pictures
18 of you and Riley as well?

19 A I have thousands of pictures of Riley and I.

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

21 RECROSS EXAMINATION

22 BY MR. BLACKHAM:

23 Q Isn't it true that you admitted to Dan that you
24 spent time in an in patient mental hospital at one point?

1 A Yes.

2 Q Okay. You're bipolar, correct?

3 A No.

4 Q Okay. You take medication, prescribed medication?

5 A For bipolar?

6 Q You take prescribed medication?

7 A Yes.

8 MR. PAGE: I'll --

9 Q Do you take Adderall?

10 MR. PAGE: I would object because it exceeds of my

11 redirect and his cross.

12 MR. BLACKHAM: Your Honor gave latitude all across

13 the board. I can call her on my case in chief. I thought we

14 were doing this as open cross.

15 MR. PAGE: I -- well --

16 THE COURT: Yeah, continue.

17 BY MR. BLACKHAM:

18 Q Do you take Adderall?

19 A Yes.

20 Q Do you take Xanax?

21 A Not recently.

22 Q You have a prescription for Xanax?

23 A Not an active one.

24 Q You don't have an active prescription --

1 A No.

2 Q -- for Xanax. But you take Adderall every day?

3 A No.

4 Q You take Adderall some days?

5 A Very rarely.

6 Q Do you have an active prescription for Adderall?

7 A Just it was a 30 day supply.

8 Q You've had a prescription for Xanax over the past

9 year, correct?

10 A Re -- this past year?

11 Q Yes.

12 A No.

13 Q You've had a prescription for Xanax during your

14 marriage?

15 A Yes.

16 Q Okay. You've had a prescription for Adderall over

17 this past year?

18 A Yes -- wait, no. No. Just recently I got a 30 day.

19 Q That's the first time you've taken Adderall?

20 A You said the past year.

21 Q Fair enough. I'm asking a follow up. Is that the

22 first time you've ever were prescribed Adderall, this 30 day

23 period?

24 A No.

1 Q Okay. You've been -- you've taken Adderall during
2 your marriage, right?

3 A Yes.

4 Q Okay. And you've taken it within the past two
5 years, right? Besides this current 30 day.

6 A Yes.

7 Q Okay. You acknowledged that your own conduct on
8 some of those videos was problematic.

9 A Yes.

10 Q Okay. You have good days and bad days as well,
11 right?

12 A Yes.

13 Q If you can change some of your own conduct as -- as
14 represented in those videos, you can go back in time and
15 change it, you probably would, right?

16 A Of course.

17 MR. BLACKHAM: Pass the witness.

18 FURTHER REDIRECT EXAMINATION

19 BY MR. PAGE:

20 Q You were asked as to whether you've been in patient
21 in a facil -- mental health facility. When was that?

22 A I think it was 2003. The context behind that was
23 very severe.

24 Q So 2003. Over 18 years ago?

1 A Yes.

2 Q What was the context?

3 A I was raped by someone I knew.

4 Q Dan knows that, right?

5 A He's aware.

6 Q Were you diagnosed with anything?

7 A No.

8 Q You were asked about Adderall. Was that a
9 prescription?

10 A Yes.

11 Q Who prescribed it?

12 A Dr. Gemina (ph).

13 Q Why was it prescribed?

14 A I was having a breakdown when our class sizes
15 increased from 33 to 43 and dealing with the chaos in the
16 household and just the stressful events that were happening.
17 And I -- he had an Adderall prescription at that time and he
18 had given me Adderall to try. And it had helped. Another
19 friend had given me Adderall to try and it helped. And so I
20 -- I felt that it would help me focus and be able to manage a
21 classroom of 43, better than, you know, not taking the
22 Adderall.

23 Q You were also asked as to whether you've taken
24 Xanax. Since you guys have separated finally for good, have

1 you had to take Xanax then now?

2 A On occasion to sleep, that was what I got the
3 prescription for. I -- I just have really bad insomnia. And
4 so if I take a half, it helps me sleep. But I've been working
5 to get off on it. I finally found melatonin that has been
6 successful. And so I'm now on the melatonin.

7 Q The need to use Xanax is something that arose during
8 the course of your marriage?

9 A I've always had problems sleeping and then the
10 stress of the marriage, you know, I just -- I felt like I
11 needed to relax. And so I talked with a doctor about, you
12 know, like I wanted to be able to feel like more relaxed and
13 more calm and it's something to help me sleep. And so I was
14 given -- I was prescribed Xanax at that time.

15 Q Was your usage of Xanax greater during the marriage
16 or after the marriage?

17 A Oh, during the marriage. It was very stressful.

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

19 MR. BLACKHAM: No questions.

20 THE COURT: All right, ma'am. You can step down.

21 THE WITNESS: Thank you. Can I leave these here?

22 THE COURT: Yes.

23 THE WITNESS: Okay.

24 MR. BLACKHAM: Since we're between witnesses, can we

1 take a quick bathroom break?

2 THE COURT: Sure.

3 MR. PAGE: I'm sorry, what?

4 MR. BLACKHAM: Can we take a quick bathroom break?

5 Since we're between witnesses --

6 THE COURT: Yeah.

7 MR. BLACKHAM: -- I thought --

8 THE COURT: Five minutes is enough?

9 MR. BLACKHAM: Yeah.

10 THE COURT: All right. Let's take a five minute
11 break.

12 (COURT RECESSED AT 3:44 AND RESUMED AT 3:51)

13 THE CLERK: We are on the record, Your Honor.

14 THE COURT: All right. Mr. Page, go ahead.

15 MR. PAGE: Next, we'd like to call Car -- Carleen
16 May. Ms. May was present when the window of the school was
17 broken. She heard the knocking, the hitting on the window and
18 it -- part of the breaking and was also present and saw my
19 client's reaction to being confronted by Mr. Rubidoux. So we
20 would offer her for her testimony for that purpose.

21 MR. BLACKHAM: There's nothing that Mr. Page
22 indicated that his client could not provide. We don't need
23 duplicative testimony about his own client's reaction that she
24 just testified to. And he's going to have an opportunity to

1 examine my client about the incident. I don't understand why
2 we need a third party witness to hear the same testimony
3 especially when we're trying to budget time so that --

4 MR. PAGE: She --

5 MR. BLACKHAM: -- we can finish.

6 MR. PAGE: One, she's a five minute witness. Two,
7 it would contradict the representation that was made by
8 Counsel that he rapped on the window in a normal manner and it
9 broke. She would contradict that. Also, her independent
10 reaction and her observation as to the emotional state that my
11 client was in as a result of the property destruction is
12 relevant.

13 MR. BLACKHAM: All of those things she can testify
14 to --

15 THE COURT: Okay.

16 MR. BLACKHAM: -- and has.

17 THE COURT: I'm going to let you call the witness.
18 So given where we are at and we -- we have a whole 'nother
19 day.

20 MR. BLACKHAM: Okay.

21 THE CLERK: Good afternoon. Please raise your right
22 hand. You solemnly swear that the testimony you're about to
23 give in this action shall be the truth, the whole truth, and
24 nothing but the truth, so help you God?

1 THE WITNESS: Yes, ma'am.

2 THE CLERK: Please state your name and spell your
3 first and last name for the record. You may place your hand
4 down and have a seat.

5 THE WITNESS: It is Carleen May, C-a-r-l-e-e-n, May,
6 M-a-y.

7 THE CLERK: Thank you.

8 CARLEEN MAY
9 called as a witness on behalf of the Plaintiff, having been
10 first duly sworn, testified upon her oath as follows on:

11 DIRECT EXAMINATION

12 BY MR. PAGE:

13 Q Ms. May, what is your occupation?

14 A My occupation now is a cashier.

15 Q Back when you were acquainted with Ms. Rubidoux,
16 what was your occupation then?

17 A I was a custodian for the school district.

18 Q Which school did you -- were you a custodian at?

19 A I was a custodian at Faiss Middle School.

20 Q Was Ms. Rubidoux employed at that middle school?

21 A Yes, she was.

22 Q Okay. Did there come a time when there was an
23 encounter between Ms. Rubidoux and Mr. Rubidoux that you were
24 a partial witness to?

1 A Yes, I was.

2 Q Okay. What did you hear on that day in question,
3 that evening in question?

4 A That evening -- may I pull my mask down a little bit
5 now?

6 THE COURT: Okay.

7 THE WITNESS: That evening I heard tapping on the
8 glass door. And so, in the past, we would have some teachers
9 who would forget their keys. So I believed it was one of our
10 teachers. I came out of the classroom that I was in which was
11 at the far end of the hall. And I came down the hall and as I
12 approached the door I had my hands ready to push open the door
13 when Ms. Rubidoux just about came flying out of her room with
14 such a terrified look in her eyes, her body demeanor. And she
15 goes Carleen --

16 MR. BLACKHAM: Objection --

17 THE WITNESS: -- no.

18 MR. BLACKHAM: -- non-responsive. I think the
19 question was what she heard.

20 MR. PAGE: She heard the tapping on the -- on the
21 glass.

22 THE COURT: Okay.

23 MR. PAGE: And now she is describing Ms. Rubidoux's
24 demeanor. So --

1 THE COURT: Overruled. Go ahead and continue.

2 BY MR. PAGE:

3 Q Go ahead.

4 A And so I had my hands about ready to push the door
5 open when I looked over and I saw the look in Ms. Rubidoux's
6 eyes, her demeanor and her voice, and it prompted me to stop
7 because I saw that she was completely terrified.

8 Q Based upon what you saw, who was she terrified of?

9 A The individual --

10 MR. BLACKHAM: Objection, calls for speculation.

11 MR. PAGE: If she knows. It's her opinion.

12 MR. BLACKHAM: It's still speculation.

13 THE COURT: Well --

14 MR. BLACKHAM: He's asking what she's thinking.

15 THE COURT: -- hold on. It's a glass door, right?
16 Didn't she see somebody?

17 BY MR. PAGE:

18 Q Did you -- who did you see?

19 A I saw an individual on the other side of the glass
20 door that appeared to be of a male presence.

21 Q Did you recognize that person?

22 A From the pictures that I had seen on Ms. Rubidoux's
23 desk, yes.

24 Q Okay. Who was that person?

1 A That was her husband, Mr. Rubidoux.

2 Q Did Ms. Rubidoux indicate why she appeared to be
3 frightened?

4 A I do not recall.

5 Q After Ms. Rubidoux came to you looking terrified,
6 what is the next thing that you did?

7 A What I did is I looked, I put my hands up, and I
8 backed away from the door. I turned, I asked her if she was
9 okay and made sure that she was back in her room. And so I
10 went back to doing my duties as -- as a custodian.

11 Q Later on did you see that there was glass broken?

12 A When I had entered the room on -- at the far end of
13 the -- of the hallway, I had heard the tapping again and it
14 was getting louder and louder. And then all of a sudden I
15 didn't hear any tapping. I came flying out of that classroom
16 and unfortunately to my horror and disbelief I saw glass on
17 the floor. My first thought besides a little perturbed for
18 the extra work is -- is my teacher okay. And I went and I
19 made sure that she was okay. Her classroom door was closed.
20 So I knew she was fine. And then I proceeded to do what I had
21 to do in calling my head custodian and unfortunately having to
22 clean up the mess that was made.

23 Q What is your understanding as to who broke the
24 glass?

1 A The only person that was there was that male figure
2 who was Mr. Rubidoux.

3 Q And how would you describe the hitting of the glass?
4 Was it hard? Was it loud?

5 A It was --

6 MR. BLACKHAM: Objection, asked and answered.

7 THE COURT: Overruled.

8 BY MR. PAGE:

9 Q You can --

10 THE COURT: Go ahead.

11 Q -- go ahead and answer.

12 A Okay. It -- it was a very hard tapping. It was
13 some type of metal object that was hitting the glass on the
14 door.

15 Q And that eventually -- it stopped and you presumed
16 that the glass had broken.

17 A Oh, I couldn't say that I presumed that it had
18 broken but when you hear this constant tapping and then you
19 hear nothing and you have somebody that is extremely
20 terrified, my first thing that I'm doing is going to check
21 what is happening.

22 Q When you went and checked to see what had happened
23 was Ms. Rubidoux still present?

24 A No, she was actually in her classroom.

1 Q Okay. Did you observe her demeanor then?

2 A Actually -- actually, I did because like I said she
3 -- her door was closed. I did see her come out and she was
4 just in complete terror and she was horrified that the glass
5 had broken. And I believe she was more apologetic for the
6 extra duties that had to be done that evening than anything
7 else.

8 MR. PAGE: Thank you. I'll pass the witness.

9 MR. BLACKHAM: No questions.

10 THE COURT: Thank you, ma'am.

11 THE WITNESS: You're welcome.

12 THE COURT: And we can release this witness? I
13 don't know if she's --

14 MR. PAGE: Yes, Roger --

15 THE COURT: -- under subpoena.

16 MR. PAGE: -- West.

17 THE COURT: Huh?

18 MR. PAGE: Roger West.

19 THE COURT: Oh, I said we can release this wit --

20 MR. PAGE: Oh, yeah, yeah, yeah.

21 THE COURT: -- witness, right? Yeah. I didn't
22 know --

23 MR. PAGE: I'm sorry.

24 THE COURT: -- if she was here under subpoena.

1 MR. PAGE: I guess I'm -- I'm deaf now too.

2 THE COURT: No problem.

3 (PAUSE)

4 THE COURT: Well, while we are waiting for him to
5 get up here, I -- I do have -- I do want to see your client's
6 actual pay stubs for this year because you don't have actual
7 pay stubs attached to his FDF. And -- and they're not --

8 MR. BLACKHAM: I thought we had --

9 THE COURT: -- in your --

10 MR. BLACKHAM: -- pay stubs in our exhibit book,
11 right?

12 THE COURT: Not for now.

13 MR. BLACKHAM: You know what --

14 THE CLERK: Your Honor, would you like me to swear
15 in the witness?

16 THE COURT: Yes. Go ahead.

17 THE CLERK: Please raise your right hand. You
18 solemnly swear that the testimony you're about to give in this
19 action shall be the truth, the whole truth, and nothing but
20 the truth, so help you God?

21 THE WITNESS: Yes.

22 THE CLERK: Please state your name and spell your
23 first and last name for the record. Thank you for putting
24 your hand down. You may be seated.

1 THE WITNESS: My name is Roger West. I'm sorry,
2 what I'm -- I'm spelling the whole thing?

3 THE CLERK: Yes.

4 THE WITNESS: It's pretty -- R-o-g-e-r, W-e-s-t.

5 THE CLERK: Thank you.

6 THE COURT: Hello.

7 THE WITNESS: Hello.

8 ROGER WEST

9 called as a witness on behalf of the Plaintiff, having been
10 first duly sworn, testified upon his oath as follows on:

11 DIRECT EXAMINATION

12 BY MR. PAGE:

13 Q Mr. West, how do you know Ms. Rubidoux?

14 A I -- Ms. Rubidoux is a teacher at Faiss Middle
15 School where I am the principal.

16 Q How long have you known her?

17 A I've known her for five years.

18 Q Do you know who Mr. Rubidoux is?

19 A I'm -- yes.

20 Q How did you make Mr. Rubidoux's acquaintance? How
21 do you know him?

22 A I -- you know, I have probably only officially
23 talked to him just very casually one time when I -- it's -- do
24 you want me to --

1 Q Yes. What was that one time you met him?

2 A Well, it was after this incident. I did not meet
3 him at this incident.

4 Q Okay.

5 A At this incident, he was -- he had already left
6 campus. So --

7 Q What did Mr. Rubidoux do?

8 A So I was working late one evening and my head
9 custodian came into my office and it was a Friday night and
10 said --

11 MR. BLACKHAM: Objection, hearsay.

12 BY MR. PAGE:

13 Q You just can't say what she said. Did you become --

14 A Oh.

15 Q Did you become aware of that property damage had
16 occurred --

17 MR. BLACKHAM: Objection, leading.

18 THE COURT: Overruled.

19 BY MR. PAGE:

20 Q Did you become aware that property damage had
21 occurred in your school?

22 A Yes, I was --

23 Q What property damage had occurred?

24 A So my head custodian, not -- not the site custodian,

1 my head custodian came in to see me to say that --
2 MR. BLACKHAM: Objection --
3 A -- a window --
4 MR. BLACKHAM: -- hearsay.
5 A -- had been damaged.
6 BY MR. PAGE:
7 Q You just can't --
8 MR. BLACKHAM: Move to strike.
9 Q -- say you say -- it's -- it's called hearsay.
10 A Okay.
11 Q So you can't say what somebody said --
12 A Gotcha.
13 Q -- but you can say you know what happened. What had
14 happened?
15 A But he said it to me though directly.
16 Q Right. But did -- were you aware that there was
17 glass -- a -- a window had been broken?
18 A So I got up and went down to the 800 wing of our
19 building and there was a window that was shattered. One of
20 the entrance -- the exterior doors.
21 Q Did you later have contact with Mr. Rubidoux about
22 that window?
23 A Correct. Yes.
24 Q Did that contact you had with Mr. Rubidoux consist

1 of having him pay for the damage that he did?

2 A Correct.

3 Q Approximately when did that occur?

4 A A few -- relatively quickly.

5 Q Okay.

6 A The -- the school district replaced the window
7 immediately and -- and the cost of it was -- was shared with
8 him.

9 Q Did there also come a time when Mr. Rubidoux went to
10 Ms. Rubidoux's classroom during school hours and demanded that
11 she leave?

12 A Yes.

13 Q Approximately when did that occur?

14 A To be honest with you, I -- I don't --

15 Q I understand.

16 A -- not -- not --

17 Q Not -- not every -- not everyone thinks about --

18 A Yeah.

19 Q -- these things in -- in a date way.

20 A Gotcha. Not -- not -- not very far after.

21 Q What explanation have you provided to Ms. Rubidoux
22 that Mr. Rubidoux -- Ms. Rubidoux could not leave school
23 during the middle of the day at his demand?

24 A Well, I -- I honestly -- I -- I didn't feel good

1 about this situation. And I -- her -- her requirement is to
2 teach and it was -- and that she -- we didn't have coverage
3 available and you cannot leave a class unattended without.
4 And I -- I very much got the feeling from her, not very much
5 got, I knew she was not comfortable leaving and did not want
6 to leave. And so I insisted that she remain at school.

7 Q Approximately what time during the day did Mr. --
8 show up -- Mr. Rubidoux show up at her school?

9 A I'll try to remember. It -- it was definitely in
10 the afternoon. I want to say it was after our -- our lunches.
11 I'm just trying to remember if -- if it was the very last
12 period of the day or we used to have like -- we had two
13 periods after lunches but it was towards the end of the day.
14 I would say pretty close to the end of the day.

15 Q Ms. Rubidoux still had students in the classroom --

16 A Correct.

17 Q -- she had to teach?

18 A Correct.

19 Q Was it possible or feasible for her to be able to
20 leave the classroom unattended?

21 A No, it's not. That's --

22 Q Was Mr. Rubidoux insisting that she leave the
23 classroom?

24 A Yes.

1 Q What -- do you know why you had to become involved?

2 A Well, I guess because I'm the principal of the
3 school and it was -- it was clear that she was not comfortable
4 with -- with this situation and she -- I -- I want to say was
5 -- was a little bit afraid and certainly embarrassed. But you
6 can just -- just tell that from her action. She's a very
7 confident person generally and I -- and she was not herself at
8 all. And I -- and I can only imagine. Right. I was a
9 teacher for 10 years and I -- I know that that would not be a
10 -- a comfortable position to be in. I know that if there was
11 anything wrong or an emergency which happened, she would have
12 -- you know, we -- we would have covered the class.

13 Q Was Mr. Rubidoux required to leave the school
14 without taking Ms. Rubidoux with you?

15 A Correct. Yes.

16 Q Who escorted him out or anybody?

17 A I -- I can't recall that at this time.

18 MR. PAGE: I'll pass the witness. Thank you.

19 CROSS EXAMINATION

20 BY MR. BLACKHAM:

21 Q The day that you said that Mr. Rubidoux demanded
22 that Ms. Rubidoux leave the school, that was not the day that
23 the window was broken, correct?

24 A Correct.

1 Q But isn't it true on the day of -- that day, the day
2 that he allegedly asked Ms. Rubidoux to leave the school that
3 you had offered to let her go that day?

4 A So it's -- like I said, it's --

5 Q It's a yes or no question, sir.

6 A Yeah.

7 Q Isn't it true?

8 A Yes.

9 Q All right. And isn't it also true that you wrote a
10 letter regarding the window incident stating that you knew
11 that it was an accident, his breaking window?

12 A I -- I would need to see that. It's been several
13 years now since that --

14 Q Is it --

15 A -- happened but I --

16 Q Is it possible?

17 A Is it possible?

18 Q Yes.

19 A I will tell you what I remember from the incident is
20 that she told me that they were mutually very embarrassed that
21 it happened and that they would pay for all of the damages --

22 Q Okay. Did you write a letter --

23 A -- and take care of it.

24 Q -- saying --

1 A Sir, honestly I don't remember if I did --
2 Q But you may have --
3 A -- or not.
4 Q -- yes?
5 A I may have.
6 Q Okay.
7 A Yes, I -- am I allowed to ask if I did write a
8 letter?
9 MR. PAGE: If you have any more questions. That was
10 my -- my question.
11 MR. BLACKHAM: No.
12 MR. PAGE: Oh, yeah, I didn't hear you say
13 (indiscernible).
14 MR. BLACKHAM: I apologize.
15 THE COURT: Yeah.
16 MR. BLACKHAM: No, I'm done.
17 THE COURT: I didn't hear that either. Sorry. Go
18 ahead.
19 THE WITNESS: Okay.
20 MR. BLACKHAM: (Indiscernible).
21 THE WITNESS: I was waiting. I was like am I going
22 to -- is there a letter?
23 MR. BLACKHAM: I'm sorry, sir. I didn't mean to --
24 THE WITNESS: No.

1 MR. BLACKHAM: I didn't mean to --

2 THE WITNESS: Okay. I'll -- I'll be going --

3 MR. BLACKHAM: I held everybody in suspense.

4 THE WITNESS: -- to see if I wrote a letter tonight.

5 REDIRECT EXAMINATION

6 BY MR. PAGE:

7 Q The question asked by Counsel is what -- that you
8 offered to let Ms. Rubidoux go. If Ms. Rubidoux had went, did
9 she appear uncomfortable in going?

10 A Absolutely.

11 Q How would you describe her demeanor?

12 MR. BLACKHAM: Objection, asked and answered.

13 MR. PAGE: I don't think I asked that question.

14 MR. BLACKHAM: I think he's answered it though.

15 THE COURT: Overruled. Go ahead.

16 THE WITNESS: I -- just not herself. You know, it's
17 hard to -- I -- it -- it was early on. I have probably 70
18 teachers. She's not -- I mean, we teach the same content. I
19 taught social studies when I was a teacher. And so it's
20 something I care a lot about. So I know our social studies
21 department probably a little better than. I just know she's
22 this very big personality and very -- very passionate about
23 her teaching and -- and she was not -- when I -- when I
24 offered to allow her to do that, I can tell very quickly that

1 -- that that -- she did not feel comfortable doing that and
2 asked that I please insist that she stay on campus.

3 MR. PAGE: I have nothing further. Thank you.

4 MR. BLACKHAM: Nothing, Your Honor.

5 THE COURT: Thank you, Mr. West.

6 THE WITNESS: Okay.

7 THE COURT: And -- and we can release him?

8 MR. PAGE: Yes, he can be released.

9 THE COURT: Thank you for coming down here.

10 THE WITNESS: Thank you guys for having me.

11 (COUNSEL AND CLIENT CONFER BRIEFLY)

12 MR. PAGE: You can go ahead and get Mr. Cuddy and
13 let Ms. Cuddy go.

14 THE MARSHAL: Okay.

15 (PAUSE)

16 THE MARSHAL: Go ahead and face the Clerk.

17 THE CLERK: Good afternoon. Please raise your right
18 hand. You solemnly swear that the testimony you're about to
19 give in this action shall be the truth, the whole truth, and
20 nothing but the truth, so help you God?

21 MR. CUDDY: Yes, ma'am.

22 THE CLERK: Please --

23 THE WITNESS: I do.

24 THE CLERK: -- state your name and spell your first

1 and last name for the record.

2 THE WITNESS: Jeffrey --

3 THE CLERK: Thank you.

4 THE WITNESS: Jeffrey Cuddy, C-u-d-d-y, spelling of
5 last name.

6 THE CLERK: First and last name, please.

7 THE WITNESS: Jeffrey.

8 THE CLERK: Okay. How do you spell that, please?

9 THE WITNESS: J-e-f-f-r-e-y.

10 THE CLERK: Thank you.

11 THE COURT: You can sit down, sir. Thank you.

12 THE WITNESS: Okay.

13 THE CLERK: Yes. Thank you.

14 JEFFREY CUDDY

15 called as a witness on behalf of the Plaintiff, having been
16 first duly sworn, testified upon his oath as follows on:

17 DIRECT EXAMINATION

18 BY MR. PAGE:

19 Q Mr. Cuddy, what is your relationship with the
20 Plaintiff?

21 A She's my daughter.

22 Q Are you aware that -- are you aware of the
23 circumstances and the difficulties that your daughter and
24 Daniel have had with each other?

1 A Yes, sir. I am.

2 Q What are some of the difficulties that you are aware
3 of that have occurred between your daughter and Daniel?

4 A Some of the difficulties I -- I know that -- you
5 know, in any -- in any type of marriage situation like that
6 you have differences of opinion on certain things. As a
7 father, I noticed a -- a complete change in -- in personality
8 that she had while she was with him. And I know there were
9 times that you can just feel the tension, times when I had
10 gone over to visit or holes in the -- you know, punched holes
11 in the -- the walls and around light switches and things like
12 that.

13 Q What other things or if anything else?

14 A That -- a lot of times it was -- I guess you -- when
15 you feel like, you know, you talk to family and things like
16 that, I never really felt like there was a -- a family type of
17 relationship with Daniel as it went through the lot of times
18 -- she -- I hate to say it but she wasn't allowed I think or
19 -- or he wanted -- want her to come to family functions and
20 things like that as far as our side of the family was
21 concerned.

22 Q What makes you believe that she wasn't allowed or
23 permitted to come to family functions for your side?

24 A Well, she would get phone calls -- if she was over

1 at our house and -- and he wasn't with her she would get phone
2 calls and -- and almost, yeah, bordering harassment, I would
3 think --

4 Q Is --

5 A -- you know, what are you doing, when are you coming
6 home, and -- and things like that. Because you can tell when
7 she would get off the phone with him she would have changed
8 and not -- not be herself as -- as the daughter I raised
9 anyway.

10 Q Say she's at your house for a family function. How
11 many times would he call while she was at your house?

12 A I don't -- calls and texts, I really couldn't put a
13 number on it but I know she -- she felt like, you know, she
14 was I guess doing something wrong by being over there.

15 MR. BLACKHAM: I'm going to object to the extent
16 that this is speculation and move to strike.

17 MR. PAGE: It goes to the weight. I mean --

18 THE COURT: Sustained --

19 MR. PAGE: -- his answer --

20 THE COURT: -- and granted.

21 MR. BLACKHAM: Thank you.

22 BY MR. PAGE:

23 Q When you say her demeanor changed when he would call
24 and text, how would it change?

1 A She -- she would be bubbly and, you know, having fun
2 and things like that. And after she would get the phone calls
3 and would talk -- she -- you can tell that she -- she was no
4 longer enjoying the moment. Her -- you know, she wouldn't be
5 as -- as fun and talkative and -- and things like that. A lot
6 of times we would play games and a family and then you -- you
7 can definitely tell there was a difference.

8 Q Since she's finally moved out of the marital
9 residence for the last time, how has her personality changed
10 since then?

11 A Oh, she -- it -- it took probably I would say a
12 month, month-and-a-half. There was still communications going
13 on at certain times, attempts of communication from Daniel.
14 And you -- you can see her grow out of it and finally become
15 -- for me finally become the daughter that I raised. And, you
16 know, she was a fun loving person, a great spirit. And I
17 didn't see that at the times when, you know, she was with
18 Daniel when she moved out, was with us. She finally kind of
19 came out of her shell and -- and wanted to do more things, go
20 to -- do things with family and as a family, vacations, and
21 stuff like that.

22 Q When you were at the house, you said that you saw
23 things like holes in the walls. Where -- where in the house
24 did you see these holes?

1 A Oh, they were all over. The garage going to the --
2 the door going to the garage. There was a massive hole that
3 was on that. I've seen punches in it where it seemed like --
4 like light switches for some reason would be broken and pushed
5 into the wall. They are evident as you walk through the
6 bedroom, in the kitchen area. I noticed that there would --
7 was a time she has fridge that has a freezer on the bottom of
8 the thing. That was pulled off and damages around the house
9 that as -- as a father/parent you -- you don't want to see
10 your child in that situation. Very disheartening.

11 Q Who is to your understanding was responsible for the
12 holes in the various parts of the house?

13 A Oh, I definitely know it was Daniel.

14 Q And how do you --

15 MR. BLACKHAM: Objection.

16 Q -- how do you know that?

17 A His -- I -- his anger, his rage. There's times when
18 he would just go off. One -- one event that we saw we had
19 planned on doing something for Halloween. He obviously didn't
20 want to participate or had some issues with Stephanie. And as
21 we were getting ready to go, he was in his truck by himself
22 and he just floored it and goes ripping off down the street
23 and around the corner. And now you can tell there's anger
24 about his driving, you know, how he was doing that. He did

1 say a few things and you can see the voice or you kind of feel
2 that the voice was -- he wanted to do more but because we were
3 around I -- I believe he didn't say anything.

4 Q So when you say the voice, describe what's the
5 voice?

6 A Well, you can -- when someone's trying to constrain
7 their anger and -- and they -- they want to let loose but
8 they're not letting loose and you can just -- you can -- you
9 can kind of tell as there's this tenseness in the air and the
10 feelings you get when someone's talking and then things
11 they're saying.

12 Q When you saw there was holes all over the house, how
13 many holes do you believe there were in the walls of the
14 house?

15 A Oh, geez. One -- I would say close to 10 that I saw
16 personally.

17 Q Do you believe that your daughter's physically
18 strong enough to put holes in walls?

19 A No. And there was no damage to her hands or
20 anything like that. And -- and I had spoken with her about
21 sometimes too and, you know, she wouldn't go in depth with
22 anything, but, you know, it was obviously her problems. And
23 she didn't feel like discussing them fully with me, but

24 Q And what did you feel personally when you saw all of

1 the holes in the walls?

2 A I -- I was very scared for her with some -- I've
3 been around individuals like that and the same kind of a thing
4 where they -- they burst out in anger and will do things in
5 that fit of anger. And, you know, they're uncontrollable in
6 those kinds of things. And I had mentioned my daughter quite
7 a few times that, you know, I don't want to go to your
8 funeral. I really don't. And -- and that's the way I felt
9 was going on in their marriage. It was headed to that point
10 where something was going to happen.

11 Q Because of the things that you've seen in the fears
12 that you also have some fears for Riley.

13 A Oh, definitely. Definitely.

14 Q What other fears do you have?

15 A And you can see a change in Riley. And probably the
16 last year that they --

17 MR. BLACKHAM: Objection, non-responsive, narrative.

18 THE WITNESS: Excuse me?

19 THE COURT: He's just making an objection. That's
20 for me.

21 THE WITNESS: Oh. Oh, the --

22 THE COURT: Sustained as to -- to non-responsive.

23 BY MR. PAGE:

24 Q You indicated you have fears regarding Riley. What

1 are the fears that that you have?

2 A Well, I can see that there was a -- a change and she
3 -- she was a -- a great child growing up. She didn't like
4 pacifiers or anything like that. And she all of a sudden
5 started sucking her thumb and -- and was -- to me there are
6 indications of taking psychology classes. And -- and there
7 are indications that there's a change of something going on.

8 MR. BLACKHAM: Objection, this --

9 A I'm not saying I'm an expert.

10 MR. BLACKHAM: Objection to the extent that this is
11 expert testimony.

12 THE WITNESS: I am saying I am not an expert, sir.

13 THE COURT: Okay. Hold on.

14 Q And this is your lay understanding.

15 A Right. Exactly.

16 MR. BLACKHAM: He said he's took courses and that
17 was what it's based on.

18 THE COURT: Sustained as to the opinion on that. He
19 can testify to what he's observed with regard to Riley.

20 BY MR. PAGE:

21 Q What did -- what did you observe with Riley that
22 relates to her thumb sucking?

23 A She would do it and -- and it's like an insecurity
24 is basically what it was -- that what it felt like to -- what

1 I saw. And she was insecure, something was going on that
2 changed in her life.

3 MR. BLACKHAM: I'm going to stip -- this is
4 speculation without foundation.

5 MR. PAGE: I mean, she can give the weight with what
6 she wants to give it but it's his answer.

7 MR. BLACKHAM: But Your Honor --

8 THE COURT: But the --

9 MR. BLACKHAM: -- it's not admissible.

10 THE COURT: -- the objection is -- is sustained.

11 MR. BLACKHAM: Move to strike

12 THE COURT: Granted.

13 MR. BLACKHAM: Thank you.

14 BY MR. PAGE:

15 Q What other things besides the thumb sucking did you
16 observe as it relates to Riley?

17 A Well, her personality changed a bit than the one --
18 what I had seen of her before happy, doing a lot of things.
19 She seemed withdrawn and -- I don't know. I can put two and
20 two together from what I saw. And I definitely knew there was
21 something going on that had changed. And the whole
22 environment. I -- I can't -- you know, she wasn't around the
23 environment we were in with her when we tried to play and
24 things like that, some of the actions, you know, she would do

1 with her dolls and things were a little different. So she
2 just -- to me, she was acting some out some things, that there
3 was some issues going on that she didn't understand. And her
4 coping mechanism for that --

5 MR. BLACKHAM: Objection, again, Your Honor,
6 speculation, move to strike.

7 MR. PAGE: This -- this lay opinion, give it the
8 weight that you (indiscernible).

9 MR. BLACKHAM: No, Your Honor. It's not admissible.
10 It doesn't get the same -- it's a coping mechanism without
11 providing a foundation for that.

12 THE COURT: That's sustained as to that opinion.
13 Sir, you can just testify to what -- what you noticed
14 different about Riley.

15 THE WITNESS: Okay. Yeah, she seemed like a -- a
16 different child.

17 BY MR. PAGE:

18 Q Has she --

19 A She wasn't the same.

20 Q Now, that Riley's primarily with Mom, is -- is she
21 different?

22 A Oh, yeah.

23 Q How so?

24 A She -- she's changed quite a bit. She's more happy

1 and -- and from what I see from her or playing or things like
2 that the -- the playing seems to change from what it was
3 before with her, you know, toys and dolls and things like
4 that, not so -- how do I put it. It was a little aggressive
5 the way she would play. Now, she seems to be a lot happier
6 and -- and things seem as far as, you know, us playing and
7 things like that when we play with her toys and -- and things
8 like that. She's happy, more involved.

9 Q And have there been times when Ms. Rubidoux's left
10 Daniel and has lived with you and your wife for a period of
11 time?

12 A Yes, there's -- there -- many times that she would
13 show up in the middle of the night trying to come over and --
14 and stay with us so that she was in a safer environment.

15 Q What was her demeanor? Was she happy, upset?

16 A She was scared.

17 Q Did she indicate what she scared about?

18 A It was whatever was going on with -- with Daniel and
19 her at the time. I'm -- I -- I don't know the exact things
20 that were going on. We really didn't -- you know, if she felt
21 like discussing it, we would, and -- and sometimes it was best
22 just to leave it alone and let her have some space and -- and
23 time.

24 Q How many times did you think she showed up in your

1 house the middle of the night?

2 A I would say about five times at least in the middle
3 of the night. And typically after she showed up Daniel would
4 end up driving up to the cul-de-sac and -- and outside the
5 house kind of like my opinion is stalking behavior.

6 MR. BLACKHAM: Objection, move to strike.

7 MR. PAGE: I know what stalking is.

8 THE COURT: Overruled.

9 BY MR. PAGE:

10 Q Like sometimes like Daniel would just sleep in her
11 car?

12 A Oh, he --

13 MR. BLACKHAM: Objection, leading.

14 A -- did. Yeah, the -- the time that they had --

15 MR. BLACKHAM: Move to strike.

16 THE COURT: Sustained.

17 THE WITNESS: I haven't even answered --

18 THE COURT: Okay. Sorry. He has to -- he has to
19 answer -- at -- Mr. Page has to ask you the question again.

20 THE WITNESS: Oh, I'm sorry.

21 MR. PAGE: I have to ask it a different way.

22 THE WITNESS: Okay.

23 BY MR. PAGE:

24 Q What would Daniel do as it relates to Ms. Rubidoux's

1 car when she would come to your house in the middle of the
2 night?

3 A I have cameras around the house and -- and I would
4 observe him out there with his vehicle. I would observe him
5 going into her vehicle. I -- staying -- you know, sleeping
6 inside of it basically to make sure she didn't leave if he
7 wasn't aware of it.

8 MR. BLACKHAM: Object to the extent that's he's
9 speculating as to his motives.

10 THE COURT: Sustained.

11 MR. BLACKHAM: Move to strike.

12 THE COURT: That part will be stricken.

13 MR. BLACKHAM: Thank you.

14 BY MR. PAGE:

15 Q Besides preventing Ms. Rubidoux from leaving without
16 him knowing, what other reason would there be in your opinion
17 as to why he would sleep in the backseat of her car?

18 MR. BLACKHAM: Same objection.

19 THE COURT: Yeah, call --

20 MR. BLACKHAM: Calls for speculation.

21 THE COURT: Sustained. It call -- call -- does call
22 for speculation.

23 BY MR. PAGE:

24 Q What concerns did you have because Daniel's sleeping

1 in the back of her vehicle in front of your house?

2 A Well, normally people don't do things like that. He
3 was -- there were times I went out and spoke with Daniel, find
4 out what was going on. He wanted to come into the house and
5 sleep and it -- we had two bedrooms and Riley was sleeping in
6 one and Stephanie was sleeping in the other. And I didn't
7 think it was a good idea for him to come into the house. He
8 reeked of alcohol, you know, surprising her. He drove over
9 there without any incidents. And my concern is, you know, of
10 course anybody that's under the influence you -- you really
11 don't know what possibilities might happen.

12 Q And as far as alcohol goes, you have your own DUI;
13 is that fair to say?

14 A I --

15 Q And you -- you accept and own -- own that, right?

16 A I'm sorry?

17 Q You own that, right?

18 A Oh, yeah.

19 Q But because of your experiences, do you believe you
20 have a -- a heightened awareness of some of the dangers of
21 somebody like Daniel driving while being intoxicated?

22 A Oh, definitely. I -- I understand what it's like to
23 be intoxicated, to get behind a wheel and to drive a vehicle,
24 yes. It's a dangerous thing.

1 Q What additional concerns would you have if Mr.
2 Rubidoux's intoxicated and he's also emotionally upset?

3 A It's -- it's not possible really to tell what could
4 happen in those types of situations. When -- when you're
5 talking to someone that's not under the influence of alcohol,
6 they'll -- you know, they're -- they'll pretty much tell you
7 things in that and you can have more trust. But when there's
8 -- you know, under the influence of any -- any type of drug or
9 alcohol or things like that you -- you don't know. And that's
10 the scary part. That's what I worried about.

11 Q You mentioned that Daniel reeked of alcohol. Have
12 there been other times that you've been around him that he's
13 reeked of alcohol?

14 A Oh, I've been around before he's -- yeah, when he's
15 had alcohol. This was just -- was a lot. And I had mentioned
16 to him too that, you know, he -- better for him not to go
17 anywhere or do anything, you know, while he's under the
18 influence of it.

19 Q Have you been over at Ms. Rubidoux's house and
20 Daniel smelled of alcohol?

21 A Yes, I -- I went to one thing -- event they had over
22 there and there was beer and, you know, Dan had consumed some.

23 Q Now, you testified as to the light switches being
24 pushed in. Is that a separate thing from the walls having

1 holes in them and other --

2 A Oh, yes.

3 Q Yeah?

4 A There were several holes in the walls. There was
5 one -- and ones with the light switches. Because initially I
6 had asked, you know, Stephanie what had happened here, your
7 light switch doesn't look right. I didn't realize what was
8 going on in it the first time I saw it. And she just
9 mentioned that -- that, you know, they had some issues going
10 on, didn't really explain everything to me about what -- you
11 know, what caused it or anything. But and you can -- you can
12 see on -- like I said, other holes and patchwork that was done
13 on them. And, you know, I've witnessed -- he -- he does have
14 anger. He -- he says he's gone to classes but, you know,
15 anger is a scary thing. I've -- I've seen some of that with
16 him.

17 Q What things have you seen with anger from Daniel
18 that you haven't testified to before?

19 A It's just sometimes when it -- it seems like we're
20 -- we're talking about a family event or -- or something to
21 do, the -- the feeling I get -- I got when I go over there.
22 We would babysit Riley at their house because she would have
23 her toys and such down there. And I just kind of felt like we
24 really weren't wanted there and when we're done with Riley go

1 ahead and go kind of a -- a feeling, not a, you know, thanks
2 and, you know, all that kind of stuff, but just kind of
3 pushing you to kind of get -- go away quickly.

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

5 CROSS EXAMINATION

6 BY MR. BLACKHAM:

7 Q You never saw Daniel punch any holes in his walls,
8 right?

9 A No, I did not.

10 Q You never saw him tear out a drawer from the
11 refrigerator or a freezer, right?

12 A No, I didn't, no.

13 Q You didn't see him --

14 A I haven't seen him -- I haven't seen him --

15 Q You didn't see him -- you didn't seen him push in a
16 light switch either, right, sir?

17 A No, I didn't.

18 Q Okay. You -- the Halloween that you were talking
19 about when Daniel sped off --

20 A Right.

21 Q -- he didn't hit anyone, did he?

22 A Luckily, no. He --

23 Q All right.

24 A -- did catch part of a curb, but --

1 Q No, but I mean he didn't physically hit anybody?
2 A You mean physically by him --
3 Q With his body.
4 A -- touching or with the vehicle?
5 Q Well, either. I mean --
6 A No.
7 Q All right. And --
8 A But -- but --
9 Q -- that was Halloween of 2019, correct?
10 A I believe so.
11 Q Okay. And isn't it true that Daniel al -- also
12 dressed up as a unicorn and passed out candy with Stephanie?
13 A I don't believe he passed out candy. I know he
14 dressed up as a unicorn and they went around --
15 Q The neighborhood.
16 A -- with Riley. Yes.
17 Q Okay. And he was participating in Halloween, right?
18 A From what I could see. I didn't go with them as
19 they -- as they walked around, sir.
20 Q Well, being that he was dressed as a unicorn you
21 might --
22 A Yeah.
23 Q -- glean that he was --
24 A In all appearances, yes.

1 Q -- participating in Halloween, correct?

2 A Uh-huh (affirmative).

3 Q Now, you said that Riley's been happier or -- or

4 better adjusted I guess for lack of a better word lately?

5 A Okay.

6 Q I'm asking. Is that your testimony?

7 A Yeah. Yeah. Her personality has -- has --

8 Q Right.

9 A -- gotten --

10 Q And you would acknowledge that these parties had a

11 toxic relationship, right?

12 A From what I saw, I didn't -- I wasn't around it

13 completely to be able to give you details, but --

14 Q Right.

15 A -- there was definitely tension. There was

16 definitely, you know, a feeling that things weren't good

17 between them. Yes.

18 Q And they --

19 A I was --

20 Q -- have been separated now since November of 2019,

21 right?

22 A I -- I believe that's -- I don't recall the date,

23 but --

24 Q Okay. And Riley is being proven -- and Riley's

1 behavior could be now that her parents who didn't get along
2 are no longer living together, right?

3 A Oh, it's -- yeah.

4 Q Okay. In May of 2019, your daughter was involved in
5 an incident with Daniel, correct?

6 A I -- you would have to refresh me with what you're
7 talking about, but as far as the incident --

8 Q There was an -- there was an occasion in which
9 Daniel was -- I guess he was on -- he was holding onto
10 Stephanie's vehicle and he was pulled along.

11 A Right.

12 Q Okay. And he was injured, wasn't he?

13 A I believe so. He --

14 Q You saw him injured, right?

15 A Yes.

16 Q All right. And you told him not to go to the
17 hospital, right?

18 A No, I did not.

19 Q But you told him not to go to the hospital because
20 you didn't want your daughter to get in trouble, right?

21 A No, I did not.

22 MR. BLACKHAM: Okay. Pass the witness.

23 THE COURT: I have a question.

24 THE WITNESS: Yes, ma'am.

1 BY THE COURT:

2 VOIR DIRE EXAMINATION

3 Q When did you see these changes about Riley sucking
4 her thumb? Do -- can you get a time frame on that?

5 A That was December. I don't really remember exactly
6 the -- the year on it. I'd have to look at a -- a calendar
7 and go back to when a lot of that happened. But she -- I
8 mean, she was great. She didn't -- no pacifiers. I was just
9 amazed. I've raised two children and they both had pacifiers.
10 She didn't care to have one. And she just started sucking her
11 thumb and you can see that --

12 Q And you say it was --

13 A Basically she -- something wasn't right.

14 Q You said it was in December --

15 A Something had changed.

16 Q -- a December.

17 A Uh-huh (affirmative).

18 Q It wasn't in December of 2020 --

19 A November, December time frame.

20 Q No, I mean, it wasn't just this last holidays.

21 A No. No. No. No. No.

22 Q So it could have been '19 or '18 or --

23 A Right. Yeah.

24 Q You don't know how -- how --

1 A I --

2 Q -- long ago --

3 A Yeah.

4 Q -- that was? Okay. That's all I wanted. Thanks.

5 MR. PAGE: I'll -- I'll ask more questions.

6 REDIRECT EXAMINATION

7 BY MR. PAGE:

8 Q Do you see any issues in how Ms. Rubidoux cares for
9 Riley?

10 A No, I don't. She's very attentive to Riley from
11 what I see from -- you know, she's up in the morning, she gets
12 her breakfast and takes care of all her needs in the morning.
13 And --

14 MR. BLACKHAM: Objection, non-responsive.
15 Narrative.

16 MR. PAGE: No, you --

17 THE COURT: Overruled.

18 BY MR. PAGE:

19 Q You can go ahead.

20 A Okay. Yeah. She -- you know, she has everything
21 ready for her and -- and Riley's a priority in her life.

22 MR. PAGE: I have nothing further.

23 THE COURT: Just -- just on clarification on that
24 issue.

1 THE WITNESS: Yes, ma'am.

2 THE COURT: Is she -- do Riley and Stephanie live
3 with you now?

4 THE WITNESS: Yes, ma'am.

5 THE COURT: Okay. And that's been since when?

6 THE WITNESS: They were -- I don't know. I would
7 have to look at the calendar. I am not very good with the
8 years.

9 THE COURT: No -- no problem, sir.

10 THE WITNESS: Unfortunately, I'm getting kind of --

11 THE COURT: No.

12 THE WITNESS: -- old and --

13 THE COURT: So --

14 THE WITNESS: -- (indiscernible) --

15 THE COURT: -- it was after they -- they --
16 separated --

17 THE WITNESS: Once -- yeah, once she separated.

18 THE COURT: -- she moved out of the house, she moved
19 into your house?

20 THE WITNESS: Yes, ma'am.

21 THE COURT: Okay. Thank you. Anything further, Mr.
22 Blackham?

23 MR. BLACKHAM: No.

24 THE COURT: All right. Thank you, sir.

1 THE WITNESS: All right. Thank you, ma'am.

2 THE COURT: All right. Mr. Page, who's up next?

3 MR. PAGE: That'll be Daniel Rubidoux.

4 (PAUSE)

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

9 THE WITNESS: Yes, I do.

10 THE CLERK: Thank you. Please state your name and
11 spell your first and last name for the record. You may place
12 your hand down and be seated.

13 THE WITNESS: Daniel Rubidoux, D-a-n-i-e-l, last
14 name Rubidoux, R-u-b, as in boy, i-d, as in dog, o-u-x, as in
15 x-ray.

16 THE CLERK: Thank you.

17 MR. BLACKHAM: I'm sorry, but Your Honor, are we
18 fini -- are we stopping at 5:00? Is that the --

19 THE COURT: Roughly 5:00, yes.

20 MR. BLACKHAM: Okay.

21 THE COURT: Yeah.

22 DANIEL RUBIDOUX

23 called as a witness on behalf of the Plaintiff, having been
24 first duly sworn, testified upon his oath as follows on:

DIRECT EXAMINATION

BY MR. PAGE:

Q What address -- address do you live at, sir?

A 5453 South Durango Drive, Unit 2039.

Q How long have you lived at that address?

A Since new unit on this complex as of January moved to that complex originally February of 2020.

Q Do you believe Stephanie's a good mom?

A Yes.

Q Now Mr. Rubidoux, there have been times in which you've told Ms. Rubidoux that you're going to kill yourself, correct? Sir?

A I'm thinking. Yes.

Q As a matter of fact, you have done that a few times to her, right?

A Yes.

Q You understand if someone does that they may be concerned that you may follow through on something like that, right?

A Yeah. Yes.

Q But Mr. Rubidoux, you admit that you sent Ms. Rubidoux a text in the past that said I should have killed myself like I wanted to?

A I don't remember the specifics of which -- what they

1 said but I know it's happened.

2 Q You've sent Ms. Rubidoux a text saying you want to
3 drive you car off a bridge?

4 A Again, I don't remember the specifics. It's been a
5 long time since we've text.

6 Q So --

7 A But it's -- it's -- it --

8 Q -- it sounds about right?

9 A -- it sounds true. Yeah, it sounds about right.

10 Q You've sent Ms. Rubidoux a text, fuck my life, I
11 hope I die soon?

12 A It's going to be the same for every single one of
13 them. It's -- it's -- I don't remember the -- remember the
14 specifics, but --

15 Q Okay.

16 A -- sure --

17 Q But you --

18 A -- yes, it's possible.

19 Q That -- that sounds about something you -- like you
20 sent her, right?

21 A Not a very common thing I would send her.

22 Q But you sent it to her.

23 A Yes.

24 Q So -- so along the same lines of I'm going to hit

1 something.

2 A Well, depending on the --

3 Q You sent that --

4 A -- context of --

5 Q -- to Ms. Rubidoux.

6 A -- that one. I agree with the other ones, but I

7 don't -- depending on the context. I don't know.

8 Q Well, this one here, fuck my fucking life, I hope I

9 crash on the freeway, that's something you sent to Ms.

10 Rubidoux?

11 A Yes. That -- yeah. Yes.

12 Q You said to Ms. Rubidoux -- or texted to Ms.

13 Rubidoux I'm going to run my truck into a semi?

14 A Again, possible. Yes, it's possible. I don't

15 remember the specifics on each one of those.

16 Q Can you go ahead and open up our exhibit book and --

17 A Yeah, what number is it?

18 Q -- turn to Exhibit 28, please?

19 A Which number?

20 Q 2-8, 28.

21 A Got it.

22 Q There is a -- a summary of some text messages from

23 you to Ms. Rubidoux.

24 A Yes.

1 Q Do you see things like there -- I tried to kill
2 myself for real this time?

3 A Yes.

4 Q Yeah, you -- you --

5 A But, again, all of these -- yes, it's possible
6 depending on the context and I sent them.

7 Q I'd like you to lert -- look at the pages that are
8 -- are there in the -- in the exhibit as those are legible.
9 Take those pages and go to say for example I tried to kill
10 myself for real. This one is 2186.

11 MR. BLACKHAM: Your Honor, I'm -- I'm going to
12 object to using the exhibit in this fashion. If he wants to
13 ask him as he's been doing whether he sent certain texts? I
14 mean, he's going to get the same answer it appears, but --

15 THE WITNESS: Yeah.

16 MR. BLACKHAM: -- but having him read documents that
17 the Court has specifically excluded as evidence as illegible,
18 I don't see the point. If -- if he knows what they say, he
19 can ask him if he said it and if he knows he can say it.

20 THE COURT: He can use those to cross examine him.
21 If he can't read it, then that's what he -- he can say.

22 BY MR. PAGE:

23 Q Well, so for example you look -- look down at -- so
24 if we take -- for example, if you turn to the document that's

1 Bates labeled Rubidoux 2035 and look at what's highlighted
2 there, does that refresh your recollection?

3 A I mean, yes. Again, it's -- it's possible, but I
4 don't remember a text from 2019.

5 Q This -- this is the sort of communication you had
6 with Ms. Rubidoux, right?

7 A Well, we had all -- yeah, we had all sorts of
8 communications. Any communication is possible too.

9 Q You had also texted Ms. Rubidoux I want to die?

10 A This page is out -- it's probably going to be the
11 same. Though it's going to be -- it's possible, but again --

12 Q It's the -- it's the next page over. That's
13 highlighted too.

14 A Yes, these are text messages. And it's possible.
15 And, you know, the context and it's hard to see. The other
16 ones are all grayed out on some of these.

17 Q That would be to the conversations before into the
18 conversations after, right?

19 A Yes. I mean, I can see myself saying that if I said
20 I'm heartbroken before, but --

21 Q And if you look to the next one down, that's on
22 Rubidoux 238, it says I just want to die, I want to vanish.
23 Part of a text conversation you and Ms. Rubidoux had?

24 A Yes, I see it.

1 Q And you also sent her a text saying I should just
2 leave now, leave and vanish forever now?

3 A It's possible, yeah.

4 Q Back in Jan -- July of 2019 you said to Ms. Rubidoux
5 or you texted to Ms. Rubidoux I hate my fucking life?

6 A Yes.

7 Q Okay. And you also told her in August of 2019,
8 August 5 in a text I'm going to walk into traffic?

9 A Yes.

10 Q And you would agree that it's reasonable for someone
11 to have a concern that if you're going to commit suicide that
12 you don't do so while the child's in your possession?

13 A I would -- say that again?

14 Q You would be -- you would agree that it's reasonable
15 for someone to be concerned that if you're going to commit
16 suicide that you don't do so while the child's in your
17 possession?

18 A Yes. Yeah, if you're on watch or something, sure.
19 Yeah.

20 Q Okay. And you -- you agree that if you're not in a
21 good mental place you can commit suicide and take the child
22 with you?

23 A Are you asking me personally or just --

24 Q Yes.

1 A -- in general?

2 Q Yes, you.

3 A You -- not -- no.

4 Q You would agree that if you -- your child saw you
5 commit suicide that it would be very traumatic for your child?

6 A Yes.

7 Q You would agree that if you're making these
8 statements to people it's reasonable for them to be concerned?

9 A Depending on the context, yes.

10 Q I'd like you to turn to Exhibit 29, please. Are you
11 there?

12 A Yes.

13 Q Okay. Do you see in those photographs that Riley's
14 holding a gun, a weapon?

15 A Yes.

16 Q Do you agree that the first rule of gun safety is
17 you assume that every weapon is loaded?

18 A Yes.

19 Q You agree that the first rule of gun safety is that
20 you assume every weapon is loaded but you took a picture of
21 your daughter holding a gun?

22 A Did I take the picture?

23 Q Yeah.

24 A No.

1 Q The -- that is your daughter and that is your gun,
2 right?

3 A And that's also the marital home, yes.

4 Q I'd like you to turn to Exhibit 30, please. Are you
5 there?

6 A Yes.

7 Q Do you see those are photographs where Ru -- Riley
8 is scuffed up and bruised?

9 A This first one? I don't see anything because it's
10 just --

11 Q It's (indiscernible) on that.

12 A No, I don't -- I can't see it clearly on this
13 picture. It -- it's all pixilated or --

14 Q Do you agree that it's reasonable for a parent to be
15 concerned if their child is returned with cuts and bruises?

16 A Yes.

17 Q I'd like you to go ahead and turn to Exhibit 31,
18 please. Are you there?

19 A Yes.

20 Q I'd like you to look at -- at the first document,
21 Rubidoux 2049. Do you agree that's a -- a hole in the wall?

22 A Yes, that's a hole in the wall.

23 Q Okay. Do you agree that's from the marital home?

24 A That's the master bedroom. Yes.

1 Q I'd like you turn to the next page which is Rubidoux
2 2050. Do you see that?

3 A Yes.

4 Q Was that a big hole in the door?

5 A It's a hole in the door.

6 Q And you agree that's a hole from the former marital
7 residence?

8 A Yeah, it looks -- yes, it looks like it but it's
9 hard to tell honestly from that -- from that -- oh, wait.
10 That's a door in our garage.

11 Q Okay. So it's from the former marital home is my
12 question.

13 A Yes.

14 Q Go to the next page, Rubidoux 2051.

15 A Yes.

16 Q Do you agree that's a garbage can that's been
17 broken?

18 A Yes.

19 Q And that garbage can was from the former marital
20 home?

21 A Yes.

22 Q Can you go ahead and turn to the next page which is
23 Exhibit O, 2052. Do you see that?

24 A Yes.

1 Q Is that a patched up hole in the wall?
2 A I can't tell if it's an actual hole in the wall or
3 just some --
4 Q It looks like it had been patched up. There is
5 some --
6 A Yes. Yeah.
7 Q It looks like --
8 A Yes, it looks like --
9 Q -- there's some --
10 A -- it's being -- it looks like --
11 Q -- some putty --
12 A -- it has --
13 Q -- on there and then some paint over it.
14 A Yes, it looks like it has texture on it. That's --
15 that's done before --
16 Q And that's from the -- that's from the former
17 marital residence?
18 A It appears to be, yes. Yes, it is.
19 Q Now, you are the one who put the holes in the doors
20 and walls.
21 A Did I put the holes -- all the holes in the walls?
22 Q The photographs we just showed you, you are the one
23 that created those holes.
24 A I have created holes on the walls, but I did not do

1 all of them.

2 Q Sir, that's the only question I have.

3 MR. PAGE: Move to strike anything after yes.

4 THE COURT: Granted.

5 BY MR. PAGE:

6 Q Now on -- can you turn to Exhibit 32, please?

7 A Yes.

8 Q You -- you wrote that message?

9 A Yeah. Yes.

10 Q And isn't it true Mr. Rubidoux that you -- on
11 November 6th, 2019 you text to Ms. Rubidoux if you get full
12 custody of Riley I won't be around?

13 A I don't recall. Too long ago. Is it in here?

14 Q I'll come back to it later. Can you turn to Exhibit
15 33, please? Do you see that document there?

16 A Yes.

17 Q It's a table, a chart.

18 A Yes.

19 Q Do you have any issue with the classifications that
20 Ms. Rubidoux has made?

21 A Yes.

22 Q Which ones do you have issues with?

23 A Hold on. Let me look at it. Outdoor play set was
24 left in the marital home. And I had got rid of that. Yes.

1 But it was 100. It's not 200. Riley's furniture is a little
2 vague. There was a lot of it. I do have some though. And
3 it's hard to put a dollar figure on that -- in that -- that
4 stuff.

5 Q Let me -- let me ask you a different question. Are
6 you satisfied with the division of household goods and
7 furnishings that you have -- you and Ms. Rubidoux have done?
8 I'll ask it another way. Are you satisfied with the stuff you
9 have? Are you satisfied with the stuff she has?

10 A I would have rather -- rather talked about it, but
11 I'm okay with it. I'm not going to bot -- bug with it. I'm
12 going to --

13 Q You listened to Mr. Cuddy testify here just a few
14 minutes ago, right?

15 A Yes.

16 Q Okay.

17 A Which -- wait. Yes.

18 Q When Mr. Cuddy testified that he saw 10 or so holes
19 on the walls of the house, that seems about right?

20 A I -- I don't know.

21 Q Do you think it's more?

22 A Do I -- no, I just don't remember seeing him there
23 all that often.

24 Q I'm sorry?

1 A I don't remember seeing him there all that often.
2 So I wasn't there probably when he was around.

3 Q Okay. But you realize that sometimes he may be
4 there when you're not there to visit his daughter.

5 A Yes.

6 Q Okay. But the question really is whether the number
7 of holes that he testified to was about accurate.

8 A I -- I don't know.

9 Q He said about 10. Does that sound about right?

10 A I did not have 10 --

11 MR. BLACKHAM: Objection, asked and answered.

12 A I did not have 10 holes in my wall, so --

13 BY MR. PAGE:

14 Q Now, you admit that you would on at least one
15 occasion after a blow up with Ms. Rubidoux that you went to
16 the Cuddys' house.

17 A Yes.

18 Q Do you agree that at least on one occasion you slept
19 in Ms. Rubidoux's car at Cut -- Ms. -- at the Cuddys' house?

20 A Yes.

21 Q You would agree if you're sleeping in the car that
22 would prevent Ms. Rubidoux from getting in the car and
23 leaving, right?

24 A If I'm sleeping in the car when -- when she --

1 Q Yeah.

2 A -- leaves. Yes, that would be true.

3 Q You would agree that's a -- a way of you trying to
4 control what Ms. Rubidoux does, right?

5 A No.

6 Q You listened to the testimony of Carleen, right?

7 A Yes.

8 Q Ms. May? And you don't have any disputes that when
9 Ms. May saw Ms. Rubidoux that Ms. Rubidoux appeared to be
10 terrified?

11 A No.

12 Q You also admit that you -- you broke the window at
13 the school. You destroyed that property?

14 A Yes.

15 Q You listened to Mr. West's testimony?

16 A Yes.

17 Q Okay. You had heard Mr. West testify that you went
18 to Ms. Rubidoux's place of work during her work hours and
19 demand that she leave?

20 A Do I agree with that statement?

21 Q You -- you heard that testimony, right?

22 A Yes. Do I agree with her statement?

23 Q I didn't ask you that.

24 A Yes, I heard him say it.

1 Q Okay. On the day in question you're at Ms.
2 Rubidoux's place of employment during her work hours, right?

3 A With the -- which one? There's two --

4 Q The one --

5 A -- different days.

6 Q The one that Mr. West testified to.

7 A Yeah, there's two different days. The -- there's
8 the window incident and then there's the one --

9 Q Well, yeah. After the window incident you showed up
10 at her place of employment, right?

11 A After the window incident?

12 Q Yes.

13 A No.

14 Q So it was actually prior, right?

15 A Yes.

16 Q You're aware that Ms. Rubidoux can't really leave
17 her place of employment during work hours, right?

18 A Yes.

19 Q You knew that but you showed up anyway, right?

20 A I was at her school, yes.

21 Q All right. You heard Mr. West's testimony that Ms.
22 Rubidoux appeared uncomfortable in leaving with you?

23 A Yes, I heard him say it.

24 Q Any reason to believe that Mr. West's perceptions

1 were inaccurate?

2 A Yes.

3 Q You do agree that Ms. Rubidoux declined to leave the
4 school grounds with you that day?

5 A No.

6 Q Ms. Rubidoux didn't leave school early, did she?

7 A Yes.

8 Q Okay. So she left her classroom unoccupied and left
9 with you. Is that what you're maintaining?

10 A It wasn't unoccupied, but yes she left with me.

11 Q Mr. Rubidoux, do you agree that there's nothing so
12 important that Ms. Rubidoux has to stop what she's doing as
13 far as her employment is concerned and leave the school
14 grounds with you, right?

15 A Say it again?

16 Q You agree there's nothing so important that Mr. --
17 that Ms. Rubidoux has to stop what she's doing for work and
18 leave the school grounds with you, is there?

19 A I think it's kind of -- there could be a lot of
20 different reasons for it and not for it.

21 Q But me ask you some questions for you, Mr. Rubidoux.
22 Riley wasn't in the hospital, was she?

23 A I don't recall.

24 Q On that day, she wasn't at the hospital?

1 A No, she wasn't at -- no, she couldn't be at the
2 hospital. She was at home with us --

3 Q Her parents haven't --

4 A -- with me.

5 Q -- passed away, right?

6 A Correct.

7 Q Nobody was in an accident.

8 A No.

9 Q Nobody was hospitalized.

10 A No.

11 Q You -- you concluded that whatever was going on was
12 important enough that Ms. Rubidoux had to stop what she was
13 doing and leave the school grounds with you.

14 A I don't agree with that nor do I remember --

15 Q I'm going to -- I'm going to circle back to this,
16 Mr. Rubidoux. You did go to her school during the school
17 hours and insist that she leave, right?

18 A I did not always insist that she leave. I don't
19 remember what the context of why I was there. What was the
20 date on it?

21 Q Mr. Rubidoux, you have -- as far as the school
22 window is concerned, you did pay restitution for what you did?

23 A Yes, I paid to replace it. Yes.

24 Q You've also been arrested for domestic violence,

1 correct?

2 A For the -- our domestic violence incident?

3 Q Yes.

4 A No.

5 Q No? You do have a guilty plea on your record for
6 domestic violence, right?

7 A I was -- believe I was told it was a -- it was a no
8 contest --

9 Q Sir.

10 A My lawyer said exactly no -- no contest.

11 Q I'd like you to turn to our exhibit. One moment.

12 MR. PAGE: I appreciate your patience, Your Honor.

13 Thank you.

14 Q Sir, could you go ahead and turn to Exhibit -- one
15 moment.

16 A 52?

17 Q 52. Is that the case entitled state of Nevada --
18 Nevada, excuse me, versus Daniel Rubidoux?

19 A Yes.

20 Q And the case number on this for the record is going
21 to be 19 M as in Mary 14063X. If you look at the upper third
22 of the page here, do you see the charge against you is
23 domestic battery?

24 A Yes.

1 Q Okay. And you see that on October 1, 2019 that the
2 plea by you was guilty ?

3 A Yes.

4 Q So you do agree that you have a guilty plea for
5 domestic battery here in Las Vegas.

6 A Yes.

7 Q Now as --

8 THE COURT: Mr. Page, I don't think you're reading
9 that correctly. Do you have the certified copy of his
10 conviction?

11 MR. PAGE: I don't, but we stipulated to its
12 admission.

13 THE COURT: Okay. But -- but adjudication deferred
14 means that this -- this case -- he wasn't convicted and it's
15 been dismissed.

16 MR. PAGE: I see here it says domestic battery
17 first, guilty.

18 THE COURT: Adjudication deferred the second thing.
19 He -- he was given conditions. He stays out of trouble it
20 gets dismissed. And the -- I think that your exhibit was also
21 stipulated to, Mr. Blackham?

22 MR. BLACKHAM: Yeah, it was.

23 THE COURT: Yeah, which shows that -- that it was
24 dismissed. He completed all his conditions.

1 BY MR. PAGE:

2 Q When you were in the courtroom in Justice Court, you
3 had to stand in front of a judge. Do you recall that?

4 A Yeah. Yes.

5 Q When you stood in front of the judge, you were asked
6 as to whether you knowingly and voluntarily entered into this
7 agreement, right?

8 A Yes.

9 Q Okay. As part of that, you were agreeing to the
10 charges that were being alleged to -- against to you in the
11 criminal complaint.

12 MR. BLACKHAM: I'm going to object to what agreement
13 is he referring to?

14 MR. PAGE: Well, he knows what agreement it is.

15 MR. BLACKHAM: There's no agreement here.

16 THE COURT: Well, yeah, because usually there's a --
17 a guilty plea agreement, but that -- and felonies at least. I
18 don't see 1-5 -- a guilty plea agreement here.

19 MR. BLACKHAM: This is a misdemeanor.

20 THE COURT: Yeah, I know.

21 MR. BLACKHAM: I'm sorry.

22 BY MR. PAGE:

23 Q When you see that, sir, you were -- when you were in
24 front of the Judge, they were by (indiscernible) pleading

1 guilty you are agreeing to the terms that are being alleged
2 against you in the complaint.

3 MR. BLACKHAM: Objection, assumes facts not in
4 evidence. He said he didn't plead guilty.

5 MR. PAGE: Well, I'm asking if he knows.

6 THE WITNESS: I didn't say guilty.

7 MR. PAGE: Don't -- please don't coach him.

8 THE COURT: Oh, Mr. Page, he already testified that
9 it was no contest and that's --

10 MR. BLACKHAM: Thank you.

11 THE COURT: -- what his attorney told him and --

12 MR. PAGE: Well, that would be hearsay.

13 THE COURT: -- you know -- you know that no contest
14 is -- is a different in what you can do with it in this case.

15 MR. PAGE: Right. But I -- if I said no contest, I
16 -- I misspoke. But --

17 THE COURT: No, he said that the plea was no
18 contest. That's what he just -- he testified to --

19 MR. PAGE: Okay.

20 THE COURT: -- at the beginning of this line of
21 questioning.

22 MR. PAGE: But you see where the disposition here is
23 a guilty plea.

24 THE COURT: Well, yeah, they have to find him guilty

1 and then they -- adjudication deferred. This is -- and the
2 statute in Nevada says that the -- this was in Justice Court.
3 The Deputy DA can't agree to dismiss this unless they're
4 convinced that there's a problem with the proof of it.
5 There's a very -- there's a specific statute on that that they
6 cannot just agree to dismiss these even with this deferred
7 adjudication if they -- unless they believe there's a proof
8 problem.

9 MR. PAGE: I'll -- I'm trying to track what I'm
10 saying here, Your Honor; however, it does say guilty. We all
11 agree with that, right?

12 MR. BLACKHAM: This paper says guilty.

13 MR. PAGE: But I want to make sure we're all on the
14 same page. It does say guilty, right?

15 MR. BLACKHAM: Your Honor, how many times are we
16 going to go over this? We -- we can all see what it says.

17 MR. PAGE: Okay.

18 BY MR. PAGE:

19 Q You're familiar with your pretrial memorandum,
20 right?

21 A Yes. I didn't memorize it, but yes.

22 Q Okay. On Page 6 of your pretrial memorandum, Line
23 12-and-a-half through 14 through 15 says although Daniel
24 concedes entering a plea with respect to the incident that

1 occurred in 2019 in order to avoid the expense of uncertainty
2 of a criminal trial.

3 A Do I agree that's in there or will you --

4 Q Yeah, that's on -- that's what you -- what your
5 Counsel wrote down for you --

6 A Okay.

7 Q -- on page 6, Lines -- basically 13 through 14.

8 A Okay. So all right. Is it -- am I supposed to --
9 do you have a question?

10 Q I'm sorry?

11 A Is there a question with that or --

12 Q No, I'm -- you -- you agree that's what your Counsel
13 wrote on your behalf, right?

14 A I -- I -- yeah. Yes.

15 MR. BLACKHAM: Your Honor, can we get a time check?
16 Just --

17 THE COURT: Yeah, it's -- it's 10 after, Mr. Page.
18 If you're at a good spot or if you have a couple more
19 questions of this issue --

20 MR. PAGE: I -- I think --

21 THE COURT: Tell me what --

22 MR. PAGE: -- that it's probably a good spot because
23 I think I'm done with this exhibit.

24 THE COURT: Okay.

1 MR. PAGE: So we can -- you know, this would be
2 probably a good time.

3 THE COURT: Okay. Perfect. And then --

4 MR. BLACKHAM: Thank you.

5 THE COURT: -- I will -- I looked again, Mr.
6 Blackham, at the exhibits.

7 MR. BLACKHAM: Yeah.

8 THE COURT: And what I -- I don't have a
9 year-to-date pay stub from this year or his 2020 W-2. So if
10 there's a dispute over his --

11 MR. BLACKHAM: Well --

12 THE COURT: -- gross income. I mean --

13 MR. BLACKHAM: -- I actually -- I disclose the 2020
14 W-2s later. And so I didn't include it in my exhibit book but
15 I have it with me. And I can certainly -- if you that --

16 THE COURT: Yeah, we can just supplement that when
17 we are next --

18 MR. BLACKHAM: Yes.

19 THE COURT: -- together.

20 MR. BLACKHAM: That's fine.

21 THE COURT: Because I didn't know if there was a
22 dispute until Mr. Page said -- or his client testified
23 something about what the pay stubs and W-2s are. So then I
24 got the clue that there might be a disagreement about his

1 gross monthly income.

2 MR. BLACKHAM: Yeah, I think -- Mr. Page I think can
3 -- can acknowledge that we received --

4 MR. PAGE: Yeah, I mean --

5 MR. BLACKHAM: -- the --

6 MR. PAGE: -- it's -- it's -- I mean, the paycheck
7 she used up -- it attached to his FDF show the net amount
8 which is problematic.

9 THE COURT: Right, it just shows the actual -- yeah,
10 the net amount. We need the -- obviously the --

11 MR. BLACKHAM: I'm saying that we --

12 THE COURT: -- his most recent year-to-date pay stub
13 for this year will help us and I'd like to see his 2020.

14 MR. BLACKHAM: That's fine.

15 THE COURT: Okay.

16 MR. PAGE: I'd like to thank your staff for the
17 cooperation in -- in allowing us to do the videos in the way
18 we did. This is all new ground for us. And I would -- I'm
19 really happy with how it ended up working out. It's -- it's
20 useful for future cases as well as this one.

21 MR. BLACKHAM: I concur.

22 THE COURT: You're welcome.

23 MR. BLACKHAM: Thank you.

24 THE COURT: Glad we can do that and it's nice to

1 have trials in person again.

2 MR. PAGE: Yes, it is.

3 THE COURT: I think we can go off the record now.

4 MR. BLACKHAM: Thanks.

5 THE COURT: Thank you. Thank you, sir.

6 MR. PAGE: Thank you for your time.

7 MR. BLACKHAM: Thank you.

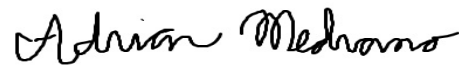
8 (PROCEEDINGS CONCLUDED AT 5:11:48)

9 * * * * *

10 ATTEST: I do hereby certify that I have truly and
11 correctly transcribed the digital proceedings in the above-
12 entitled case to the best of my ability.

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Adrian N. Medrano

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1 **TRANS**

FILED

NOV 29 2021

Adam A. Blum
CLERK OF COURT

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3 **COPY**

4
5 **EIGHTH JUDICIAL DISTRICT COURT**
6 **FAMILY DIVISION**
7 **CLARK COUNTY, NEVADA**

8
9 STEPHANIE RUBIDOUX,)
10 Plaintiff,)
11 vs.)
12 DANIEL RUBIDOUX,)
13 Defendant.)

CASE NO. D-20-601936-D

DEPT. U

(SEALED)

14
15 BEFORE THE HONORABLE DAWN R. THRONE
DISTRICT COURT JUDGE

16 TRANSCRIPT RE: NON-JURY TRIAL

17 FRIDAY, JUNE 25, 2021

18 **APPEARANCES:**

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I N D E X O F W I T N E S S E S

<u>PLAINTIFF'S</u> <u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR</u> <u>DIRE</u>
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DANIEL RUBIDOUX	48, 94	--	--	--	88
STEPHANIE RUBIDOUX (rebuttal)	98	108	113	--	102

DEFENDANT'S
WITNESSES:

STEPHANIE RUBIDOUX	119	124	--	--
DANIEL RUBIDOUX	126	250	--	--

* * * * *

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>
--	-----------------

58 - Calendar	102
59 - Calendar	14

DEFENDANT'S
EXHIBITS:

E - Google Maps	241
NN - 2020 W-2	77
OO - 2019 W-2	118

1 LAS VEGAS, NEVADA

FRIDAY, JUNE 25, 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 9:07:15)

6
7 THE CLERK: We are on the record, Your Honor.

8 THE COURT: Good morning. This is the time set for
9 case D-20-601936-D. If we can have Counsel make their
10 appearances.

11 MR. PAGE: Good morning. Fred Page, bar number
12 6080, on behalf of Plaintiff who is present with me.

13 MR. BLACKHAM: Good morning, Your Honor. Brian
14 Blackham, bar number 9974, on behalf of the Defendant Daniel
15 Rubidoux who is also present.

16 THE COURT: All right. First of all, the -- the
17 case is sealed. So what do you guys want to talk about as far
18 as people who are in the gallery?

19 MR. PAGE: NRS 125.080 states that except as
20 otherwise provided in subsection 3 upon such demand of either
21 party, all persons must be excluded from the court or chambers
22 ex -- wherein the action is tried except parents or guardians
23 of the parties. My client's mother is here.

24 MR. BLACKHAM: Your Honor, I -- I -- Your -- Your

1 Honor, I just -- I -- I wasn't going to dispute it. My
2 client's mom's here.

3 THE COURT: Okay.

4 MR. BLACKHAM: I just wanted to know what your Court
5 -- the Court's policy was.

6 THE COURT: I just want to make sure we have on the
7 record who's here and nobody objecting and then we'll move
8 forward with the housekeeping. So on my list, do we have any
9 other issues that happened resolved in the interim?

10 MR. PAGE: No.

11 MR. BLACKHAM: No, Your Honor.

12 THE COURT: Okay. I think we need to go over
13 exhibits and make sure we're all on the same page as what's
14 been admitted and what we're going to do. I think we got some
15 supplemental --

16 MR. BLACKHAM: Your -- yeah, and, Your Honor, before
17 -- before we do that, could I just address the supplemental?
18 I think maybe --

19 THE COURT: Okay. That --

20 MR. BLACKHAM: -- that -- but if Your Honor --

21 THE COURT: You want to do it first?

22 MR. BLACKHAM: -- is inclined to do otherwise. But
23 so Mr. Page did serve some additional disclosures on my
24 office. I know that we had stipulated to Mom being able to

1 provide some documents that she said refutes the calendar, the
2 cust -- custodial calendar that my client had provided that
3 was admitted into evidence. But then there were additional
4 disclosures made too that were unrelated to that. What I want
5 to make sure -- and I -- so there were things that I thought I
6 had disclosed that I hadn't. And there basically -- the most
7 important thing is a couple of photos that I believe are
8 relevant to this case that my client took. So he can
9 certainly authenticate them and that they're relevant to the
10 case. It's -- I offered to -- to stipulate with Mr. Page to
11 admit both of those things. He -- he declined because
12 discovery is closed.

13 And so yeah, I would say, Your Honor, at -- at a
14 minimum that it be allowed as demonstrative evidence. You'll
15 recall at the last hearing Mr. Page presented two actual items
16 that I had not ever seen before. It was -- one was a shirt
17 and one was a -- a phone. And -- and that was allowed to be
18 used for those purposes. This -- and this was just an
19 oversight on my part, but I think that the -- you know, the --
20 in the interest of the probative value exceeds any unfair
21 prejudice and the Court and Counsel can certainly canvass my
22 client concerning the authenticity. It's mainly just photos
23 that -- that I'm interested in getting admitted.

24 THE COURT: Okay. Let's start with where we are on

1 the supplemental exhibits as far as we got to make sure
2 they're properly identified because you did admit, Mr. Page --
3 55 is the t-shirt. 56 is the cell phone.

4 MR. BLACKHAM: Right.

5 THE COURT: So if we're dealing with -- I have I
6 think four -- one, two, three, four -- five -- and we got how
7 many supplemental exhibits? You marked them 50 -- starting
8 with 54.

9 MR. PAGE: Yeah, my -- my staff didn't know about
10 the --

11 THE COURT: No, that's fine. And I'm not picking on
12 you. I'm just saying let's --

13 MR. PAGE: Well --

14 THE COURT: -- get -- make sure we're on the same
15 page. Identifying them, please. So 54, I see, is more those
16 text messages in the format we've previously seen. Are these
17 new, are these -- well, first let's identify them. So they're
18 going to be number -- what --

19 THE CLERK: 57, Your Honor.

20 THE COURT: 57 would be your next in order. So this
21 one will be Plaintiff's Proposed 57. Is this -- are these
22 duplicate of what's already been there? My understanding is
23 she used the extraction --

24 MR. PAGE: Actually, there -- there are more

1 duplicate -- duplicative of Exhibit 28 which Your Honor
2 couldn't read our last time.

3 THE COURT: Oh, okay.

4 MR. PAGE: And, again, I'm -- I'm limited in my
5 capacity to oversee what my staff is doing. She should have
6 put it in at 28. She put it in as 54. It's an error. I
7 apologize.

8 THE COURT: Oh, okay.

9 MR. BLACKHAM: It --

10 THE COURT: It's fine.

11 MR. BLACKHAM: I --

12 THE COURT: But it's just -- this is a -- a readable
13 -- because I -- I thought she used extraction software so it's
14 -- it would have gotten them all. But you're right. There
15 was one that wasn't readable. So are you --

16 MR. BLACKHAM: I -- I can't read what was
17 supplemented to me, the -- the -- at least not -- not all
18 them. So it's --

19 MR. PAGE: Here, look at mine.

20 THE COURT: Well, 54, the --

21 MR. BLACKHAM: Yeah.

22 THE COURT: It looks a lot better than --

23 MR. PAGE: It's readable.

24 THE COURT: -- some of the ones we had before.

1 MR. BLACKHAM: Yeah.

2 THE COURT: I think that was just a printing issue.

3 MR. BLACKHAM: Yeah.

4 MR. PAGE: It is -- color printers are pretty good
5 but they're not perfect yet.

6 THE COURT: Yeah, no. These are -- these are good
7 though. I mean, I can read them at least. That's all. I'm
8 scanning through them.

9 MR. BLACKHAM: Thank you, Fred.

10 THE COURT: So are we stipulating to this one --

11 MR. BLACKHAM: Well --

12 THE COURT: -- or does he need to --

13 MR. BLACKHAM: -- I -- I mean, I -- I'm not going to
14 stipulate to that because that was the -- I opposed it at the
15 -- at the hearing. Again, if we can stipulate to both
16 supplemental sides --

17 MR. PAGE: No.

18 MR. BLACKHAM: -- coming in, that's fine. But what
19 I was clear on is that the calendar documents she can
20 substantiate that. So, again -- again, so I -- I'm -- I'm not
21 going to stipulate to them coming in but --

22 THE COURT: So we have --

23 MR. BLACKHAM: -- obviously, it's Your Honor's
24 discretion.

1 THE COURT: -- identified 54 -- it's going to be 57
2 THE CLERK: Your Honor --
3 THE COURT: And -- yes?
4 THE CLERK: -- I apologize. As far as 28, it has
5 not been admitted. There was an objection --
6 MR. BLACKHAM: Yeah.
7 THE CLERK: -- on May 14th, 2021.
8 MR. BLACKHAM: Right.
9 MR. PAGE: It was -- the objection was legibility.
10 THE COURT: Right.
11 MR. PAGE: We've corrected that defect, we believe.
12 And so therefore really 50 did that which in the book is 54
13 should be 28.
14 MR. BLACKHAM: Your Honor, we -- we've already -- I
15 don't recall the Court giving him leave to provide legible
16 copies at the time of trial. So again --
17 MR. PAGE: It wasn't --
18 MR. BLACKHAM: -- if he's --
19 MR. PAGE: -- denied either.
20 MR. BLACKHAM: -- if he's willing -- if he's -- if
21 Mr. Page is willing -- and -- and the copy that I got is not
22 legible. So --
23 MR. PAGE: I just want --
24 MR. BLACKHAM: -- again, with the understanding --

1 MR. PAGE: -- to --

2 MR. BLACKHAM: I know that, but I haven't had a
3 chance to review it. And so I -- again, if -- if -- I have no
4 issue with it as long as both sides are going to be treated
5 the same as far as our late disclosures. But the reality is
6 that I -- again, I have the same objection and I don't think
7 that Mr. Page is given the ability to cure it. The only thing
8 he was allowed to cure was Mom's allegations that -- that she
9 had evidence to disprove Dad's calendar.

10 MR. PAGE: I'm going to ask Counsel not to
11 misrepresent our -- it wasn't a late disclosure. It was
12 timely disclosed during discovery. The issue was that the
13 document provided as an exhibit in court was not legible.
14 We've done our best efforts to correct that deficiency so it's
15 not a late supplement. It is a -- it's not -- it's the same
16 document we had before; it was produced in discovery. It's
17 simply a clearer copy.

18 THE COURT: Okay. So just -- we're identifying it
19 as Proposed 57 and we'll -- we'll deal with it. It's not
20 stipulated to. Okay. So we'll deal with that when we get to
21 it being offered. So

22 MR. BLACKHAM: I'm sorry, 57 though is the -- is the
23 calendar documents, no? Or is that -- or those the --

24 THE COURT: No, we are --

1 MR. BLACKHAM: -- clarified text?
2 THE COURT: I'm clarifying the numbers.
3 MR. BLACKHAM: Yeah, and I -- I thought 57 -- and --
4 and 157 --
5 THE COURT: So --
6 MR. BLACKHAM: 57 is a clarified text. Got it.
7 THE COURT: Okay. 50 --
8 MR. BLACKHAM: Which I still can't read.
9 THE COURT: That'll be Proposed 57. It's not
10 stipulated.
11 MR. BLACKHAM: Okay.
12 THE COURT: The next one -- the one you have marked
13 as 55 will be Proposed 58.
14 MR. PAGE: That was my client's rebuttal that you
15 gave us leave to allow her to do so since they had her on the
16 stand they were trying to make her prove a negative in the
17 middle of court to which I objected. And you kindly allowed
18 my client to provide some substantiation as to why she
19 believes Mr. Rubidoux's calendar is incorrect.
20 MR. BLACKHAM: And Your Honor, I would just point
21 out that Your Honor said you were most interested in the -- in
22 post March of 2020 as opposed to the pre-March. And I would
23 just offer that what would -- what's being addressed is the
24 period of time that Your Honor said you were least interested

1 in. And so I'm not sure that the probative value outweighs
2 the unfair prejudice. There was no understanding that they
3 were admittedly going to come in as evidence but certainly Mom
4 can disclose them and then we can argue them on the merits
5 once we saw that they're admissible. So --

6 MR. PAGE: And --

7 MR. BLACKHAM: -- again, I'm willing to work -- you
8 know, as long as we're dealing at arm's length, I'm willing
9 to --

10 THE COURT: Okay. So that's going to be identified
11 as Plaintiff's Proposed 58. It's not stipulated to. So then
12 the next one which you marked as 56, right?

13 MR. PAGE: It should be 59.

14 THE COURT: All right.

15 MR. BLACKHAM: And I can't read that either.

16 THE COURT: Okay.

17 MR. PAGE: This particular exhibit is a summary
18 calendar supported by the underlying exhibits. It goes from
19 November through March because that is what Your Honor allowed
20 us to do.

21 MR. BLACKHAM: That's not what I have Fred --
22 there's no -- there's no calendar --

23 MR. PAGE: You're looking at the wrong one.

24 MR. BLACKHAM: You said 59, no?

1 MR. PAGE: It's 56, but it's actually 59 in the --
2 THE COURT: 59.
3 MR. PAGE: -- initial record.
4 THE COURT: And he's correct.
5 MR. BLACKHAM: Okay. That's where I heard him --
6 THE COURT: Okay.
7 MR. PAGE: This --
8 THE COURT: So --
9 MR. PAGE: This one goes from November through
10 March. The reason why it cuts off in March is because that is
11 when Judge Henderson issued his orders that Mom has primary
12 physical custody. So it didn't make any sense to do a
13 calendar for that since they're actually following the order.
14 THE COURT: Okay. All right. So that is
15 Plaintiff's Proposed 59. And -- right? Am I on the right
16 number?
17 THE CLERK: Yeah.
18 THE COURT: Okay. Tell me if I'm on the wrong --
19 59, is that stipulated to or not?
20 MR. BLACKHAM: Proposed 59 is 56 in the book. I --
21 I don't have an issue with the -- with -- I'm not going to
22 stipulate to the accuracy of it, but I have no issue with it
23 coming in --
24 THE COURT: Coming --

1 MR. BLACKHAM: -- as evidence.

2 THE COURT: -- into evidence. That's Mom --
3 Plaintiff's Demonstrative Exhibit 59 is admitted by
4 stipulation.

5 (PLAINTIFF'S EXHIBIT 59 ADMITTED)

6 THE CLERK: Thank you, Your Honor.

7 THE COURT: And then --

8 MR. BLACKHAM: And I'm sorry, Fred, 57 for the
9 official record is what in this binder?

10 MR. PAGE: 60. Everything's plus three.

11 THE COURT: Okay.

12 MR. PAGE: And 50 -- 58 is -- is this minus three?

13 THE COURT: Wait, I'm on -- I'm still on what's
14 marked as 57 which is -- seems to be an excerpt of text
15 messages just from November of 2019.

16 MR. BLACKHAM: 57 -- right. So but that -- okay.
17 So --

18 THE COURT: Page 2150.

19 MR. BLACKHAM: Thank you. That helps.

20 THE COURT: That's going to be -- so that's going to
21 be for Plaintiff's Proposed 60. That's 2150.

22 MR. BLACKHAM: Okay.

23 THE COURT: And then we'll see if you --

24 MR. BLACKHAM: So that's --

1 THE COURT: -- stipulate to that.

2 MR. BLACKHAM: -- 57 in here. Okay. I'm just -- I
3 -- I need to just mark this up because it's confusing because
4 of the book --

5 THE COURT: Right.

6 MR. BLACKHAM: -- that I have and I'm not sure if
7 there's -- so 57 is actually Proposed 60. It's 57 in the book
8 and that is text messages that we need -- that they're going
9 to argue about. 58 is in the book, what, Fred?

10 MR. PAGE: It's plus 3; 61.

11 MR. BLACKHAM: Is there a 6 -- okay 61. And then 59
12 is 62?

13 MR. PAGE: Yes.

14 MR. BLACKHAM: Okay. Well, actually -- okay, but
15 Your Honor is calling it 59. And so I thought that would
16 correspond to a different number in the book. I don't have 61
17 in the book. So I don't know that we're going in the right
18 direction here.

19 THE COURT: Okay. Hold on here.

20 MR. PAGE: 58 is 61. 59 is 62.

21 MR. BLACKHAM: Right, but Your Honor didn't call it
22 61. She called it -- we only got up to 60. That's --

23 THE COURT: Yeah.

24 MR. BLACKHAM: That's --

1 THE COURT: That would be it. So you guys are going
2 faster than me.

3 MR. BLACKHAM: All right. And when we're done, can
4 we just recap --

5 THE COURT: Yeah.

6 MR. BLACKHAM: -- the -- the numbers and their
7 corresponding numbers in the exhibit books so that we know
8 we're --

9 THE COURT: Yes.

10 MR. BLACKHAM: -- talking about the same things?

11 THE COURT: Okay.

12 MR. BLACKHAM: Because that's what's -- that's
13 what's the problem here.

14 THE COURT: Okay. 60. Okay. So that one page of
15 text messages that we've renumbered to 60 which is Bates Stamp
16 2150.

17 MR. BLACKHAM: Got it.

18 THE COURT: Is that stipulated to?

19 MR. BLACKHAM: No, I can't --

20 THE COURT: Okay.

21 MR. BLACKHAM: -- read it.

22 THE COURT: Okay. Then the next one, what do we --
23 58 will be renumbered to 61.

24 MR. BLACKHAM: Okay.

1 THE COURT: It says it's more text messages.
2 MR. BLACKHAM: Same thing, can't read it.
3 THE COURT: Okay. Okay. 61. All right. So then
4 the one that is labeled 59 will be 62, right?
5 MR. PAGE: Yes.
6 THE COURT: And that is more text messages. So I
7 assume --
8 MR. BLACKHAM: Okay.
9 THE COURT: -- you're not stipulating --
10 MR. BLACKHAM: So -- so my objection to -- just to
11 recap on the one prior to that, it is legible, but I just have
12 the same objection that I had in -- at the time of the
13 hearing. So I'm not going to stipulate to that. 60 -- pardon
14 me, the -- the one that we're calling 63; is that -- is that
15 where we are now?
16 THE COURT: Yeah.
17 MR. PAGE: We're far on --
18 MR. BLACKHAM: Okay.
19 MR. PAGE: If --
20 MR. BLACKHAM: So I have --
21 MR. PAGE: To back up briefly, it was 62. That has
22 to provide correct substantiation for the calendar that Mom
23 attached.
24 MR. BLACKHAM: Oh, then -- then stipulated.

1 THE COURT: Which one?

2 MR. BLACKHAM: 62 is stipulated.

3 THE COURT: With Bate labels 2152 to 2172?

4 MR. BLACKHAM: No. No. No. That's -- then -- then

5 that's where -- that's what the confusion is. I'm -- I'm

6 talking about 50 -- 2151 is what I'm talking about. If that's

7 -- if that's for the purposes of the calendar --

8 MR. PAGE: 2152 which is Exhibit 59 --

9 MR. BLACKHAM: Yeah, I can't read that.

10 MR. PAGE: -- which is Exhibit 62. Yes or no?

11 MR. BLACKHAM: No. Again, I can read what you've

12 got here as 58. I cannot read what you've got here is 59.

13 MR. PAGE: I can --

14 THE COURT: Okay. Is the renumber -- okay. So 59

15 -- 59 you say you can't read. Okay. So you're not -- that's

16 been renumbered to 62 and you're not stipulating that. And

17 then we have one more that's labeled 60 will be 63 which is

18 more text messages. And you're not stipulating to that.

19 MR. BLACKHAM: No, I can't read that either.

20 THE COURT: Okay.

21 MR. BLACKHAM: 2173 to 2174.

22 THE COURT: Okay. So then now with the re-labeling,

23 we can go back and look at the -- what we have admitted so far

24 so everybody's on the same page of what they need to still try

1 to get into today if they want which is --

2 MR. BLACKHAM: Could -- could we go over my -- my
3 supplemental proposed exhibits?

4 THE COURT: Okay. I haven't seen those.

5 MR. PAGE: I -- I think they need to come during the
6 middle of trial because they're -- quite frankly they're --
7 they're after -- they're well after the close of discovery.
8 They're brand new exhibits. They've never provided this
9 pursuant to court order. They've never provided it during
10 discovery. They provided it yesterday at 5:44 p.m.

11 MR. BLACKHAM: Right.

12 MR. PAGE: And they want to admit it. They have
13 more than enough time in a year plus that this case has been
14 pending to produce these exhibits. The Court's order said
15 that this would -- discovery closed at -- on April 30th. It's
16 not a domes -- they're not demonstrative exhibits. They're
17 photographs. That is not a demonstrative exhibit. If we look
18 at NRCP 16.2, if they want to try to bring this in for
19 rebuttal purposes, then has to be disclosed at least 45 days
20 prior to trial. They didn't do so. It is un --

21 THE COURT: Okay.

22 MR. PAGE: -- unduly prejudicial.

23 THE COURT: Mr. Page, we're not there yet because I
24 don't even have his proposed --

1 MR. PAGE: I know .
2 THE COURT: -- supplemental exhibits. We don't have
3 them --
4 MR. BLACKHAM: So --
5 THE COURT: -- uploaded --
6 MR. BLACKHAM: -- Your -- Your Honor --
7 THE COURT: -- electronically or if you've brought
8 them today.
9 MR. BLACKHAM: Mr. Page -- yeah, I did. I have them
10 here. So --
11 THE COURT: Because we have --
12 MR. BLACKHAM: -- they're not pre-marked --
13 THE COURT: -- to identify them.
14 MR. BLACKHAM: -- but they were just -- yeah, they
15 -- they would just continue in the same -- from the same --
16 and I can tell you when I look at the exhibit, but --
17 THE CLERK: I apologize, I thought that you were
18 referring to the previous ones. We don't have any supplements
19 uploaded. But I am trying to wake them up, but if you have
20 them here as --
21 MR. BLACKHAM: Yeah, and I -- I have hard copies. I
22 didn't know what Your Honor's position was going to be and so
23 I didn't want to submit -- I didn't want to --
24 THE COURT: No, that's fine.

1 MR. BLACKHAM: -- confuse matters by sending
2 (indiscernible).

3 THE COURT: Okay. So how many more do you have?

4 MR. BLACKHAM: So -- and, again, and I -- I may not
5 need to admit all of them, Your Honor, but it's -- but what
6 I've got is I believe -- so it -- it goes from 917 to -- to
7 929.

8 THE COURT: Are we identifying that as one exhibit
9 or --

10 MR. BLACKHAM: Actually, it would be -- it would
11 actually be -- they would all be separate exhibits.

12 THE COURT: Okay. So --

13 MR. BLACKHAM: Because they're different --

14 THE COURT: -- here -- next in order is Double F?

15 THE CLERK: Next --

16 THE COURT: That one I have --

17 THE CLERK: -- in order is -- yes, Your Honor.

18 THE COURT: Okay. So we have double F. And so
19 forth just so we can identify them and make sure everybody's
20 got a copy. It doesn't mean -- nothing's being admitted at
21 this minute.

22 MR. BLACKHAM: Oh, I was just giving you a copy of
23 what we're talking about.

24 MR. PAGE: I --

1 MR. BLACKHAM: You handed me --
2 MR. PAGE: Counsel, I'm not --
3 MR. BLACKHAM: -- the binder.
4 MR. PAGE: I am -- I'm not going to do a trial where
5 you're handing me stuff for the first time on the day of
6 court.
7 MR. BLACKHAM: Okay. So you don't want a copy.
8 MR. PAGE: It shouldn't be -- it shouldn't --
9 MR. BLACKHAM: Okay.
10 MR. PAGE: -- even be raised. You shouldn't have
11 produced to me --
12 MR. BLACKHAM: We're still --
13 MR. PAGE: -- at 5:44 --
14 MR. BLACKHAM: -- marking them.
15 MR. PAGE: -- yesterday.
16 MR. BLACKHAM: So double -- double F and then double
17 G, double H, double I, double J. And you know what Madam
18 Clerk, I can make things easier for you. If you want to pull
19 out 924 to 928 we don't need to deal with those. I'm not
20 going to get those submitted.
21 THE COURT: Okay. Do we have Defendant's proposed
22 supplemental exhibits? We have to identify them Mr. Page for
23 the record to properly --
24 MR. BLACKHAM: Right.

1 THE COURT: -- rule on that so we have a complete
2 record if this goes to Appellate Court as to what was offered,
3 what was admitted, why it was not admitted. You have to make
4 all that. So we got to identify everything first to make sure
5 we're talking about the same documents, so --

6 THE CLERK: And then for clarification, Mr.
7 Blackham --

8 MR. BLACKHAM: Yes?

9 THE CLERK: -- 917 will be FF.

10 MR. BLACKHAM: Yeah.

11 THE CLERK: And then 918 will be GG.

12 MR. BLACKHAM: Yes.

13 THE CLERK: And then 919 will be HH.

14 MR. BLACKHAM: Yes.

15 THE CLERK: And then 920 will be II.

16 MR. BLACKHAM: Yes.

17 THE CLERK: And 921 will be JJ.

18 MR. BLACKHAM: Uh-huh.

19 THE CLERK: 922 will be KK.

20 MR. BLACKHAM: Correct.

21 THE CLERK: And 923 will be LL.

22 MR. BLACKHAM: Yes.

23 THE CLERK: And that's it.

24 MR. BLACKHAM: I -- it -- the -- there was another

1 one that was a letter that I -- I -- there was -- so there was
2 MM as well.

3 THE CLERK: Okay. So that will -- that is Bates
4 Stamp 929?

5 MR. BLACKHAM: Yes.

6 THE CLERK: Okay. Thank you.

7 MR. BLACKHAM: Sure.

8 THE COURT: Okay. So we got everything identified.
9 And not -- there's nothing -- so -- so then going back I'm
10 looking at the exhibits that were admitted on the 14th.

11 MR. BLACKHAM: Okay.

12 THE COURT: Start with -- start with Plaintiff's.
13 and we had admitted -- let's see. 1 through 30 of Plaintiff's
14 have been admitted. Not 31. Been 32 through --

15 THE CLERK: Your Honor, I apologize.

16 MR. BLACKHAM: Yeah, this -- 28 --

17 THE CLERK: 28 --

18 MR. BLACKHAM: 28 was not.

19 THE CLERK: -- that has not been admitted.

20 THE COURT: Oh, I then skipped one. Okay. Okay.
21 So 28 is not admitted.

22 MR. BLACKHAM: Yeah.

23 THE COURT: And then 31 was not admitted.

24 THE CLERK: I have 31 as admitted, Your Honor.

1 There was no objection.

2 THE COURT: Oh, is that what that means? I'm
3 looking at the wrong column then. Okay.

4 THE CLERK: Sorry, Your Honor.

5 MR. BLACKHAM: I -- I agree with that.

6 THE COURT: Okay. 31 is admitted.

7 MR. BLACKHAM: And just to clarify, these -- these
8 stipulations are not to the characterization of the documents.
9 For example, 31 says photographs of property destruction by
10 Defendant. I'm -- I'm not agreeing that that's accurate. I'm
11 not opposing the document coming in. And we made that
12 clarification on the record last time. I just want to make
13 sure I said it again.

14 MR. PAGE: Okay. If everyone will recall, Mr.
15 Rubidoux testified on his direct that he did the damage.

16 MR. BLACKHAM: No, that's not what he --

17 MR. PAGE: That's --

18 MR. BLACKHAM: -- actually said.

19 MR. PAGE: That's what he testified. I watched the
20 video.

21 MR. BLACKHAM: That's not true. He said --

22 MR. PAGE: That is --

23 MR. BLACKHAM: -- that he has --

24 MR. PAGE: -- what he --

1 MR. BLACKHAM: -- broke --
2 MR. PAGE: -- testified to, Counsel.
3 MR. BLACKHAM: No, Coun --
4 THE COURT: Okay.
5 MR. BLACKHAM: Your Honor, he testified that he has
6 done damage in the house. Okay. He did not say he did the
7 damage that was shown to him.
8 THE COURT: Okay. All right. We don't need to --
9 to have debates about that right this minute.
10 MR. BLACKHAM: Okay. It's misrepresentations on --
11 about the record.
12 MR. PAGE: No, that is the record.
13 MR. BLACKHAM: Undisputed.
14 MR. PAGE: He admitted --
15 THE COURT: Okay.
16 MR. PAGE: -- that he did the property damage.
17 THE COURT: If we need to take a break, I can take a
18 break.
19 MR. BLACKHAM: No, Your Honor. I'm sorry.
20 THE COURT: All right. So 47 was not admitted or
21 was?
22 THE CLERK: 47 --
23 THE COURT: Maybe I should just --
24 MR. BLACKHAM: Was not -- 40 -- I don't -- hang on.

1 THE COURT: Maybe I should --
2 MR. PAGE: We -- we did --
3 THE COURT: -- just shut up and let you tell me.
4 MR. PAGE: We did play the video or the audio. I'm
5 not sure why it's not in.
6 THE CLERK: 47 was admitted. There --
7 THE COURT: Okay.
8 THE CLERK: -- was an objection.
9 THE COURT: Okay. That's what that means.
10 MR. BLACKHAM: Okay.
11 THE COURT: All right.
12 THE CLERK: Yeah.
13 MR. BLACKHAM: Yeah, I'm -- I --
14 THE COURT: I'm just --
15 MR. BLACKHAM: -- wasn't clear on --
16 THE COURT: -- reading it but not -- not correctly.
17 Okay. So then we've got 48 through 54 was all admitted by
18 stipulation, right?
19 THE CLERK: Yeah.
20 THE COURT: And then 55 is the t-shirt and 56, cell
21 phone. Those were admitted over objection.
22 THE CLERK: Correct.
23 THE COURT: And then only one of the sup --
24 Plaintiff's supplements has been admitted by stipulation so

1 far today. That's 59, I think?

2 THE CLERK: Which is Proposed 56. Yes, Your Honor.

3 THE COURT: Okay. So that takes care of what we've
4 got for Plaintiff. And then Defendant's --

5 MR. BLACKHAM: Okay. I'm -- I'm sorry. We've got
6 propo -- on the list that the Clerk gave me -- and I -- I
7 really apologize, I'm just trying to make sure that we're on
8 the same page here, it says 56 was the cell phone.

9 THE COURT: Yeah.

10 MR. BLACKHAM: Right? Okay. So -- so that wouldn't
11 be Proposed 56. Right. So the next one --

12 THE COURT: Yeah.

13 MR. BLACKHAM: -- is 57 which we were calling 60 for
14 some reason and that's why I'm getting confused.

15 MR. PAGE: Well, you know why we're calling it 60 is
16 because everything's plus three.

17 MR. BLACKHAM: Yeah, but so --

18 MR. PAGE: Because --

19 MR. BLACKHAM: -- why isn't it --

20 MR. PAGE: Because the demonstrative exhibits which
21 are actually things like a shirt or a cell phone which we gave
22 to the Court Clerk so it's part of the record and my client
23 realizes she may not get it back but that would be why we're
24 starting it off three plus because my staff --

1 MR. BLACKHAM: Okay.

2 MR. PAGE: -- wasn't aware of the two demonstrative
3 exhibits that were admitted.

4 MR. BLACKHAM: Okay.

5 MR. PAGE: So that's why they were --

6 MR. BLACKHAM: Fair.

7 MR. PAGE: -- labeled as they are.

8 MR. BLACKHAM: So -- so the next -- so the next four
9 are 60, 61, 62, and 63. Those are the proposed exhibit
10 numbers that the Court has, yes?

11 THE COURT: No. Right? No, we're picking up with
12 57.

13 MR. BLACKHAM: Okay. That's --

14 THE COURT: 50 --

15 THE CLERK: So their supplemental proposed 54 is now
16 marked as 57. Their pro -- their marked 55 in the supplement
17 is now proposed 58.

18 MR. BLACKHAM: I got it now. Thank you.

19 THE CLERK: Yeah.

20 THE COURT: And the only one of those today's
21 proposed Plaintiff's exhibits that were admitted was the newly
22 marked 59, right?

23 THE CLERK: Correct, Your Honor. Which is the
24 proposed 56.

1 THE COURT: Yeah, that calendar has been admitted by
2 stipulation. Okay. So that takes care all of Plaintiff's, so
3 Plaintiff knows what's still not admitted. All right. And
4 then on -- you want to tell them what the Defendant's have
5 been admitted so I don't mess it up more?

6 THE CLERK: Yes, Your Honor. As far as Defendant's
7 exhibits, A through D have been admitted, E has not been
8 offered, has not been admitted. Exhibits F through O have
9 been admitted. Exhibits R through DD have been admitted. And
10 that's it. And for clarification as to Exhibit B, there was
11 an objection on that one but it was admitted. All the other
12 exhibits for Defendant were admitted by stipulation.

13 THE COURT: Okay. All right. Then we know what --
14 where we stand, what's been admitted and what's not been
15 admitted. And we have all the proposed exhibits marked.
16 Okay. All right. So that takes care of that. The one thing
17 I wanted to go over because I reviewed all my notes and some
18 of the hearing take and I wanted to go over what has ben
19 stipulated to regarding the community property and debts. I
20 have that you guys did stipulate to each parties keeping their
21 own credit card debts as their sole and separate debts, that
22 Plaintiff's PERS will be divided pursuant to Gemma Fondi, that
23 husband's Fidelity account is community property and that on
24 the T. Rowe Price we were going to be supplied numbers but

1 there's a separate property portion and a community property
2 portion of -- of Plaintiff's T. Rowe Price.

3 MR. PAGE: Right.

4 THE COURT: And then I think there was a stipulation
5 in the middle of the trial regarding that Navy Federal Credit
6 Union --

7 MR. PAGE: Correct.

8 THE COURT: -- debt, right?

9 MR. PAGE: Yes.

10 THE COURT: And that's going to be the Defendant's
11 debt, right?

12 MR. BLACKHAM: Correct.

13 THE COURT: Okay. I just want to make sure --

14 MR. BLACKHAM: And Your Honor --

15 THE COURT: Yes?

16 MR. BLACKHAM: -- you recall that the -- was there
17 anything more on your list? I'm sorry.

18 THE COURT: That's -- that's all I had on my list.
19 So I wanted to --

20 MR. BLACKHAM: Okay.

21 THE COURT: -- clarify what -- what else they need
22 me to decide on assets and debts.

23 MR. BLACKHAM: And --

24 THE COURT: Obviously, the custody issues are the

1 most important, but --

2 MR. BLACKHAM: Sure.

3 THE COURT: -- I'm trying to get them divorced too.

4 MR. PAGE: The -- the issue on the -- the cars that
5 the Mercury Mariner that she has is her separate property.

6 That was acquired prior to marriage --

7 MR. BLACKHAM: There's no argument about that.

8 MR. PAGE: -- that was on the record as well.

9 MR. BLACKHAM: Yeah, there's no argument.

10 THE COURT: Okay. So --

11 MR. BLACKHAM: The -- the car as well, yeah.

12 THE COURT: The --

13 MR. BLACKHAM: But that's --

14 THE COURT: -- Mariner --

15 MR. PAGE: I don't exactly recall whether we had a
16 -- a stipulation regarding the bank accounts.

17 THE COURT: That I don't have a note on. So I
18 wanted to make sure you guys tell me what you have. What's --
19 maybe what's in dispute still on -- as of that's -- with that
20 Navy Federal Credit Union stipulated to being Defendant --
21 Mariner is her sole and separate property.

22 MR. BLACKHAM: We -- we'll stipulate to everybody
23 keeping their own bank accounts with the understanding that
24 there's an escrow account that has proceeds from the marital

1 residence that obviously are in dispute.

2 THE COURT: Okay. All right. So let me write that
3 down then. That's -- that -- is that the only property issue
4 really in dispute?

5 MR. PAGE: Probably yes. Also his vehicle.

6 MR. BLACKHAM: Right.

7 MR. PAGE: His vehicle.

8 MR. BLACKHAM: They both get their own --

9 MR. PAGE: Because he did have a Ford truck that he
10 traded in during the pendency of the case and then --

11 THE COURT: Right, the \$12,000 he got for --

12 (COUNSEL AND CLIENT CONFER BRIEFLY)

13 MR. PAGE: the -- the \$20,000 truck he sold for 12.

14 THE COURT: Yeah.

15 MR. BLACKHAM: Ford Fusion. All right.

16 THE COURT: Okay.

17 MR. BLACKHAM: So the Ford Fusion will be awarded to
18 -- to Daniel sole and separate property.

19 MR. PAGE: No, we don't have that agreement.

20 MR. BLACKHAM: I thought you just said that.

21 MR. PAGE: If there's equity there, it needs to be
22 divided. We also have the issue of his selling the vehicle
23 for something less than its fair market value.

24 THE COURT: Okay. So I'm hearing really two -- two

1 issues, one being -- related issues. One is how to divide the
2 escrow funds from the sale of the house and two was the -- and
3 that's what she's claiming as the sole and separate property
4 on the -- on the funds, right?

5 MR. BLACKHAM: Right.

6 MR. PAGE: Yes.

7 THE COURT: Okay. And then the truck he sold and
8 then -- and then the Ford Fusion he got after that, right?

9 MR. PAGE: Yes.

10 THE COURT: Okay. I see those two as related on --
11 on husband's vehicle and the escrow. So those are the only
12 assets and debt issues in dispute now?

13 MR. BLACKHAM: Yeah, Your Honor. I don't know how
14 the car issue's going to be resolved if we don't have a
15 valuation of it. It's -- it doesn't --

16 THE COURT: Well, at a minimum I'm putting 12,000 in
17 his column for what he got for the truck he sold. I mean,
18 that's the minimum that goes in his column there.

19 MR. BLACKHAM: Okay. But --

20 THE COURT: She gets the credit for that, right?

21 MR. PAGE: Yes.

22 MR. BLACKHAM: I -- I don't necessary agree with
23 that, because if it -- if he needed another -- if he needed a
24 different car and he purchased a car that -- that has

1 diminished in value, I don't think he gets a \$12,000 --
2 THE COURT: Okay.
3 MR. BLACKHAM: -- you know --
4 MR. PAGE: He -- he doesn't get --
5 MR. BLACKHAM: -- ding.
6 MR. PAGE: -- to take 12,000 from the community and
7 make it disappear.
8 MR. BLACKHAM: It's -- Your Honor, the JPI allows
9 you to get necessities. A vehicle is a necessity.
10 MR. PAGE: It's not an ordinary course of business.
11 MR. BLACKHAM: It does -- doesn't --
12 MR. PAGE: He -- he has provided no evidence --
13 THE COURT: Okay. We don't have to arg --
14 MR. PAGE: -- that the truck needed to be sold.
15 THE COURT: We don't have to argue about that right
16 now. I'm just trying to ascertain what's still in dispute and
17 make sure I have that --
18 MR. BLACKHAM: Oh, yes.
19 THE COURT: -- so I can make a decision on those
20 dispute --
21 MR. BLACKHAM: Okay.
22 THE COURT: -- two disputed issues there. So we
23 don't have exact numbers though to plug in on what's the
24 separate property portion of her T. Rowe Price versus the

1 community --

2 MR. BLACKHAM: No --

3 THE COURT: -- property --

4 MR. BLACKHAM: -- that was going to be addressed at

5 the time that the QDRO is entered --

6 MR. PAGE: It's --

7 MR. BLACKHAM: -- through --

8 THE COURT: Okay.

9 MR. PAGE: Yeah, it's really a QDRO issue.

10 THE COURT: And did --

11 MR. BLACKHAM: But --

12 THE COURT: -- you guys have a stipulation on who's

13 doing the QDROs and how they're being paid or do we need to

14 decide that?

15 MR. PAGE: Mr. Blackham suggested Shann Winesett. I

16 said I'm set with Marshal Willick --

17 THE COURT: Okay.

18 MR. PAGE: -- and QDRO Masters.

19 THE COURT: Because --

20 MR. BLACKHAM: Okay.

21 THE COURT: -- it looks like there's going to need

22 to be at least two, maybe three.

23 MR. BLACKHAM: So we don't have a stipulation? I --

24 I thought he said he'd do either. So he's asking for Marshal.

1 I'm not asking for Shann. I'm not -- so I guess we don't have
2 a stipulation.

3 MR. PAGE: I -- I -- maybe six and one-half --

4 THE COURT: Want me to flip a coin?

5 MR. PAGE: -- a dozen in the other, but this is my
6 -- that's -- that's the one I've thrown into the ring.

7 THE COURT: I can flip a coin on that because I
8 think they're competitive in prices and stuff. I -- so I'm --
9 I'm not picking on anybody. But it looks like for sure at
10 least two of them if not three needs to be done to divide the
11 community portions of retirement. Okay. All right. So --

12 MR. BLACKHAM: So -- so two more issues that I have
13 if --

14 THE COURT: Okay.

15 MR. BLACKHAM: -- Your Honor doesn't have anything
16 else. I don't -- I don't --

17 THE COURT: I have one on the time issue.

18 MR. BLACKHAM: Okay.

19 THE COURT: We got to go over time --

20 MR. BLACKHAM: Okay.

21 THE COURT: -- today and how we're allocating the
22 time today.

23 MR. BLACKHAM: Okay. Well, then, Your Honor, I just
24 -- when you're -- when you're finished with your issues then

1 if I can just raise two more things and then --

2 THE COURT: Okay. So I went over -- I noticed on
3 the time and -- from May 14th I have that Plaintiff used four
4 hours and 40 minutes and the Defendant has used 55 minutes.
5 That means I need to give the Defendant at least three hours
6 and forty-five minutes today just to get you guys equal in
7 time and go from there. And I don't know -- I'm -- I'm
8 throwing this out there to talk about as to what witnesses are
9 left besides obviously the Defendant's testimony is not
10 finished.

11 MR. BLACKHAM: That's right.

12 THE COURT: So what else is out there?

13 MR. PAGE: I have to clean up with Mr. Rubidoux.

14 THE COURT: Okay.

15 MR. PAGE: That's --

16 THE COURT: Yeah --

17 MR. PAGE: -- really about it.

18 THE COURT: -- that's my notes is you left -- you
19 were still in the middle of your --

20 MR. PAGE: Yes.

21 THE COURT: -- examination and the Plaintiff has not
22 rested yet. So Mr. Blackham?

23 MR. BLACKHAM: So I don't anticipate -- I'm going to
24 have a few questions for Ms. Rubidoux in my case in chief.

1 Mr. Rubidoux, I will probably decline to cross and in lieu of
2 that just deal with him once in my case in chief.

3 THE COURT: Okay.

4 MR. BLACKHAM: I -- I -- again, I'll reserve the
5 right depending on how that goes. But I don't expect in my
6 case in chief to have more than 60 to 90 minutes with Mr.
7 Rubidoux in light of the stipulations that have been -- that
8 have been made. But that's a rough estimate. And I know I
9 have significantly more time available to me and obviously I
10 reserve the right to use it. I'm not waiving that right. Is
11 -- is that the extent of the --

12 THE COURT: That's -- just becomes an issue more for
13 the Plaintiff because of the time already used --

14 MR. BLACKHAM: Yeah.

15 THE COURT: -- of allocated and how much time am I
16 going to give him for cross. And that's really what it's
17 going to come down to because of how much time --

18 MR. BLACKHAM: Right.

19 THE COURT: -- they've used in their case in chief.
20 And if we run out of time. And we may not. If you don't have
21 even a full three hours and forty-five minutes for your case
22 in chief, then we may not run out of time and --

23 MR. BLACKHAM: I -- I really --

24 THE COURT: -- that would be fine.

1 MR. BLACKHAM: I just -- I don't anticipate it, but,
2 again, things could change and I don't want to -- I don't want
3 to waive it.

4 THE COURT: Right.

5 MR. BLACKHAM: But I do think that we would likely
6 end early. What I -- and what I also proposed to Mr. Page and
7 -- and he declined so I just bring it in front of Your Honor
8 if -- if I may is there are -- there are legal issues and
9 factual issues with extensive -- and you reviewed the video,
10 right? So there are -- there's testimony but then there's
11 also video with statements made within the video. I think
12 that for -- for ease of reference and in -- also in order to
13 be able to brief the legal issue of the post -- the alleged
14 postnuptial agreement which we obviously vehemently oppose, I
15 would ask that we be allowed to submit closing briefs in lieu
16 of closing argument.

17 I just think it would be more organized. I think it
18 would be -- it would create a better record for the Court.
19 Mr. Page says he's already done his and I have -- I have an
20 outline as well, but I -- again, I -- nobody knows what's
21 going to actually happen today. And simply because the
22 record, we've got two full days of evidentiary proceedings and
23 the record is fairly voluminous given the issues at hand, I
24 just -- I think that it would be better -- I think it would be

1 more -- more effectively presented if we were able to do it in
2 writing. If Mr. Page doesn't want to do that, that's fine,
3 but I would ask that I'd be allowed to do that.

4 THE COURT: Well, we're going to finish today
5 including me rendering my findings and decisions. I'm not
6 taking --

7 MR. BLACKHAM: Okay.

8 THE COURT: -- this one under submission.

9 MR. BLACKHAM: Oh, okay. Very good.

10 THE COURT: It's not that complicated. I get what
11 you're -- I get what you're saying on that one legal issue --

12 MR. BLACKHAM: Uh-huh.

13 THE COURT: -- but it's -- it's really not that
14 complicated. So anything else?

15 MR. BLACKHAM: One other thing is that we -- we
16 stipulated at the hearing in front of Judge Henderson and then
17 we -- nobody indicated otherwise at our first evidentiary
18 proceeding date that each Counsel is going to be distributed
19 \$10,000 from the escrow funds from the sale of the residence.
20 I -- I sent Mr. Page a stipulation so that we can be -- you
21 know, so that each side can receive their 10,000 and he
22 refused to execute it citing the --

23 MR. PAGE: I know.

24 MR. BLACKHAM: -- you know, the -- the argument over

1 the funds. And I don't -- it was already ordered and it was
2 already agreed to. So I don't understand why now -- and --
3 and, again, I didn't want to file a motion. I didn't want to
4 over complicate it. I figured, you know, we -- we can deal
5 with it today. But in all fairness, I mean, that -- those
6 funds should have been allocated. I -- I -- I'll mention too
7 that I actually offered to just divide it equally between --
8 between the parties before that and he said no, he -- every --
9 each side needs to get their 10 grand first, each attorney.

10 So I mean, we've had multiple positions taken in
11 this case and I just don't understand why what we agreed was
12 the order of the Court and stipulated to a year ago hasn't
13 been effectuated.

14 MR. PAGE: I can address that briefly.

15 THE COURT: Where are those mon --

16 MR. PAGE: I --

17 THE COURT: Hold on. Where is that money? Who has
18 control of that money?

19 MR. BLACKHAM: The escrow company still does. And
20 -- and what's the title -- what's the name of escrow?

21 THE DEFENDANT: North American Title.

22 MR. BLACKHAM: North American Title.

23 THE COURT: Okay.

24 MR. PAGE: What happened, Your Honor, is that North

1 American Title distributed \$10,000 to my client, \$10,000 to
2 Mr. Rubidoux. Why he hasn't disclosed that to his Counsel, I
3 don't know. I can say -- I can tell you that Ms. Rubidoux --

4 MR. BLACKHAM: Oh, okay.

5 MR. PAGE: -- is holding onto the 10,000 she hasn't
6 paid me which is fine because I'll collect at some point. But
7 the order from Judge Henderson has already been effectuated.
8 Again, I don't know why Mr. Rubidoux didn't tell his client --
9 or Mr. Rubidoux didn't tell his attorney that he received
10 \$10,000. I don't know.

11 MR. BLACKHAM: The -- Your -- and -- and the
12 confusion is because when I offered to divide the proceeds,
13 Mr. Page indicated that Counsel had not been paid their
14 \$10,000. And so I was operating from that assumption. And so
15 -- and so that's the -- I -- I was aware that there was an
16 initial distribution. I thought Mr. Page was saying that each
17 Counsel had to get \$10,000. And so if it had already been
18 distributed to the parties by then, I don't understand why --
19 why I got the -- the notification I did. So if that's the
20 10,000 and that's the understanding here, then fine. But the
21 reality is it's still community funds and, you know, we'll
22 just argue that I guess at the end of the case.

23 MR. PAGE: Well, the -- the text message my client
24 has from the escrow officer, it says -- and this is dated

1 October 21. His funds are wired to him. He is not coming
2 into the office.

3 MR. BLACKHAM: Okay.

4 MR. PAGE: So I don't -- again, I don't know why he
5 didn't disclose that to you --

6 MR. BLACKHAM: I'm -- I'm not saying he --

7 MR. PAGE: -- Mr. Blackham.

8 MR. BLACKHAM: -- didn't disclose that. I'm saying
9 that I got a letter from you this year that said that you're
10 not going to equally divide it because first both Counsel need
11 to be paid their \$10,000.

12 MR. PAGE: Yes, and I -- after I sent you that
13 letter, Mr. Blackham, I didn't speak with my client and she
14 said oh, I've got the \$10,000 in my account and I'm sitting on
15 it. So it became superfluous and --

16 MR. BLACKHAM: No one -- no one told me that.

17 MR. PAGE: -- also the mis -- miscommunication
18 between myself and my client.

19 THE COURT: Okay. So what I'm hearing is there's
20 still 56,000 in escrow and that's after both parties have
21 already got their 10.

22 MR. PAGE: Yes.

23 THE COURT: That was stipulated to bankruptcy court
24 at the September 2020 hearing. Okay. All right. So I

1 understand what the dispute on the assets and debts. The only
2 other housekeeping matter was -- on my list was on the
3 Defendant's income -- he updated his --
4 MR. BLACKHAM: Yes.
5 THE COURT: -- FDF and it has year-to-date pay
6 stubs.
7 MR. BLACKHAM: Yes.
8 THE COURT: I did not see the '19 and '20 W-2s. Do
9 we have those?
10 MR. BLACKHAM: I --
11 (COUNSEL AND CLIENT CONFER BRIEFLY)
12 MR. BLACKHAM: Hang on. I remember that you wanted
13 -- you wanted the pay stubs to --
14 THE COURT: Yeah.
15 MR. BLACKHAM: -- substantiate --
16 THE COURT: So --
17 MR. BLACKHAM: -- because they -- you -- you didn't
18 have full pay stubs.
19 THE COURT: Right. Yes.
20 MR. BLACKHAM: And we --
21 MR. PAGE: He --
22 MR. BLACKHAM: -- did that.
23 MR. PAGE: He just attached pay checks which didn't
24 really meet the evidentiary standard required.

1 THE COURT: Yeah. Yeah. No, we -- he's got them on
2 the new FDF.

3 MR. PAGE: Yes.

4 MR. BLACKHAM: Right.

5 THE COURT: So that covers that issue. But I wanted
6 to see -- because there's a dispute over what his gross income
7 is, I want to see at least his 2020 W-2 to have them there but
8 maybe his '19 is more representative of a normal year because
9 if I take where he is right now, let's now, at 531 check --
10 where is it.

11 (COUNSEL AND CLIENT CONFER BRIEFLY)

12 THE COURT: Yeah. So I take this 527 check with
13 gross income of 59,000, that means his income's -- gross
14 income is well over 11.

15 MR. PAGE: Yeah.

16 MR. BLACKHAM: Based on what? I -- I didn't hear
17 it. I'm sorry.

18 THE COURT: Year -- his year-to-date. That's why I
19 wanted the 2020 --

20 MR. BLACKHAM: Well, there's --

21 THE COURT: -- and 2019 W-2s.

22 MR. BLACKHAM: -- there's a bonus there. That's
23 from last year and that -- that's -- and he can explain that
24 away. But it's not -- that's not --

1 THE COURT: Well --

2 MR. BLACKHAM: -- and -- and --

3 THE COURT: -- his W-2s --

4 MR. PAGE: The number -- those are the numbers.

5 THE COURT: -- would be better --

6 MR. BLACKHAM: Okay.

7 THE COURT: -- to give me --

8 MR. BLACKHAM: I mean, I can --

9 THE COURT: -- an idea of what his --

10 MR. BLACKHAM: -- I can try to provide those before

11 the close of the proceedings, Your Honor. I just I -- I

12 thought that the problem was that the pay stubs were

13 incomplete. I guess I misunderstood --

14 THE COURT: Yeah, that --

15 MR. BLACKHAM: -- that you want --

16 THE COURT: -- was one of the problems too. So we

17 have that information now. It helps us say what all of his

18 different types of pay are including commissions, regular pay,

19 profit sharing. So what we don't have here, and that's going

20 to hurt him because he didn't -- if he doesn't give me what I

21 asked for is his gross income is \$11,873.62 based on his

22 year-to-date pay stubs. And that may not be fair to him

23 because I -- you may be right that that profit sharing is once

24 a year. Okay. Then you would divide that by 12 but I don't

1 have proof of that. And then commissions, obviously he's
2 still getting those. So that's -- that's in your -- your ball
3 court as we discuss at the end of the proceedings on the -- on
4 the May 14th. Okay.

5 So then we are still in Plaintiff's case in chief
6 and we have the Defendant on the stand. So if you want to
7 return to the stand, sir, we'll have you sworn in again and
8 Mr. Page will pick up with where he left off.

9 THE MARSHAL: Right up there and face the Clerk.

10 THE CLERK: Please 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, I do.

15 THE CLERK: Please be seated and please state your
16 name for the record and spell your first and last name.

17 THE WITNESS: Daniel Rubidoux, D-a-n-i-e-l, last
18 name, R-u-b-i-d-o-u-x.

19 THE CLERK: Thank you.

20 DANIEL RUBIDOUX
21 called as a witness on behalf of the Plaintiff, having been
22 first duly sworn, testified upon his oath as follows on:

23 DIRECT EXAMINATION

24 BY MR. PAGE:

1 Q Mr. Rubidoux, you were present here on May 14 when
2 we viewed the video of you and Stephanie in the garage?

3 A Yes.

4 Q Okay.

5 MR. BLACKHAM: Objection, vague.

6 THE COURT: Overruled.

7 MR. BLACKHAM: There's more than one video in the
8 garage. That's my issue.

9 THE COURT: And I believe there's only one.

10 MR. PAGE: There -- there is one where she's pulling
11 out and he's running after her, but obviously that's not the
12 one that we're referring to.

13 THE COURT: Okay. If you want to -- okay. So we're
14 clarifying we're referring to the one in the garage before the
15 garage door opens with all three of them in the garage there
16 by --

17 MR. PAGE: Yes.

18 THE COURT: -- the car.

19 MR. PAGE: Yes.

20 THE COURT: Okay.

21 BY MR. PAGE:

22 Q Mr. Rubidoux, you agree that you grabbed a bag out
23 of Stephanie's hand and whipped it behind you, right?

24 A I don't believe it was a bag. I think it's --

1 Q Whatever was in Ms. Rubidoux's hand you took it out
2 of her hand and you whipped it behind you, right?

3 A Yeah, but it wasn't a bag. I don't think --

4 Q Okay.

5 A -- there was a --

6 Q Whatever --

7 A -- there was a bag and --

8 Q Whatever it was. Whatever the item was. I don't
9 want to get stuck on semantics here with you. Whatever was in
10 her hand you took it out of her hand and you whipped it behind
11 her, didn't you?

12 A Just to be clear, which exhibit are you describing
13 so I know which one --

14 Q I'm talking about --

15 A -- we're talking about?

16 Q -- the video in the garage where the garage door is
17 closed.

18 MR. BLACKHAM: I'll object. He's -- he's asked
19 which video if maybe Counsel wants to show him so that we know
20 what we're talking about.

21 THE COURT: Okay. We can see -- see that --

22 MR. BLACKHAM: Talk about --

23 THE COURT: -- again. Do we want -- you -- you
24 remember which way we played that last time? Is that --

1 MR. PAGE: We -- we sort of did it in -- in a
2 reverse chronological order but that would have been Exhibits
3 -- Exhibit 35.

4 THE COURT: I can't remember. Did you play that
5 through JAVS or do we have to --

6 MR. PAGE: We did. We played --

7 THE COURT: -- go into BlueJeans?

8 MR. PAGE: We played all of that -- it was through
9 JAVS. We first played it on my computer through the link that
10 I had. Then in order to get the clear audio on the last two
11 because it sort of was not good we played those for the Clerk.

12 THE COURT: I think we have to go into BlueJeans
13 don't we to do the presentation?

14 THE CLERK: Did Counsel want to do it or did you
15 want me to do it?

16 MR. PAGE: No, I just -- I -- I want to be
17 economical here in our time and just have Mr. Rubidoux answer
18 the question. And he's well aware of what I'm talking about.
19 So him pretending he doesn't really isn't helpful.

20 THE CLERK: I can --

21 MR. PAGE: So --

22 MR. BLACKHAM: Objection, Your Honor. Counsel's
23 testifying.

24 THE COURT: Sustained.

1 MR. PAGE: I'll -- I'll move on.

2 THE COURT: Okay. So do you want -- we can play it

3 again for him and that way he'll --

4 MR. BLACKHAM: It's --

5 THE COURT: -- he'll be very clear on what you're

6 talking about.

7 MR. PAGE: Okay. One moment.

8 THE CLERK: Do you need the we present information?

9 MR. PAGE: I'm sorry?

10 THE CLERK: Do you need the we present information?

11 MR. PAGE: Did you say the we present?

12 THE CLERK: Yeah, we present from your computer.

13 MR. PAGE: Oh.

14 THE CLERK: Or do you want --

15 MR. PAGE: Yeah.

16 THE CLERK: -- me to --

17 MR. PAGE: Yeah. Yeah. I know what you're talking

18 about. I'm going to verify the exhibit number here.

19 THE CLERK: I've been trying to do all of them, see

20 which ones -- Marshal, can you please turn on the screen?

21 THE MARSHAL: TV?

22 THE CLERK: Yeah.

23 THE COURT: I think it's -- that they're -- it's 34

24 and 35 was the surveillance video from the neighbor across the

1 street, right?

2 MR. BLACKHAM: That -- I don't --

3 MR. PAGE: And I'm -- I'm verifying that, yes.

4 MR. BLACKHAM: I don't believe so, Your Honor. I
5 believe we're actually talking about Exhibits 42 and 40 --

6 THE COURT: Okay.

7 MR. BLACKHAM: -- pardon me, 42 and -- 42. I
8 believe that's the one that Mr. Page is referring to.

9 MR. PAGE: Yeah, it's 42.

10 THE COURT: Okay.

11 MR. PAGE: He's correct. It's 42.

12 MR. BLACKHAM: And -- and the audio is going to be
13 on as well? Because I thought that was an issue last time.

14 THE PLAINTIFF: There's no sound.

15 MR. PAGE: There is no sound to it.

16 MR. BLACKHAM: There -- oh, there is.

17 MR. PAGE: She -- she -- no, there's no sound to it,
18 Counsel, and -- and please don't misstate the record here.
19 The sound is my client's filming the video -- it's on the
20 phone because she didn't have access to the computer which was
21 Dan's and then it's being done on --

22 MR. BLACKHAM: Okay.

23 MR. PAGE: -- Riley's iPad --

24 MR. BLACKHAM: All right.

1 MR. PAGE: -- and Riley -- Riley's complaining --
2 THE CLERK: Marshal --
3 MR. PAGE: -- because she can't get her iPad.
4 THE CLERK: -- can you make sure it's on HDMI --
5 MR. PAGE: But Riley's --
6 THE CLERK: -- please?
7 MR. PAGE: -- too short to see on top of the counter
8 as to what her mom's videoing.
9 MR. BLACKHAM: She -- she can be heard narrating
10 what's coming. She says mom and dad. So I think it's
11 important again if we're going to show that we have the sound
12 as well because there is audio.
13 THE COURT: I remember the audio very --
14 MR. BLACKHAM: Yeah.
15 THE COURT: -- clearly but --
16 MR. BLACKHAM: Okay.
17 THE COURT: -- but we don't need that for the
18 purpose of -- of him remembering what the video shows.
19 MR. BLACKHAM: Fair enough. Thank you.
20 THE CLERK: Which would be HDMI, HDMI1.
21 THE MARSHAL: HDMI1?
22 THE CLERK: Yes. Do you want to view 42?
23 MR. PAGE: Yes, please.
24 THE MARSHAL: That's HDMI1.

1 MR. BLACKHAM: Excuse me, Madam Clerk?

2 THE CLERK: Yeah.

3 MR. BLACKHAM: If those W-2s if I'm able to get

4 them, can they just be uploaded as -- as proposed exhibits?

5 Is that the easiest way to do it or should I provide hard

6 copies?

7 THE CLERK: Judge, what do you think?

8 THE COURT: At this point, if you send them to the

9 electronic we won't get them today.

10 MR. BLACKHAM: Okay.

11 THE COURT: So --

12 MR. BLACKHAM: No, that's fine. Then hard copies is

13 fine.

14 THE COURT: So email them.

15 THE CLERK: Yeah, you can email them to me.

16 MR. BLACKHAM: Okay. What's -- what's the email

17 address?

18 THE COURT: Get them emailed.

19 THE CLERK: I'm going to give it to you.

20 MR. BLACKHAM: Thank you. Appreciate it.

21 (PAUSE)

22 THE CLERK: I'm going to have to have IT, Your

23 Honor, come in.

24 THE COURT: Okay.

1 THE CLERK: They should be in shortly. Go ahead.
2 THE COURT: No problem.
3 MR. PAGE: If you want to, you can take it from my
4 USB.
5 THE COURT: Yeah, that --
6 MR. PAGE: Because of viruses?
7 THE COURT: Yeah. You know, you can't --
8 MR. PAGE: I promise you there's nothing on there.
9 THE COURT: I'm sure there isn't but we would get in
10 big trouble. Thank you.
11 THE CLERK: My apologies.
12 THE COURT: We all have bosses. So if you want to
13 ask him about other things and come back to that maybe.
14 MR. PAGE: Yeah, we'll do that.
15 THE COURT: Okay. Thanks.
16 BY MR. PAGE:
17 Q Mr. Rubidoux, I'd like you to turn to Exhibit --
18 turn -- let's turn back to Exhibit 31, please.
19 A In your binder or -- 31 here. I just have the new
20 one that goes 54 through 60.
21 Q Would you like to look at the book I have?
22 A Yeah, that's fine.
23 MR. PAGE: May I?
24 THE COURT: Sure.

1 Q I'm looking for -- do you see these photographs
2 here; that's a hole?

3 A Uh-huh (affirmative).

4 Q And that's the document Bates label 2049? The
5 document Bates label 2050, that's a hole in the door, right?

6 A Uh-huh (affirmative).

7 Q 2051, that's a broken tra -- trash can?

8 A Yes.

9 Q 2052, that's a hole that's been spackled up?

10 A Yes. Possible. Oh, yeah, it's the same --

11 Q This hole, that's in the master bedroom --

12 A Yes.

13 Q -- right?

14 A Yes.

15 Q And that -- that 2049. 2050, where's that hole at?

16 A A door in the garage.

17 Q 2051, the garbage can, where is that?

18 A In the garage.

19 Q 2052, where is that at?

20 A That is the master.

21 Q And 2049 --

22 A Master --

23 Q In 2049, you created that hole, right?

24 A I don't know a hundred percent.

1 Q And 2050 you created that hole, right?

2 A Again, I don't know a hundred percent.

3 Q 2051, you created that damage to the garbage can,
4 right?

5 A Again, I don't know for sure.

6 Q 2052. You agree that you created that -- that hole.

7 A Again, I don't know for sure. I obviously worked on
8 it though.

9 Q You're here to tell the Court that you don't
10 remember whether you've put a hole in the wall?

11 MR. BLACKHAM: Objection, asked and answered.

12 THE COURT: Sustained.

13 BY MR. PAGE:

14 Q You would agree that Stephanie is not strong enough
15 to punch a hole in a wall, right?

16 A No.

17 Q You would agree that Stephanie is not strong enough
18 to punch a hole a in a door in a garage.

19 A No.

20 Q No, you don't -- you --

21 A No, I don't agree that she's --

22 Q You don't agree.

23 A -- not strong enough.

24 Q Okay. So your contention for Exhibits 2049 and

1 2050, do you think Stephanie might have caused those holes by
2 punching them?

3 A It's possible it's either one of us.

4 Q And for 2052, do you really think Stephanie would
5 have done that?

6 A Same answer. Possibly. It could have been either
7 one of us.

8 THE COURT: Mr. Page, I do -- can tell you I have
9 Exhibit 42 on my screen. I could just flip it around and let
10 him watch that from my screen and that would --

11 MR. PAGE: That would save us time.

12 THE COURT: And -- and you guys --

13 MR. PAGE: Wonderful. Yes.

14 MR. BLACKHAM: It's already been --

15 THE COURT: -- want to both come over there to see
16 what I'm showing him, that's fine.

17 MR. PAGE: I -- I trust that you're showing him.
18 I've -- I've seen it enough times. I know it's there.

19 THE COURT: And I'm not -- I don't have sound on at
20 all, so -- but there you go. Can you see that from there,
21 sir?

22 THE WITNESS: Yes.

23 THE COURT: Okay.

24 MR. PAGE: Is it -- is playing now?

1 THE COURT: It's playing. Yes.
2 MR. PAGE: Okay.
3 10:03:56
4 (VIDEO PLAYED)
5 BY MR. PAGE:
6 Q Do you see there Mr. Rubidoux that you took
7 something out of --
8 THE COURT: Hold on. It -- it's not to there yet is
9 where the -- you see the little girl, their daughter in there,
10 then, now wife. Okay.
11 MR. BLACKHAM: Yes.
12 THE COURT: Now, he's at that point. Yes.
13 Q Okay. So you see where you grabbed something out of
14 Stephanie's hand and you whipped it behind you?
15 A Yes.
16 Q Okay. And you saw that your daughter is standing
17 right next to you and you could have hit her, right?
18 A Yes.
19 Q Okay. And you see where they're -- you're --
20 MR. BLACKHAM: Objection, compound. Move to strike.
21 It's not clear what he answered yes to.
22 MR. PAGE: It's -- it's a legitimate question.
23 THE COURT: Overruled.
24 BY MR. PAGE:

1 Q Do you see where you're pushing your wife up against
2 the garage door?

3 A I see an altercation between both of us.

4 Q You see where she's retreating from you?

5 A Yes.

6 Q Do you see where you're the aggressor?

7 THE COURT: Hold on. I'm going to go -- let me go
8 back a little.

9 A I see strikes from both sides.

10 Q Sir, you see where she's backing up? Do you see
11 where you're the aggressor? You see you're pushing her,
12 right?

13 MR. BLACKHAM: Objection, compound. I --

14 MR. PAGE: I'll -- I'll break it down.

15 THE COURT: Sustained.

16 BY MR. PAGE:

17 Q You see where she's backing up, right? She's
18 retreating.

19 A Yes.

20 Q You see where you're pushing on her.

21 A Yes.

22 Q You see where she tries to put Riley's picnic table
23 in between you to get you off of her.

24 A I see her. Yes.

1 Q You agree this is what you were arrested for, wasn't
2 it?

3 A No.

4 Q You -- this is not what Metro saw and then arrested
5 you and charged you with?

6 A No.

7 Q Okay. So it was another incident that they arrested
8 you and you -- you had to put in a guilty plea, right?

9 A No contest plea.

10 Q No, you -- the -- the register of actions said
11 guilty, right?

12 MR. BLACKHAM: Objection, Your Honor. We've been
13 through this already.

14 MR. PAGE: We have, yes.

15 THE COURT: Sustained. It does misstate the --

16 MR. BLACKHAM: Thank you.

17 THE COURT: -- the record.

18 MR. PAGE: No, but the -- the -- Your Honor, I'll --
19 I'll -- with all due respect the top of the page says guilty.

20 THE COURT: Well, they -- they have to. It doesn't
21 mean he didn't plea no contest and the fact the case has been
22 dismissed.

23 MR. BLACKHAM: Thank you.

24 THE COURT: So that's what happens when they do an

1 alternate.

2 BY MR. PAGE:

3 Q Sir, you recall the video wherein you were screaming
4 and yelling at Stephanie?

5 MR. BLACKHAM: Objection, vague.

6 MR. PAGE: I'll -- I'll -- you know --

7 BY MR. PAGE:

8 Q Do you recall the video of which would be Exhibit 45
9 where you're kicking and screaming at Stephanie?

10 A Yes.

11 Q You agree that in the audio you sounded like you're
12 intoxicated, right?

13 A In 45? No.

14 Q Yes.

15 A No, I don't --

16 Q Part of that is also 48. You don't recall yourself
17 sounding intoxicated in that video? Were you intoxicated?

18 MR. BLACKHAM: Your Honor, if we can show the video.
19 I mean, why are we asking

20 THE COURT: Hold on. You got to wait for your
21 client to answer.

22 A I don't believe those were actually the same day.

23 Q You don't believe you're -- you -- you believe
24 you're intoxicated, right?

1 A In 48. Yes.

2 Q Yes, you were intoxicated.

3 MR. BLACKHAM: He said 48.

4 Q Sir, you were -- in the video that was labeled

5 Exhibit 48, you were intoxicated, right?

6 A Yes.

7 Q Okay.

8 THE COURT: So that's 48 that you're talking about.

9 So make sure he's answering the direct -- okay. Do you have

10 any other? I can replay them for him if you need to.

11 MR. PAGE: Yes, 45, please.

12 THE COURT: 45. Okay. Do we need to see the video

13 on that one or is it just --

14 10:08:32

15 (VIDEO PLAYED)

16 THE COURT: Okay. Sorry, what was your question for

17 him about 45?

18 Q 45 was that Riley was present when you were speaking

19 to Stephanie like that, weren't sh -- wasn't she?

20 A Not that I recall. Not in the room.

21 Q She can certainly hear what you're saying, right?

22 A Yes. Well, wait, say that again?

23 Q Riley could certainly hear what you're screaming at

24 Stephanie, right?

1 MR. BLACKHAM: Objection, calls for speculation. I
2 -- I don't know.

3 MR. PAGE: It's a layperson opinion.

4 MR. BLACKHAM: Doesn't know what she hears.

5 BY MR. PAGE:

6 Q Riley was about three years old then. Where else
7 would a toddler be but next to her parents?

8 A Possibly in her bedroom or our room.

9 Q Do you recall -- recall the video that was -- the
10 audio that was Exhibit 47, right? It's an audio. It's not a
11 page --

12 A Yes, I recall it.

13 Q And you -- you recall in that audio that you were
14 threatening to put a bullet in your head.

15 A I don't know that for sure. I don't believe so.

16 THE COURT: Exhibit 47?

17 THE WITNESS: Yeah.

18 MR. PAGE: 47.

19 10:10:42

20 (Audio played)

21 THE COURT: It's as loud as I can make it.

22 THE WITNESS: Yeah.

23 THE COURT: I'm not hearing -- I can't get it loud
24 enough for --

1 THE CLERK: I can try to do something else, Your
2 Honor.

3 MR. BLACKHAM: Madam Clerk, I -- in my case in chief
4 I may want to actually use the videos as well. So if IT could
5 still be called for whenever they're ready, I would appreciate
6 it.

7 THE COURT: I'm sorry, I can't -- the page -- I
8 can't make that any louder for -- and that that's up as loud
9 as I can for here.

10 MR. PAGE: It looks like the Clerk has Exhibit 47 up
11 and see if she can play that.

12 THE COURT: Okay.

13 THE CLERK: 47, right? Yeah. Let me restart it.

14 THE WITNESS: There's no picture.

15 10:11:30

16 (AUDIO PLAYED)

17 BY MR. PAGE:

18 Q Mr. Rubidoux, that's your voice, right?

19 A That's my voice.

20 Q Okay. And you're counting -- you're counting down
21 to telling Stephanie that you're going to kill yourself,
22 right?

23 A I don't believe so.

24 Q Do you recall Stephanie's father testifying as to

1 the number of holes that he saw in the house?

2 A Yes.

3 Q And you believe that -- and I -- I asked you whether

4 you thought it was 10 or more and you really couldn't say, but

5 you put those holes in the house, right?

6 A No, but I never had 10 holes in the house.

7 Q You what?

8 A I never had 10 holes in the house.

9 Q Okay. But you've put holes in the house, right?

10 A Both of us have.

11 Q No, I'm asking you. You've put holes in the house,

12 right?

13 A Yes.

14 Q Yes or no?

15 A Yes.

16 Q You've done so while you've been angry.

17 A Some, yes.

18 Q You've done so while Stephanie was present.

19 A Yes.

20 Q You've done so while Riley was present.

21 A I don't believe she was ever around me. Possibly in

22 -- in the house, but not next to me.

23 Q And Riley's a toddler. She's always next to one of

24 her parents, right?

1 A Not always.

2 MR. PAGE: One moment.

3 Q Can you turn to Exhibit 25, please?

4 MR. PAGE: And may I approach again?

5 THE COURT: Sure.

6 Q Exhibit 25 is the agreement that you and Stephanie
7 entered into. It's Bates labeled 2023 in Exhibit 25. At the
8 top there, is that your handwriting?

9 A Yes.

10 Q At the bottom, is that your signature?

11 A Yes.

12 Q You agree that in this agreement that there is no
13 reference to alimony of any kind.

14 A Yes.

15 Q Yes, you agree there's no reference?

16 A Yes.

17 MR. BLACKHAM: I'm sorry, what exhibit are you on?

18 MR. PAGE: 25.

19 MR. BLACKHAM: Thank you.

20 Q Now, in this agreement you were going to waive any
21 and all interest in the house, right?

22 A Yes.

23 Q And you were going to assume any and all debt
24 regarding what you had in your name, right?

1 A Yes.

2 Q You also agree that -- well, Stephanie would get
3 majority custody of Riley, right?

4 A Yes.

5 Q Mr. Rubidoux, you agree that after an argument that
6 you had with Stephanie and she went to her parents' place you
7 followed her to her parents' place, right?

8 A Not immediately, yes.

9 Q But you did follow her.

10 A I went there later, yes.

11 Q Well, you went there, right?

12 A Yes.

13 Q Isn't it true that Stephanie's father refused you
14 entry into the house?

15 A Yes.

16 Q Okay. Isn't it true that Mr. -- that Stephanie's
17 father -- well, isn't it true that after Stephanie's father
18 refused you entry into the house you went and slept in her
19 car?

20 A Yes.

21 Q Isn't it true you were intoxicated that night,
22 right?

23 A I don't recall.

24 Q Mr. Rubidoux, I'd like you to -- well, we're going

1 to take a look at Exhibit 27.

2 MR. PAGE: May I approach once again, please?

3 THE COURT: Sorry, the -- on video?

4 MR. PAGE: No, it's it's just a doc -- document.

5 THE COURT: Okay. I'm sorry. Yes. Go ahead.

6 Sorry.

7 Q When the divorce started you had a Ford F150, right?

8 A Yes.

9 Q Super Crew cab.

10 A No, before the divorce.

11 Q I'm sorry?

12 A Before the divorce.

13 Q Before the divor -- before -- after the complaint
14 for divorce was filed you had a Ford F150 truck.

15 A No.

16 Q There was a 20 -- what year was it? 2019?

17 A No, I think it -- if I remember right it was 2013,
18 2014 --

19 Q Okay.

20 A -- possibly.

21 Q The truck was paid off.

22 A Yes.

23 Q If we take a look here at this Kelley Blue Book
24 value, what is the trade-in value?

1 A This without being able to see all the options
2 chosen, this particular once says 12,000, 14,000.

3 Q What does that trade-in value say?

4 A 13,000.

5 Q How much?

6 A 13.

7 Q 32?

8 A 13.

9 Q \$13,032?

10 A Yes.

11 Q Sir, you agree that you didn't divide that -- well,
12 let me back up. You sold the vehicle for \$12,000?

13 A I believe so.

14 Q You didn't split that money with Ms. Rubidoux, did
15 you?

16 A Not cash or -- or put in the bank, no.

17 Q Do you agree that truck was acquired and sold during
18 the course of the marriage?

19 A Yes.

20 Q Well, Mr. Rubidoux, I'm going to ask you some
21 questions about your financial disclosure form.

22 A Okay.

23 Q In your financial disclosure form you have a number
24 of paycheck stubs that are attached to the end of it. The

1 last paycheck stub is for the pay period ending June 6th,
2 2021.

3 A Yes.

4 Q In that pay stub, it says that your total gross
5 earnings for the year are \$62,270.54.

6 A I -- I don't have it in front of me, but yeah. Yes.

7 MR. PAGE: May I approach him with -- to --

8 THE COURT: Sure.

9 Q Do you agree that's for the pay period ending 6621?

10 A Yes.

11 Q Do you agree that you've made \$62,000 and a little
12 bit less than half the year's past?

13 A Yes.

14 Q If you made \$62,000 so far this year, you're on
15 track to make about a hundred and thirty thousand dollars?

16 A There's no way to tell that.

17 Q We're -- we're halfway in, right?

18 A Yes.

19 Q Okay. And you agree that May is the fifth month of
20 the year.

21 A Yes.

22 Q You -- would you agree if I told you the math works
23 out that five divided by 12 is -- it's 41.67 percent of the
24 year?

1 A Yes.

2 Q Okay. And would you also agree that the math works
3 out if we take \$62,270 and divide that by .4167, that the math
4 works out for an annual income of a hundred and forty-nine
5 thousand four hundred thirty-six dollars.

6 MR. BLACKHAM: Objection, Your Honor. He's using a
7 calculator. I don't know what he expects my client to do in
8 his head.

9 MR. PAGE: I'm just asking if he agrees that the --
10 that the --

11 THE WITNESS: I believe --

12 MR. PAGE: -- math sounds about right.

13 THE WITNESS: I believe your math is right but it
14 doesn't say what my annual income's going to be.

15 BY MR. PAGE:

16 Q Well, how about we do this? If we take a look at
17 \$262,275 -- \$62,270.54 and divide that by five, do you agree
18 that comes out to about \$12,000 a month?

19 A Yes.

20 Q Okay. And you agree that \$12,000 a month annualized
21 is about a hundred and forty-four thousand dollars.

22 A If it stays consistent the rest of the year, yes.

23 Q Yes or no, sir?

24 A Yea, I agree the math is right.

1 Q Thank you. Mr. Rubidoux, you don't really believe
2 that Stephanie has the upper body strength to punch a hole in
3 a wall, right?

4 MR. BLACKHAM: Objection, asked and answered, Your
5 Honor.

6 MR. PAGE: I'll move on.

7 (COUNSEL AND CLIENT CONFER BRIEFLY)

8 BY MR. PAGE:

9 Q Mr. Rubidoux, isn't it true that you deposited the
10 \$12,000 you received from the sale of the Ford truck on
11 January 7, 2020?

12 A Possibly. I don't know for sure.

13 Q Okay. But you deposited in lump sum, right?

14 MR. BLACKHAM: Objection --

15 A Yes.

16 MR. BLACKHAM: -- asked and answered.

17 MR. PAGE: I didn't ask him that.

18 MR. BLACKHAM: It's the same question. He said he
19 doesn't know if he deposited it. How can he know if it was a
20 lump sum?

21 THE WITNESS: Actually, I don't -- yeah.

22 THE COURT: Well, I think he testified he did
23 deposit it. I didn't hear what Counsel -- it was in January
24 2020?

1 MR. PAGE: Yes, January 7th, 2020.

2 (COUNSEL AND CLIENT CONFER BRIEFLY)

3 BY MR. PAGE:

4 Q Mr. Rubidoux, I'll have you turn to Exhibit V of
5 your exhibit book, please.

6 MR. BLACKHAM: Did you say V as in Victor?

7 MR. PAGE: Yes.

8 Q Are you there?

9 A Yes.

10 Q Okay. You would agree that's a statement from Chase
11 Bank in your name?

12 A Yes.

13 Q You agree that the period that you provided was from
14 June 20, 2020 through July 21, 2020?

15 A Yes.

16 Q Actually, it goes from there til December 21, 2020.
17 So it's from June through December of 2020.

18 A Yes.

19 Q You provided more bank statements to your Counsel
20 than that though, didn't you?

21 A I don't -- I don't know.

22 Q Okay. You're aware under the rules that you were
23 required to provide at least six months prior to the date of
24 -- the date of complaint for divorce being filed, right?

1 A Yes.

2 Q Okay. And you agree that the complaint for divorce
3 was filed in roughly February of 2020.

4 A Yes.

5 Q You agree that if you were to provide the bank
6 statements that would have been six months prior to the
7 complaint for divorce being filed, that would have covered the
8 deposit you made of the \$12,000 into your Chase account,
9 right?

10 A Possibly. I would have to look and see when it was
11 really deposited. I don't know.

12 Q All right. But you agree that by the time we're
13 here on June 20, 2020 for the account that's part of Exhibit B
14 which is ending in 7939 that the entirety of the \$12,000 that
15 you received from the sale of the truck has been dissipated.

16 A Yes.

17 Q And you already stated you agreed in sharing that
18 that was Stephanie.

19 MR. BLACKHAM: Objection, asked and answered.

20 MR. PAGE: Actually, I said he already agreed to it.
21 So I prefaced that he's already agreed.

22 (COUNSEL AND CLIENT CONFER BRIEFLY)

23 BY MR. PAGE:

24 Q Mr. Rubidoux, I've just been handed your W-2 for

1 2020. You would agree that for 2020 that your Medicare wages
2 were about a hundred and sixteen thousand dollars?

3 A Yes.

4 MR. BLACKHAM: And Your Honor, we're working on
5 getting 2019.

6 THE COURT: To me it would make the most sense to
7 mark this as --

8 MR. BLACKHAM: NN?

9 THE COURT: Yeah, Defendant's --

10 MR. BLACKHAM: Yes. That's fine.

11 THE COURT: -- Proposed NN.

12 MR. BLACKHAM: And we can just admit to -- we can
13 just stipulate to it being admitted since Mr. Page has already
14 asked about it.

15 THE COURT: Do you have any objection to that, Mr.
16 Page?

17 MR. PAGE: No objection.

18 THE COURT: All right. NN will be admitted by
19 stipulation.

20 (DEFENDANT'S EXHIBIT NN ADMITTED)

21 THE CLERK: Thank you, Your Honor.

22 BY MR. PAGE:

23 Q You're aware that Riley's been accepted to a magnet
24 school?

1 A No, not on any formal letters or anything.

2 THE COURT: I'm sorry, sir, I need you to speak up.

3 THE WITNESS: No, I don't have any formal letters or
4 anything. I'm sorry.

5 Q Well, I didn't ask you if you had a formal letter.
6 You've just been advised by Stephanie that she's been accepted
7 to a magnet school.

8 A Yes, I -- she did say that.

9 Q You would agree that a magnet school would be in
10 Riley's best interest?

11 A No.

12 Q Well, you agree that magnet schools aren't always
13 easy to get into.

14 A Yes.

15 Q You're aware that the name of the magnet school is
16 Tarr magnet school, T-a-r-r?

17 A Yes.

18 Q You agree that it's relatively close to where
19 Stephanie and her family live?

20 A Yes.

21 Q And it's decent and close to where your family
22 lives?

23 A No.

24 THE COURT: I'm sorry, I didn't hear that question,

1 Mr. Page.

2 MR. PAGE: It's relatively close where his family
3 lives. He said no. and then I want to ask my question.

4 THE COURT: Okay.

5 Q It's close to where your sister lives.

6 A Yes.

7 Q It's also close to where your father lives.

8 A Yes.

9 Q It's also close to where your mom lives.

10 A No.

11 Q Mr. Rubidoux, you -- you drink alcohol on the
12 weekends, right?

13 A Sometimes.

14 Q And you drink alcohol during the week, right?

15 A Sometimes.

16 Q You also use marijuana.

17 A No.

18 Q Ms. Rubidoux says she saw you use marijuana. Would
19 she just be wrong?

20 A Not in 2019, she would be.

21 Q And you would agree that generally most of the time
22 Stephanie is the one that takes Riley to the doctor?

23 A For what, just anything, check ups, or --

24 Q Yeah.

1 A No.

2 Q Okay. So you're saying that you take --

3 A Yes.

4 Q -- Stephanie -- Riley to the daughter -- doctor all

5 the time.

6 A Not all the time, but yes I take her to the doctor.

7 Q But the majority of the time Stephanie is the one

8 who takes Riley to the doctor.

9 A For checkups.

10 Q Okay. And Stephanie is the one who takes Riley to

11 the dentist most of the time.

12 A Yes.

13 Q If we take a look at the sign-in, sign-out sheets

14 for the daycare, it's generally Stephanie that's signing Riley

15 in and signing Riley out.

16 A Depending on the year.

17 Q Okay. You recall a video where you're hanging on to

18 Stephanie's car?

19 A I wouldn't use that verbiage, but yes, I recall the

20 video.

21 Q I'm sorry?

22 A I -- I wouldn't use the same --

23 Q I can't hear you.

24 A -- I wouldn't use the same word hanging, but I

1 recall the video you're describing.

2 Q Well, you heard test -- Stephanie's testimony that
3 you took her purse so she couldn't get her key but she had a
4 hidden key and got in the car with Riley and drove away,
5 right?

6 A Yes.

7 Q Okay. And you -- you agree that while you -- she
8 was backing up you chose to hang on the car.

9 A No.

10 Q You had the ability to allow Stephanie to simply
11 back out of the driveway and leave, right?

12 A Say that again?

13 Q You had the ability to allow Stephanie to back out
14 of the driveway and leave.

15 A I don't think I understand the question. Yes, she
16 had the ability. Yes.

17 Q Okay. You had the same ability to not try and
18 interfere with Stephanie from backing out of the garage and
19 the driveway.

20 A Yes, that could have been a choice.

21 Q Instead of making that choice, you chose to attach
22 yourself to the vehicle, right?

23 A In a sense, yes.

24 Q That's your choice, your responsibility, right?

1 A Yes.

2 Q Do you believe that Stephanie was frightened by your
3 conduct of hanging on the car?

4 MR. BLACKHAM: Objection, calls for speculation.

5 MR. PAGE: I asked do --

6 THE COURT: Sustained.

7 MR. PAGE: -- does he believe.

8 MR. BLACKHAM: Sustained.

9 THE WITNESS: No.

10 MR. BLACKHAM: Move to strike. It's --

11 THE COURT: Yeah, there's no way if he knows what
12 she's thinking and --

13 MR. BLACKHAM: Sustained.

14 THE COURT: -- sustained and stricken.

15 BY MR. PAGE:

16 Q Well, if you were in Stephanie's position, wouldn't
17 you be scared?

18 A No.

19 Q But you do admit that you broke the window at the
20 school.

21 A Yes.

22 (COUNSEL AND CLIENT CONFER BRIEFLY)

23 Q Mr. Rubidoux, you have Riley about 10 days out of
24 the week (sic) right now, right?

1 A Out of the week or --
2 Q Yeah.
3 A -- the month?
4 Q Or out of the month.
5 A Give or take maybe a couple more. It depends.
6 Q Okay. On page 5 of your financial disclosure form,
7 it says that you spend \$300 a month on extracurricular
8 activities for Riley. What groups or classes is she enrolled
9 in with you?
10 A Ice skating, Sunday school.
11 Q Ice skating costs \$300 a month?
12 MR. BLACKHAM: objection misstates testimony.
13 BY MR. PAGE:
14 Q Also you list health insurance as being a hundred
15 and five dollars. Isn't it true that Riley's covered by
16 health insurance through Ms. Rubidoux?
17 A Yes.
18 Q You don't have the health -- you don't have health
19 insurance for Riley through your work, do you?
20 A Not anymore. No.
21 Q Okay. So that -- that figure is false right there,
22 right?
23 A I -- I believe I pay 105 towards it if I'm -- if I'm
24 correct. I'll have to double check that.

1 Q Well, you don't write Ms. Rubidoux a check, do you?

2 A It was lumped into the child support payments that
3 we did originally.

4 Q Now, Ms. Rubidoux, Riley's five, right?

5 A Yes.

6 Q She doesn't have a cell phone.

7 A No.

8 Q You put down here she has a cell phone for \$50 a
9 month.

10 A I might spend \$50 through a cell phone per month.

11 Q What?

12 A I might spend \$50 through a cell phone or through a
13 pad -- iPad or something like that per month. It doesn't mean
14 it's a service plan.

15 Q You also list that for the 10 days out of the month
16 that you have Riley you spend \$200 on transportation costs for
17 Riley, right?

18 MR. BLACKHAM: Objection, misstates testimony. He
19 didn't say 10 days a month.

20 THE COURT: Overruled.

21 BY MR. PAGE:

22 Q Go ahead and answer.

23 A Yes.

24 Q Okay. You drive yourself, right?

1 A Yes.

2 Q Okay. You don't spend \$200 in gas.

3 A Transportation.

4 Q Yeah, you have to take her to and from -- to pick --

5 to pick Riley up from Mom's house. You know, it doesn't cost

6 you \$200 a month.

7 A Is that just gas on that or is it just --

8 Q You don't use Uber, right?

9 A No.

10 Q You don't buy it -- you don't pay for a taxi.

11 A No.

12 Q Okay. So when you're talking about transportation

13 costs, you don't really have any other costs other than

14 gasoline from going point -- from point A to point B, right?

15 A If I'm only going there twice --

16 Q Sir --

17 A -- no.

18 Q -- listen to the question. Answer the question.

19 A There -- there's other places we go.

20 Q Okay. You did the -- on page 7 of this financial

21 disclosure form, you did sign that under penalties of perjury,

22 right?

23 A Say that?

24 Q You did sign your financial disclosure form under

1 penalties of perjury, right?

2 A Yes.

3 Q Okay. And you did sign it, right?

4 A I did sign it. I don't know what it says exactly --

5 Q The --

6 A -- in there.

7 Q This -- the signature there, that's your signature.

8 A Yes, that was my signature.

9 Q Also in your -- in your pay stubs attached to your
10 financial disclosure form, you're receiving a car allowance of
11 \$400 a month.

12 A Yes.

13 Q That \$400 a month is what you're using to pay your
14 car payment for the Fusion that you're currently driving.

15 A That pace of -- the vehicle that I have at the time,
16 yes.

17 Q Because your car payment for the Fusion on page 4 is
18 \$290 a month, right?

19 A Correct.

20 (COUNSEL AND CLIENT CONFER BRIEFLY)

21 Q Mr. Rubidoux, Riley's not in school yet, right?

22 A Not right this moment. No.

23 Q Okay. So you had on page 5 of your financial
24 disclosure form, you list school supplies of \$25 a month,

1 right?

2 A Yes. Yes.

3 Q Okay. So you -- you complain that you spend \$25 a
4 month or \$300 a year on school supplies when Riley's not
5 attending school, right?

6 A Could be Sunday school.

7 (COUNSEL AND CLIENT CONFER BRIEFLY)

8 Q But Mr. Rubidoux, you just testified that the \$300 a
9 month for extracurricular activities and sports covered Sunday
10 school, right?

11 A I'd have to look at my list again to know for sure,
12 but yes, I did.

13 Q So were you being untruthful with the first answer
14 or are you being untruthful with the second answer?

15 A Neither. I said yes, I did.

16 THE COURT: Mr. Page, how much more do you have?

17 MR. PAGE: I'm --

18 THE COURT: Because --

19 MR. PAGE: I'm -- I'm wrapping up here.

20 THE COURT: Okay.

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

22 MR. BLACKHAM: Your Honor, can we take a break,
23 please?

24 THE COURT: Yes. It's a --

1 MR. BLACKHAM: Thank you. I appreciate it.

2 THE COURT: -- very good time for a break.

3 (COURT RECESSED AT 10:41 AND RESUMED AT 10:56)

4 THE CLERK: We are back on the record, Your Honor.

5 THE COURT: All right. The witness has been passed
6 to you, Mr. Blackham.

7 MR. BLACKHAM: Your Honor, I'm going to just take my
8 testimony from my client on -- in my case in chief.

9 THE COURT: Okay. Well, then I have some questions
10 for him --

11 MR. BLACKHAM: Okay.

12 THE COURT: -- to follow up on here. All right.

13 VOIR DIRE EXAMINATION

14 BY THE COURT:

15 Q Now, watching and listening to these videos today
16 and last time that we were here, how -- how does that make you
17 feel?

18 A I'm not happy with the way I acted in those videos.

19 Q In what way?

20 A My behavior, tone. That's not who I really am and
21 that's just not what I want to look like.

22 Q When did you and -- because it looks like you guys
23 reconciled maybe more than once from the timeline. When did
24 you actually finally separate?

1 A I finally left for good on November 5th of 2019.

2 Q Okay. And your daughter has been attending Good

3 Samaritan --

4 A Yes.

5 Q -- for preschool? That's what my notes say. Right?

6 A Yeah.

7 Q And how long has she been there?

8 A I -- since she was two.

9 Q Okay. So over three years?

10 A Yeah. Yes.

11 Q And who has been paying for the cost of Good

12 Samaritan?

13 A Since the -- since child support started then

14 Stephanie did. Prior to that, it was pretty much just a

15 jointly expense for the family. This year, I did pay for the

16 curriculum fee and the registration to secure her spot.

17 Q Okay. So you reserved a spot for --

18 A Yes.

19 Q -- her there for kindergarten?

20 A Yes.

21 Q And once it -- she starts kindergarten if she goes

22 there, do they have after school care?

23 A Up until a certain time. I think it's 5:00 o'clock.

24 Q And if you would have to work later than that on one

1 of your custodial days, what are you going to do for
2 childcare?

3 A I'm a salary employee. So I just kind of make my
4 schedule work with whatever thing I got going on. So I would
5 purposefully not plan a business meeting on a day I have to
6 pick her up and every testimony understands that.

7 Q Did Mom communicate with you when she applied for
8 Riley to get into a magnet school?

9 A She said she was going to apply and said choose from
10 these three. She picked three.

11 Q Okay. So she told you that before she applied?

12 A Yeah.

13 Q And what was your response to that?

14 A I said I would rather us view these schools
15 together, do it together, pick them out together, not just be
16 given a list of three and say pick one. I think it's going
17 towards when she wouldn't -- I didn't get to do my due
18 diligence and I didn't get to have input on if we can do a
19 different charter school or magnet school.

20 Q Based upon the videos and audios and -- and your
21 testimony today, alcohol seems to be an issue in these
22 incidents that you've had with your wife. What -- since
23 November 2019 what have you done to address that issue?

24 A I don't drink nearly as much as I did when I was at

1 the marital home.

2 Q What does that mean not nearly as much?

3 A Back then it was -- I would have days where I did
4 have more, but now I don't -- I mean, now I'm working five
5 days a week and I have my daughter, you know, on the weekends
6 when I'm off. So I kind of have to be alert and aware and we
7 got a lot of stuff going on now that she's older. So I --
8 it's -- it's -- there might be a few beers in the fridge, but
9 that's about it throughout the week.

10 Q And I believe you testified last time you were here
11 that you had a DUI --

12 A No.

13 Q -- in the past?

14 A Never.

15 MR. BLACKHAM: And Your Honor, I believe that was
16 actually her father.

17 THE COURT: Oh, okay. That makes sense.

18 MR. PAGE: He testified he was concerned --

19 THE COURT: Thank you.

20 MR. PAGE: -- he might get a DUI.

21 MR. BLACKHAM: No, I think he said he had.

22 THE COURT: No, he said he was concerned that he had
23 a DUI. He was concerned that Daniel might get a DUI because
24 for example there were times when he was over there and he

1 drank and he drove off. He was surprised that he didn't get a
2 DUI when he drove up the night where he slept in the house --
3 or slept in my client's car. He was concerned that he would
4 have got a DUI driving over.

5 THE COURT: All right. So yes, I see where my notes
6 says -- it was Mom's father testified to that.

7 Q So that you've never been arrested for a DUI?

8 A No.

9 Q Have you ever been arrested?

10 A Yes.

11 Q When -- the two --

12 A School --

13 Q -- times --

14 A No, just one time. It was a school incident.

15 Q Okay. So on the domestic violence charge they just
16 sent you a citation?

17 A Yeah. I -- I mean, she filed it I think like six
18 months later after it happened. So --

19 Q Now, you have told your wife that you're going to
20 kill yourself, right?

21 A I've probably said it for sure. Sometimes it might
22 have been joking. Sometimes it's been dramatic. It's been
23 dramatic.

24 Q And when was the last time you -- you told her that?

1 A I have no idea. It would have been a long time ago.
2 It would have been at the earliest 2019 at -- at the earliest.
3 It could even be older than that.

4 Q And have you ever been hospitalized for mental
5 health treatment?

6 A No.

7 Q Since you and your wife separated, have you guys had
8 any disagreements or problems regarding caring for your
9 daughter or daughter going back and forth?

10 A I -- I wouldn't say we fought over it, but, I -- I
11 -- you know, there's -- like a good example would be night
12 training. I was trying to give her night training and not
13 wetting the bed and not wearing diapers anymore when she got
14 to that age. But it's hard to do that when one household does
15 it and the other household doesn't do it. So I was trying to
16 do it but they wouldn't do it. And so that would be -- kind
17 of like that was -- was the disagreement on school.

18 Q And how would those disagreements be --

19 A Through texts on --

20 Q -- communicated?

21 A -- OurFamilyWizard.

22 Q So you guys are using OurFamilyWizard?

23 A Yes.

24 Q Okay. I don't know how many custodial exchanges you

1 guys have directly with each other versus you guys doing --
2 you -- one of you picking her up at daycare. But have there
3 been any problems in any of those person-to-person exchanges
4 with your wife?

5 A No. No.

6 Q No arguments?

7 A Never. No.

8 Q No police called?

9 A No. Other than the COVID one where she refused to
10 give me the kid so I filed a report just so I have a record of
11 it.

12 Q That was at Christmas time?

13 A That was like -- yeah, December 23rd.

14 Q Okay. So you called the police about that.

15 A To file a report, yeah.

16 Q Okay. Do you ever have to work on the weekends?

17 A It -- it depends, but not -- typically no. it's not
18 a very common thing.

19 THE COURT: All right. Mr. Page, did that bring up
20 any more questions for you?

21 MR. PAGE: Yeah.

22 FURTHER DIRECT EXAMINATION

23 BY MR. PAGE:

24 Q At one of the custody exchanges, didn't you hand the

1 child support check to Riley and have her walk it over to her
2 -- to her mom?

3 A It was multiple --

4 Q Yes --

5 A Yes, that --

6 Q Yes -- yes or no?

7 A Yeah, that -- the first -- very first one, yes.

8 Q And you told your daughter here, give this to Mommy
9 and tell her to go buy something nice?

10 A I did say that.

11 Q So it is true that Ms. Stephanie is paying for the
12 daycare right now, Good Samaritan.

13 A Not currently. The school season's -- the year's
14 over.

15 Q You don't attend AA, do you?

16 A No.

17 Q You don't attend NA?

18 A No.

19 Q Isn't it true that after you pled guilty to what you
20 did at the Clark County School District that you had Stephanie
21 take her anger management and impulse control classes?

22 MR. BLACKHAM: Objection, misstates testimony.

23 MR. PAGE: No, it's what she testified to.

24 MR. BLACKHAM: I didn't say he pled guilty.

1 MR. PAGE: All right.

2 BY MR. PAGE:

3 Q After --

4 THE COURT: Sustained.

5 Q -- the Clark County School District incident, isn't
6 it true that you had Stephanie take her anger management
7 impulse control classes?

8 A I never had her take it. I didn't tell her to take
9 it.

10 Q Isn't it true that Stephanie asked you about the
11 school she wanted to apply for and you didn't want to have the
12 conversation?

13 A Initially yes, and then follow after -- after that I
14 said I'm open to a discussion but we need to talk about it.
15 It's on OurFamilyWizard.

16 MR. PAGE: I don't think I have anything further.

17 THE COURT: And on you're not going to question him
18 right now.

19 MR. BLACKHAM: Right. And I intend to address what
20 I need to address just at -- at once.

21 THE COURT: Okay. Sir, you can return to your seat.
22 Thank you. All right, Mr. Page. I think you've used a lot of
23 time. So I'm hoping you don't have anything else.

24 MR. PAGE: I don't.

1 THE COURT: So Plaintiff rests?

2 MR. PAGE: Yeah, except I assume I have to call my
3 client back for rebuttal.

4 THE COURT: Okay.

5 MR. BLACKHAM: Well, Your Honor --

6 THE COURT: All right.

7 MR. BLACKHAM: -- I -- I -- is it rebuttal or I
8 thought -- I thought you wanted to supplement your -- your
9 thing with the calendar.

10 MR. PAGE: Oh, yeah, yeah, yeah, yeah, yeah, yeah.

11 MR. BLACKHAM: I'm just saying. I mean --

12 MR. PAGE: No, you're --

13 MR. BLACKHAM: -- it shouldn't take long, right?

14 MR. PAGE: -- you're right. Thank you. Thank you.
15 Thank you.

16 MR. BLACKHAM: You're welcome.

17 MR. PAGE: Go ahead and go up on the --

18 MR. BLACKHAM: I can help.

19 (COUNSEL AND CLIENT CONFER BRIEFLY)

20 THE CLERK: Please raise your right hand. You do
21 solemnly swear the testimony you're about to give in this
22 action shall be the truth, the whole truth, and nothing but
23 the truth, so help you God?

24 THE WITNESS: Yes.

1 THE CLERK: You may be seated. Please state your
2 name and spell your first and last name for the record. Thank
3 you.

4 THE WITNESS: Stephanie Rubidoux. Stephanie is
5 S-t-e-p-h-a-n-i-e, Rubidoux is R-u-b-i-d-o-u-x.

6 THE CLERK: Thank you.

7 STEPHANIE RUBIDOUX
8 called as a rebuttal witness on her own behalf, having been
9 first duly sworn, testified upon her oath as follows on:

10 DIRECT EXAMINATION

11 BY MR. PAGE:

12 Q Ms. Rubidoux, could you turn to the exhibit book
13 that has on the cover that says witness exhibits 54 through
14 60, please?

15 A Okay.

16 Q Are you there?

17 A Yes.

18 Q Could you turn to the tab that has 56 on it? It's
19 actually Exhibit 60, for the record.

20 A Okay.

21 Q But that's the easiest way for you to find it.

22 A Okay.

23 Q Are you there?

24 A Yes.

1 Q Could you identify these documents, please?

2 A So there's a November 2019 calendar. It shows that
3 Mom has 84 percent custody, Dad has 16. December 2019
4 calendar showing Mom has 75 percent custody, Dad has 25
5 percent. January 2020 calendar which has Mom at 51 percent
6 custody, Dad at 50 percent. February 2020 calendar with Mom
7 having 58 percent custody, Dad having 41 percent custody. And
8 then March calendar until the 14th of March with 50/50
9 custody.

10 Q Okay. What happened the 14th of March?

11 A COVID. The state of Nevada basically closed down --
12 the government closed down the state of Nevada and since I'm a
13 teacher staying at home I was able to take Riley because she
14 would be able to go to daycare and they issued the
15 stay-at-home. So wanted to keep Riley in one location.

16 Q So Riley stayed primarily with you. Did Judge
17 Henderson also issue interim visitation orders?

18 A Yes.

19 Q Okay. As a result of those visitation orders, who
20 primarily did Riley reside with?

21 A She resided with me.

22 Q Okay. After Judge Henderson issued those orders,
23 did you and Mr. Rubidoux follow those orders?

24 A Yes, he did.

1 Q As far as this calendar's concerned, who created the
2 calendar?

3 A This was a calendar created by me.

4 Q Okay. What were the source documents you used to
5 create the calendar?

6 A I used the sign-in sheets from Good Samaritan and I
7 used text -- text messages where Dan and I agreed on the
8 exchange and time and day.

9 Q Okay. So when we look at some of these other
10 exhibits here like the one that has a tab on it, 55, which is
11 actual Exhibit 58, would these be the source documents to show
12 when you actually had Riley?

13 A Yes, the first two pages are the disputes where Dan
14 said that had her but in actuality he did not have her.
15 These were the dates that I had her. And then it's followed
16 up with text messages where we're agreeing to switch off. And
17 then there's also the sign-in sheets for Good Samaritan where
18 you can see it's highlighted where Dad has picked her up. And
19 then the times that are not highlighted is when I've picked
20 her up.

21 MR. PAGE: I'll move for admission of Exhibit 58.

22 THE COURT: Any objection?

23 MR. BLACKHAM: Yes, Your Honor. It's hearsay and
24 there are -- there's parts that are obscured by a post-it note

1 and these text messages were legible than some of the others.
2 But it's -- it's not all one document. It's multiple
3 different documents interspersed. And it includes something
4 that she created outside of the calendar. It's Dan -- dispute
5 Dan's time with Riley. So I just think it's kind of a
6 hodgepodge of different things. I can't -- I can't -- I mean,
7 I -- I just can't stipulate to it coming in.

8 MR. PAGE: I -- I don't hear any objection that it's
9 not authentic. He just doesn't like it.

10 MR. BLACKHAM: No, I -- I don't -- I don't think
11 it's -- and best evidence rule, Your Honor. It's a -- it's a
12 hodgepodge of different things mixed together and some of it
13 is not clear and it's obscured. For example, I'll just
14 reference for the record 2108. There's a -- it purports to be
15 a weekly sign out sheet and then there's -- there's a post-it
16 note on top. I don't know what's underneath. Same thing in
17 20 -- 2111. So -- and it's -- I -- I object on -- on the
18 basis of hearsay and best evidence.

19 MR. PAGE: Okay. The post-it note would be to
20 highlight the fact where she picked up Riley and Dan claims he
21 did. So it contradicts his prior -- prior testimony. So I
22 don't see if there's any information underneath it, it's not
23 relevant. Also the things that he's complained about it's
24 covered by a post-it is actually as I look at it here

1 information for other children other than Riley. So it's not
2 relevant and would be inadmissible and to some degree invades
3 the privacy of those other children as to when they were
4 picked up and dropped off.

5 THE COURT: I'll admit Exhibit 58.

6 (PLAINTIFF'S EXHIBIT 58 ADMITTED)

7 (COURT AND CLERK CONFER BRIEFLY)

8 BY MR. PAGE:

9 Q Based upon what you were asked before back on May
10 14, you were asked what evidence you had that Daniel's
11 calendar wasn't correct. Is this calendar intended to
12 contradict the calendar that you he pri -- provided a week
13 before trial?

14 A Yes.

15 Q Would this calendar be accurate?

16 A this calendar is accurate.

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

18 THE COURT: Okay. Mr. Blackham?

19 MR. BLACKHAM: I -- I have nothing based upon the
20 current direct.

21 THE COURT: Okay. I have some questions of the
22 Plaintiff. I'll grab my notes.

23 VOIR DIRE EXAMINATION

24 BY THE COURT:

1 Q Are you teaching this summer?

2 A I taught for the first -- the second, third, and
3 fourth week. I just finished yesterday.

4 Q Okay. So for that extra opportunities they -- they
5 provided, that -- you did teach for that.

6 A Yeah, and then my principal wanted us to help with
7 socializing kids and I -- I felt that it was in my best
8 interest as a national board certified teacher to help them.

9 Q And so you were off for the rest of the --

10 A Yes.

11 Q -- summer until --

12 A Yes.

13 Q -- when you return August what?

14 A Yes, but I'll be teaching online in August.

15 Q Okay. Now, what is your objection to Riley going to
16 Good Samaritan for kindergarten if Dad pays a hundred percent?

17 A Good Samaritan is a very small private school. It
18 doesn't offer a lot of the extracurricular activities and
19 opportunities that CCSD magnet school would provide her. It's
20 an international baccalaureate program. It prepares them for
21 college. It offers them a lot of opportunities to work with
22 the community and just engage in a lot more activities than
23 what the private school can offer.

24 Q Now, at either one of these places she's going to

1 attend kindergarten in -- in person, correct?

2 A Yes.

3 Q And full time, full day?

4 A Full-time.

5 Q And for the 21-22 school year, you may have said
6 this before, but I want to make sure I had it correct. Are
7 you still working at the middle -- same middle school, right?

8 A No, I actually took a position with NVLA through
9 CCSD. It's an online school. This will allow me to, you
10 know, take care of Riley and still work from home. If she's
11 sick, I can attend a lot more of her activities through her
12 school since I'll be an on -- online teacher.

13 Q And what will your work hours be for online
14 teaching?

15 A I'm assuming it'll probably be about the same from
16 8:20 to 3:30, but I do know there will be a lot more
17 flexibility.

18 Q And what -- what grade will you --

19 A Fifth grade.

20 Q -- grade --

21 A Fifth grade.

22 Q So then you'll have one class --

23 A Yes.

24 Q -- assigned to you all day.

1 A Uh-huh (affirmative).

2 Q On the marital residence, when that house was sold

3 last year, whose name was on the title to it?

4 A I believe it was both of ours.

5 Q So you signed the sale documents?

6 A I did.

7 Q And since -- when was the house bought?

8 A We got the house 2013. I think we -- we started the

9 buying process in April and then we actually moved in August

10 of 2013.

11 Q Did you guys buy that brand new?

12 A Yes.

13 Q And so was it always titled jointly?

14 A No.

15 Q What --

16 A It was -- it was originally titled under my name, I

17 think. He -- he didn't qualify for credit so his grandma had

18 to co-sign on the loan. But I don't remember who all was on

19 the title. And then we redid it again and I was the only one

20 on the loan.

21 Q But he was on the title -- added to the title at

22 some point after the purchase?

23 A Yeah, he was added to the title at some point.

24 Q Okay. And did -- do you have any proof of how much

1 you pay for your employer for health insurance for Riley?

2 A It's deducted out of my paycheck a hundred and five
3 dollars every paycheck.

4 Q So -- and you get two a month, right?

5 A Yes, so 210 a month. Sorry.

6 Q Okay. On the 2020 tax refund that you received, how
7 much was that refund?

8 A I don't recall off the top of my head. I'm sorry.

9 Q Yeah. Do you have a ballpark? Was there 2,000 or
10 6,000 or --

11 A I think there was one for like 1200 and then like
12 600. So 2,000. And then I don't remember what the other one
13 was.

14 Q Oh, but the 1200 and 600, was that stimulus money?

15 A I think that was the stimulus. Yeah, I'm sorry,
16 what was your question?

17 Q About the refund.

18 A Oh, about --

19 Q Because --

20 A -- the refund from the --

21 Q The 20 -- because you said you -- you testified that
22 you filed separately from your husband and you claimed Riley.

23 A Yes.

24 Q And so you got a refund, right?

1 A Yes, that's correct. I don't recall off the top of
2 my head. I think it's around two grand. But I have to double
3 check.

4 Q Okay. Now, the stimulus ones for you and Riley at
5 least maybe for -- were deposited to you or --

6 A Riley and mines were deposited into my account.

7 Q Okay.

8 MR. BLACKHAM: I'm sorry, Your Honor. Point of
9 clarification. Did she say 2,000 refund and stimulus or just
10 the 2,000 stimulus?

11 THE COURT: I think she said that the -- she thought
12 the refund was about 2,000.

13 MR. BLACKHAM: That's what -- okay, that's what I
14 thought. So it's --

15 THE COURT: Yeah.

16 MR. BLACKHAM: -- 4,000 total then if you count the
17 stimulus.

18 THE COURT: Plus -- yeah, plus --

19 MR. BLACKHAM: Okay.

20 THE COURT: -- the stim is for her and Riley. I
21 think that was it. I had to put away my -- did you have
22 anything else that that brought up?

23 MR. BLACKHAM: No. No, Your Honor.

24 THE COURT: No, I was -- I'm still talking to Mr.

1 Page.

2 MR. BLACKHAM: Oh, I'm sorry.

3 THE COURT: He hasn't rested yet.

4 MR. BLACKHAM: I apologize.

5 THE COURT: I'm sorry, Mr. Page, did you answer? I
6 didn't hear you.

7 MR. PAGE: Yeah, no, I'm -- I'm thinking.

8 THE COURT: Oh, you're thinking.

9 MR. PAGE: I'm sorry.

10 THE COURT: Okay. Sorry. Go back to thinking.

11 MR. PAGE: I don't think I have anything further.

12 THE COURT: All right. And did that change anything
13 for you, Mr. Blackham?

14 MR. BLACKHAM: You know, I -- I just -- I think
15 within the -- you know, based on Your Honor's questions, I do
16 have a couple of follow ups.

17 THE COURT: Okay. Go ahead.

18 CROSS EXAMINATION

19 BY MR. BLACKHAM:

20 Q So you -- you indicated that you're working. What
21 -- pardon, when did the school year end, regular school year?

22 A Right before Memorial Day. I don't have a calendar
23 in front of me. I'm sorry.

24 Q But -- but you've worked since then?

1 A I took a week-and-a -- I -- I had a week-and-a-half
2 break. I think it was around a week break. Yeah, a
3 week-and-a-half.

4 Q And are you currently working?

5 A No.

6 Q But -- so when did you last work?

7 A Yesterday.

8 Q Okay. And isn't it true that you -- that while
9 you're working, you've been delivering Riley to my -- my
10 client's mother?

11 A Week one, no, she went to a different daycare. Week
12 one and three it's been between his mom and his -- his sister.

13 Q And about at least five hours a day, five days a
14 week?

15 A Yeah, week two, I had a.m. and p.m. classes and then
16 this last week I just had a.m. classes.

17 Q Okay. And you --

18 A And this week --

19 Q And -- I'm sorry, go ahead.

20 A This week I had just a.m. classes.

21 Q Okay. And you acknowledge this to -- to Dan, right?

22 A Yeah, I'm required to communicate.

23 Q And you told him not to use it against you in court,
24 right?

1 A What was the context of that statement?

2 Q I'm asking you. You told him not to use it against
3 you in court, right?

4 A That I didn't want it to be used against me in
5 court, yes.

6 Q Okay. Dan is currently on the title to the house,
7 right? To the -- to the apartment -- at the time of the sale
8 of the marital residence Dan was on the title, correct?

9 A Yes.

10 Q And you guys held that in joint tenancy, right?

11 A What do you mean?

12 Q It was --

13 A I --

14 Q -- held in joint tenancy?

15 A Both of us living there?

16 MR. PAGE: She doesn't know what the term means.

17 Q That's -- it's a -- so you don't know whether it was
18 joint tenancy or not.

19 A Can you just clarify what that means before --

20 Q It's the --

21 A -- I answer?

22 Q -- vesting. It's the -- it's a vesting. When you
23 hold something jointly, that's one way you can do it.

24 A Yes.

1 Q Okay. And you -- it -- but initially, it was in
2 your name, right?

3 A I believe so. Like I said, he wasn't able to
4 qualify in the beginning so his grandma was on the loan. But
5 I don't remember who all was on the title.

6 Q All right. But certainly by 2014 the -- the title
7 was transferred to the two of you jointly, right?

8 A I believe so.

9 Q Okay. That postnup, the alleged postnup that's your
10 -- your Exhibit 25 --

11 A Uh-huh (affirmative).

12 Q -- that's not dated, is it?

13 A I don't have a copy of it in front of me.

14 Q If you turn to Proposed Exhibit 25. I -- you can --
15 take your time.

16 THE COURT: Oh, I don't think she has that whole
17 thing --

18 THE WITNESS: I have --

19 THE COURT: -- in there.

20 MR. BLACKHAM: Oh.

21 THE WITNESS: -- 50 --

22 THE COURT: So you might have to --

23 MR. PAGE: It's not up there.

24 MR. BLACKHAM: You don't have --

1 MR. PAGE: I'd have to approach her with my book, if
2 I may.

3 MR. BLACKHAM: I thought the exhibit books were up
4 there --

5 THE COURT: Perfect.

6 MR. BLACKHAM: -- and everything.

7 THE COURT: Yes, please.

8 THE WITNESS: It's not dated with a date, but
9 there's context clues that can indicate when the time was.

10 MR. BLACKHAM: Your Honor, that's -- please -- move
11 to strike everything after it's not dated with a date.

12 THE COURT: Granted.

13 MR. BLACKHAM: Thank you.

14 BY MR. BLACKHAM:

15 Q Now this was -- this document was prepared by you,
16 right? That's your -- it's in your writing?

17 A No, that top part by Stephanie agreeing to give
18 Daniel, that's his writing. That's how he writes his Ds. I
19 do not write my Ds like that. Underneath where it says house
20 being 7183 all the way down to where I signed is mine.

21 Q Okay. And you guys -- you guys -- this was -- even
22 though it's not dated, this was prepared and signed prior to
23 you're dismissing the divorce case before this one, right?

24 A Prior to dismissing the May 2019 divorce case?

1 Q Yes.

2 A Yes.

3 Q And you -- again, you -- you resided together in the
4 marital residence subsequent to the execution of this
5 document, right?

6 A Not right away, no. It was part-time.

7 Q Eventually you did, right?

8 A Eventually, yes.

9 MR. BLACKHAM: Okay. Pass the witness.

10 THE COURT: Try not to break my microphone, please.
11 It's on the -- you're -- you're hitting it.

12 MR. BLACKHAM: Oh, my goodness. I'm sorry.

13 THE COURT: I'm just teasing a little bit. Go
14 ahead, Mr. Page.

15 REDIRECT EXAMINATION

16 BY MR. PAGE:

17 Q Do you know when the approximate date of this
18 document is? And this is Bates labeled 2023.

19 A It would be before I dismissed the divorce case in
20 the summer. So it would probably be about June or July of
21 2018.

22 Q Thank you.

23 THE COURT: Was that it?

24 MR. PAGE: That's it.

1 THE COURT: All right. Mr. Blackham, anything else
2 for this witness?

3 MR. BLACKHAM: No, Your Honor. I guess -- and just
4 -- just in terms of housekeeping, are we going to -- given the
5 -- given that it's my case in chief now, are we going to take
6 a lunch break at some point or --

7 THE COURT: Nope, I'm going to make you work through
8 lunch. No, I'm teasing. Go ahead and step down, ma'am.

9 THE WITNESS: Thank you.

10 MR. BLACKHAM: I -- I wasn't -- I wasn't whining. I
11 just in terms of my --

12 THE COURT: No, I --

13 MR. BLACKHAM: -- questions and my time.

14 MR. PAGE: Just ask the question directly.

15 THE COURT: I was teasing -- I'm teasing --

16 MR. BLACKHAM: I'm hungry.

17 THE COURT: -- you. So technically Mr. Page hasn't
18 rested yet. So let -- let's have -- hear the magic words from
19 him if --

20 MR. PAGE: I'll rest.

21 THE COURT: All right. The Plaintiff rests. Now,
22 yes, we're going to break for lunch in 30 minutes. So do you
23 want to put somebody on 30 minutes or you guys rather take
24 lunch early and come back at 1:00?

1 MR. BLACKHAM: I -- my preference would be to take
2 lunch early so that it doesn't have to be broken up.

3 MR. PAGE: I -- I just like to charge forward.

4 MR. BLACKHAM: I --

5 THE COURT: You don't want a lunch break at all,
6 right, Mr. Page?

7 MR. BLACKHAM: But since it's my case in chief, I
8 would prefer to just -- to -- to not be have it broken up
9 because I -- again, we're so close. That's -- so we can --

10 THE COURT: Yeah, but we might be able to get
11 started.

12 MR. BLACKHAM: No,

13 THE COURT: All right. Who are your --

14 MR. BLACKHAM: I know we can get started. That's
15 not the question. I just -- I just think from presentation
16 purposes it would be smoother to just -- if we're taking the
17 same amount of time regardless, I would just assume start when
18 we get back. But I can do whatever Your Honor wants. That's
19 fine.

20 THE COURT: Okay. So I -- let me just -- for
21 planning purposes --

22 MR. BLACKHAM: Sure.

23 THE COURT: -- your witnesses are -- are your client
24 and you're going to recall the Plaintiff.

1 MR. BLACKHAM: Right. And -- and I don't anticipate
2 taking more than maybe, I don't know, 15 minutes with her, if
3 that.

4 THE COURT: Okay. And then that's it for you? You
5 don't have any other --

6 MR. BLACKHAM: That's -- I don't have any other
7 witnesses after that.

8 THE COURT: Okay. So we can go ahead and take lunch
9 now.

10 MR. BLACKHAM: Okay.

11 THE COURT: We'll come back at 1:00 o'clock.

12 MR. BLACKHAM: Thank you.

13 THE COURT: And then we'll pick up with the
14 Defendant's case in chief.

15 MR. BLACKHAM: Perfect.

16 MR. PAGE: Okay.

17 MR. BLACKHAM: Thank you so much.

18 MR. PAGE: Thank you.

19 THE COURT: Thank you. We'll be locked. So
20 whatever you want to leave --

21 MR. BLACKHAM: Yeah.

22 THE COURT: -- you can leave, but --

23 MR. BLACKHAM: I'll make sure I take everything.

24 THE COURT: -- don't leave what you want.

1 (COURT RECESSED AT 11:27 AND RESUMED AT 1:05)
2 THE CLERK: We are on the record, Your Honor.
3 THE COURT: All right. Back on the record. Want to
4 go back to some housekeeping on exhibits. Plaintiff's
5 Proposed 10 and 11, our off the record discussion was you're
6 going to withdraw those two proposed exhibits?
7 MR. PAGE: Yeah.
8 THE COURT: Okay. So that the record is clear on
9 those. Also on your videos, Exhibit 34-48, if you have those
10 on a thumb drive --
11 MR. PAGE: I do.
12 THE COURT: -- we could take that thumb drive and
13 put it in the evidence vault as --
14 MR. PAGE: I --
15 THE COURT: -- we can't put it in the computer.
16 MR. PAGE: The thumb drive has other things other
17 than that --
18 THE COURT: Okay.
19 MR. PAGE: -- on there. So I would have to get you
20 a separate thumb -- thumb drive. I'm happy to do that. I
21 just can't do it at this moment.
22 THE COURT: Okay. Yeah. What's your -- what's your
23 deadline on that?
24 THE CLERK: Can we have that like Monday?

1 MR. PAGE: Yeah, we can do it Monday. It's just --
2 it's an easy transfer. I just don't have the spare thumb
3 drive with me.

4 THE CLERK: That'll work. Please.

5 THE COURT: Perfect.

6 THE CLERK: Thank you.

7 THE COURT: That -- done with that. And then I
8 think over the break we also received the W-2 for 2019. Did
9 you get that, Mr. Page?

10 MR. PAGE: Yes.

11 THE COURT: Do you want to stipulate to admit that
12 as Defendant's OO or you want to --

13 MR. PAGE: Yes.

14 THE COURT: Okay. So that will be admitted as
15 Defendant's OO.

16 (DEFENDANT'S EXHIBIT OO ADMITTED)

17 THE CLERK: Thank you, Judge.

18 THE COURT: I think that gets us up to speed on the
19 exhibits admissions. All right. Then we were going into the
20 Defendant's case in chief, right?

21 MR. BLACKHAM: Yes, Your Honor.

22 THE COURT: Okay.

23 MR. BLACKHAM: Your Honor, I'm going to call
24 Stephanie Rubidoux to the stand.

1 THE COURT: Okay. All right. And ma'am, you're
2 still under oath. So I'm not going to have you re-sworn.

3 STEPHANIE RUBIDOUX
4 called as a witness on behalf of the Defendant, having been
5 previously sworn, testified upon her oath as follows on:

6 DIRECT EXAMINATION

7 BY MR. BLACKHAM:

8 Q Ma'am, could you please turn -- oh, actually, strike
9 that. You testified that a lot of the -- a lot of the photos
10 that Daniel had included in his exhibit book that you had
11 taken those photos. Do you recall that?

12 A Can you repeat the question?

13 Q You testified the last time we were in court in May
14 that a lot of the photos that Daniel included in his exhibit
15 book you had actually taken?

16 A Yeah, some of the pictures.

17 Q I -- I believe you said there was a -- a number of
18 them.

19 A Yeah.

20 Q Okay. Could you please turn to Proposed Exhibit --
21 pardon me. Exhibit A. It's been admitted. And could you let
22 us know which pictures -- they all have Bates numbers. So
23 which ones you took?

24 A 482. Probably 484.

1 Q Probably or --

2 A It's a good chance I would say. 502. Then the rest
3 of them were the ones that were attached. An email that was
4 sent to me. Is the -- there's -- they're not all here.

5 Q Okay. So of these you had -- you were able to
6 identify three that you took?

7 A Yeah, when I made the statement, I was referring to
8 the exhibits that were sent to me, not to the exhibit binder.
9 I hadn't looked through that yet.

10 Q Okay. Well, let's -- let's start with -- let's
11 start with number 482. Can you go back to that one, please?

12 A Yes.

13 Q 482.

14 A Yes.

15 Q It's all in Exhibit A. So that -- that -- you took
16 that one, right?

17 A Yes.

18 Q So what year was that?

19 A Riley was three. So it was '18 -- 2018, 2019.
20 2018, yeah.

21 Q Okay. And is that first day of preschool at Good
22 Samaritan?

23 A Yes.

24 Q Okay. And is that before or after the first day of

1 school?

2 A That was bef -- that was the -- that was her first
3 admissibility of preschool.

4 Q Was she -- is that taken at the school or at the
5 house?

6 A That was at our house.

7 Q Okay. So had she already gone to school that day?

8 A No, this is in the morning.

9 Q Okay. And then the next one, you said 484. Do you
10 know when that was taken?

11 A I said that one might be. It looks like --

12 Q You said probably.

13 A -- when we went to the -- I don't know. We -- we
14 took a couple beach trips. So I can't tell you which one I
15 think it is. But it might either be Florida or California.

16 Q But you're pretty sure you took that one.

17 A Pretty sure.

18 Q Okay. Do you have any idea like what year it might
19 be?

20 A I mean, the water looks prettier. So I want to say
21 it's Florida, but, I mean, I don't know.

22 Q When did you go to Florida?

23 A That year that the -- the three year -- this year is
24 2018.

1 Q 2018. And then you also identified 502, correct?
2 A Yes.
3 Q Okay. And what -- what year was that date?
4 A I -- I wouldn't have -- I would probably say it was
5 probably 2018. I mean, I'm -- I'm just taking a guess. I
6 can't say for sure.
7 Q But you knew you took it.
8 A Yeah.
9 Q And so in your opinion if you go back to 482, can
10 you see how see how big Riley was there? Does she look
11 younger or older or can you not tell?
12 A What was the question?
13 Q If you go back to 482 --
14 A Uh-huh (affirmative).
15 Q -- where -- on 2018, her first day of preschool.
16 A Yeah.
17 Q And then you go back and see, you know, on 502.
18 Does she look older or younger to you? Or can you not tell?
19 I know it's from the back. I'm just --
20 A Yeah. I mean, it -- it's kind of hard to tell. I
21 mean, I -- I know we went bowling and I took a shot like this.
22 So I -- I know I took a picture like this. I'm pretty sure
23 this is a picture that I took.
24 Q Okay.

1 A But I could be wrong.

2 Q But none of the others that you recognize having
3 taken?

4 A No. Like I said, a lot of the pictures that I was
5 referring to were in an email of all of Dan's exhibits. There
6 was about 500 pages.

7 Q All right.

8 A So there was a lot more pictures than what's in the
9 binder.

10 Q Okay. Very good. Okay. Now, I -- we've talked a
11 lot about domestic violence in this case.

12 A Yes.

13 Q You have acknowledged that you hit -- that you've
14 hit Daniel, right?

15 A No, I've never acknowledged that.

16 Q You wouldn't acknowledge that you've hit Daniel?

17 A I've only acknowledged that it's been in
18 self-defense that I've tried pushing him away from me or I've
19 tried getting away from him. I have never once came at him.

20 Q So you're denying that you punched him in the face?

21 A Yes, I am denying that I've hit (indiscernible).

22 Q And you have acknowledged that you've broken things
23 in your house before, right?

24 A There have been things -- like his glasses were

1 broken. When he was coming at me and I was pushing him away,
2 his glasses that were on his shirt, he keeps his regular
3 glasses here, they were knocked off and that broke --

4 Q And that was January of 2019, right?

5 A I'm not sure of the date, but that sounds about
6 right.

7 Q You're -- are you no longer working at Faiss --

8 A No.

9 Q -- Middle School?

10 A I've just accepted a position with NVLA. It's --
11 it's with CCSD stuff.

12 Q Are -- is your rate of compensation the same?

13 A The compensation is the same. It's just going to
14 allow me more time to be able to attend Riley's activities.
15 I'll have a more flexible schedule. If she's sick, I can care
16 for her at home.

17 MR. BLACKHAM: Okay. I'll pass the witness.

18 CROSS EXAMINATION

19 BY MR. PAGE:

20 Q You were asked about whether you hit Dan. You
21 denied it and you said any contact was because you were
22 defending yourself from him.

23 A Yes.

24 Q When you had to defend yourself from Dan attacking

1 you, when did that usually occur?

2 A It usually occurred on the weekends. It was usually
3 like Thursday, Friday, Saturday, like when he was in his I
4 want to drink and relax mode and have -- I don't know.

5 Q Oh.

6 A Take --

7 Q Since Dan's time with Riley is primarily during the
8 weekend, what concerns does that gives you?

9 A I'm very concerned that the behavior that I
10 witnessed when we were in the marital home together is going
11 to take place with Riley where I'm not able to ensure Riley's
12 safety. I also worry about him -- you know, family events and
13 family gatherings where he's consuming alcohol that I'm not
14 going to be there to ensure Riley's safety as well.

15 Q When you testified at a time that Dan ate edibles
16 while he was driving and -- and wouldn't pull over, did that
17 occur during the weekend or the weekday?

18 A That was on the weekend.

19 Q Who else was in the car with you when that -- when
20 he did that?

21 A His mom and Riley.

22 MR. PAGE: Well, in order to stay within the scope,
23 I don't think I have any other questions.

24 THE COURT: Okay. Any re -- redirect?

1 MR. BLACKHAM: No, Your Honor.

2 THE COURT: All right. Thank you, ma'am. Next, I'm
3 going to call Dan Rubidoux to the stand.

4 MR. BLACKHAM: Is it okay Your Honor if I sit?

5 THE COURT: Yes. Go ahead.

6 MR. BLACKHAM: Thank you.

7 THE COURT: And sir, you're still under oath.

8 DANIEL RUBIDOUX

9 called as a witness on his own behalf, having been previously
10 sworn, testified upon his oath as follows on:

11 DIRECT EXAMINATION

12 BY MR. BLACKHAM:

13 Q Daniel, how many times have you and Stephanie filed
14 for divorce?

15 A This is our third.

16 Q When -- when are the -- when were the other cases
17 filed? Do you remember?

18 A One was 2014. One was 2018. Oh, I'm sorry, 2019
19 and then one was 2020 which is this one.

20 Q And just -- just to -- we're going to get into more
21 important matters in a second, but this -- the -- you --
22 you've heard about this alleged postnuptial agreement?

23 A Yes.

24 Q And you know that it's -- it's included as the

1 Plaintiff's -- Stephanie's Exhibit 25?

2 A Yes.

3 Q Do you recall -- you acknowledge signing that
4 document, correct?

5 A Yes.

6 Q All right. Do you recall when it was executed?

7 A No, but it was before she moved back and before the
8 second divorce was dismissed, was altered.

9 Q So when -- when -- do you recall when the second
10 divorce was dismissed, what year it was?

11 A It was 2019.

12 Q The same year that it was filed?

13 A Yes.

14 Q And then you reconciled after that?

15 A Yes.

16 Q What was your ex -- expectation, if any, regarding
17 that agreement?

18 A I think that agreement -- the reason nobody has the
19 real copy of it is because we junked it after we got back
20 together.

21 Q You mean you threw it away?

22 A Yeah, one of us did. I mean, it wasn't really
23 something we kept in the back of our head again after we got
24 back together.

1 Q Did you have any plans -- did you and Stephanie
2 discuss doing something else with that agreement to formalize
3 it when you did sign it?

4 A Notarize it.

5 Q And did you ever go and get it notarized?

6 A No.

7 Q Okay. Have you -- was it your intent to be bound by
8 those terms after you -- you reconciled with Stephanie?

9 A No.

10 Q Did you ever change the titling to the house that
11 was sold recently, the former marital residence, after you
12 signed it? Or pardon me, after -- after you reconciled?

13 A Did we change the terms of that agreement?

14 Q No, the hou -- the way the house was titled. Do you
15 remember I asked Stephanie earlier that it was titled --

16 A Oh.

17 Q -- in both of your names, correct?

18 A Yes.

19 Q Did you ever change the title into the house?

20 A No, nothing was ever changed.

21 Q Okay. And now, with divorce filings, give a sense
22 of -- I just want -- I want -- I just want you to articulate
23 for the Court the facts and circumstances that -- that
24 resulted in the filing of three divorce cases in, what, seven

1 years or six years?

2 A Yeah.

3 MR. PAGE: Objection, overly broad, asked for a
4 narrative response.

5 THE COURT: Overruled.

6 MR. PAGE: The first divorce came pretty quick
7 shortly after we were married and that was me. I left her
8 during that time. She filed before I did. That should have
9 been the first eye opener. We just -- we weren't good for
10 each other. It was toxic. We didn't like the same things.
11 We weren't getting along. We were arguing a lot right from
12 the get go and I left then. For some reason, I ended up -- we
13 ended up getting back together and then things gradually got
14 worse again after we got back together.

15 And then after she -- she cheated on me a few times
16 that I know of and then that's kind of what started to fall
17 apart in 2019. And that's why we filed in that time. And
18 then we did some counseling in between both of those --
19 marriage counseling and therapy trying to keep it together for
20 -- for Riley's sake to keep the family together. And it just
21 wasn't working. So we ended up here again.

22 BY MR. BLACKHAM:

23 Q And you mentioned that there was some infidelity.

24 A Yes.

1 Q And was that the subject matter of some of your
2 arguments?

3 MR. PAGE: Objection, relevance.

4 A For a big --

5 THE COURT: Sustained.

6 BY MR. BLACKHAM:

7 Q The -- what are -- what are some of the -- you --
8 you and Stephanie argued quite a bit, yes?

9 A Yes. Yes.

10 Q What are some of the things you argued about?

11 MR. PAGE: Objection, relevance.

12 THE COURT: Overruled.

13 MR. BLACKHAM: Your Honor, I'm -- I'm doing this for
14 context simply to -- because we're going to address the toxic
15 relationship between them which gives context to many of the
16 things the Court's already seen.

17 THE COURT: I did overrule already.

18 MR. BLACKHAM: Oh, sorry. Okay.

19 THE WITNESS: In the beginning right around, you
20 know, before and after that first divorce filing, it was
21 really just different likes and views, you know, different --
22 if outdoor activities, different indoor activities. We were
23 just -- we did -- we didn't like the same things. Then
24 towards the second one for a long period of time definitely

1 evolved around cheating. And then after I kind of moved past
2 the cheating, it's really, really mentally forgave that. It
3 turned into arguing over who was doing what for Riley that
4 day, that week. Finances or what we were going to, you know,
5 spend money on, what we weren't going to spend money on. And
6 then it just turned -- pretty much everything turned into an
7 argument.

8 BY MR. BLACKHAM:

9 Q What -- was there a -- we -- you've seen several
10 videos, and we're actually going to look at a couple of them
11 again so you can provide your -- your context for what's
12 actually happening there. But what -- what, if any, pattern
13 did you see regarding your -- your --

14 A Some of the --

15 Q -- arguments -- ar -- wait, let me finish. Your
16 arguments with Stephanie?

17 MR. PAGE: Objection, relevance.

18 THE COURT: Overruled.

19 THE WITNESS: As in the -- the forms of the videos
20 or like the -- the videos themselves or like --

21 MR. PAGE: Objection, vague --

22 MR. BLACKHAM: How -- how can you object to the
23 answer?

24 THE COURT: You can clarify your question for your

1 client. That apparently would help.

2 MR. BLACKHAM: Oh, okay. I thought he was objecting
3 to what he said.

4 MR. PAGE: No, you -- the client doesn't know what
5 the question is.

6 MR. BLACKHAM: Okay.

7 THE COURT: That's what I'm saying.

8 BY MR. BLACKHAM:

9 Q The -- what, if any, pattern did your -- did your
10 arguments take? And was there -- was there a -- was there a
11 certain way it would start and stop?

12 A Yeah. So as far as the topics; on most of these
13 videos, it either was involving -- it was doing one for Riley
14 or involved something to do with the infidelity whether you
15 would see that or not or finances. And, typically, we -- we'd
16 both escalate the situation and then as it got up that's when
17 I started realizing a lot of these videos were being taken
18 from her hip because she would escalate the situation with me
19 and then start recording when I didn't know about it and then
20 kind got -- got down when I was still up -- up here.

21 Q Do you have an opinion as to whether she would start
22 the recording as soon as the argument started --

23 A No.

24 Q -- or --

1 A It -- it went -- later on. It doesn't really start.
2 It never -- all those arguments in the video, they didn't
3 start up there like at that level of anger. They kind of grew
4 from there.

5 Q Okay. Let's -- let's -- before we get into the
6 videos, I just want to address the -- there was one premarital
7 incident that she -- she had raised that took place in Hawaii.
8 And she said you had injured her at that time. Do you recall
9 that?

10 A Oh, Mexico?

11 Q Mexico. I'm so sorry. I apologize. Mex --

12 A Yes.

13 Q Mexico, yes.

14 A Yes. That was before our marriage.

15 Q And -- and can you just tell us just very quickly
16 what happened just so that we have a record of your --

17 A Yes.

18 Q -- your position?

19 A That was my sister's rehearsal dinner night. Then
20 they had like their little gathering party afterwards. That
21 night she -- she did drink and --

22 Q Who's she?

23 A -- Stephanie did drink heavily and they asked --
24 some people mentioned it to me, take her back to the room,

1 which then she was kind of just -- a lot of -- there was a lot
2 of deadweight trying to go up the staircase. We did argue.
3 She got upset over it. But the bruise wasn't because I
4 aggressively grabbed her. It was from carrying her up the
5 stairs.

6 Q Okay. Was she -- was -- was -- were you concerned
7 that she might fall?

8 A She almost fell twice; once into a fountain and once
9 down the stairs.

10 Q Okay. Was there a physical altercation between you
11 that day?

12 A There was some loud screaming and -- and arguments
13 but nobody ever touched nobody at that moment.

14 Q Thank you.

15 MR. BLACKHAM: Okay. Madam Clerk, I'm not sure how
16 we're going to handle this, but could we look at Exhibit 35,
17 please?

18 THE CLERK: Okay.

19 Q And we're going to go through several videos and I
20 -- and I want you to please tell us as to each what's going on
21 and --

22 A All right.

23 Q -- then depending on the video I'll ask you some
24 specific questions.

1 A Okay.

2 Q But --

3 THE CLERK: You said 35?

4 MR. BLACKHAM: Yeah, that's going to be the first

5 one. It's 35. And can you make sure that the audio is on?

6 THE CLERK: Yes.

7 A 35, this is -- this is the incident where she drove

8 off. And what she's doing here is she's wanting to leave.

9 And normally I would say I prefer you not to leave but I

10 always would say please don't take my daughter. I had her

11 purse because her key was in it and I said you need to leave

12 Riley, you can't be taking her. Because I think in that video

13 it's -- I think it's 12:24 at night if -- if I can see -- it's

14 on the top. Yeah, it's 12:24 at night.

15 Q Okay. And that's -- this is the May incident,

16 correct?

17 A Correct.

18 Q And that's -- okay. And then we have a -- this is

19 from a different angle as well, right?

20 1:27:47

21 (VIDEO PLAYED)

22 Q Do you know who that is talking?

23 A That's her dad.

24 MR. BLACKHAM: Okay. So Madam Clerk, can we go to

1 34? Play -- I'm sorry, yeah, 34. Right.

2 Q So what are we seeing here?

3 1:28:07

4 (VIDEO PLAYED)

5 A This is the neighbor's footage.

6 Q Of the same incident?

7 A Yeah.

8 Q Okay. Now, tell us what's happening here.

9 A Again, I'm saying you're not leaving with my
10 daughter and I then moved the purse away. And then she gets
11 -- and anyways you can see her get in with Riley on her lap.
12 That was part of the problem. She would drive away with Riley
13 on her lap. And I say don't --

14 Q What are you doing with the car with them?

15 A I'm trying to talk to her like hey, give me my
16 daughter. At that point I was desperate, sad, upset, you
17 know, upset over the whole thing. The fact my daughter got
18 ripped out of bed at 12:24 at night. And we were talking for
19 a split second there right through the window as it was rolled
20 up. And as I did not hang on the car, my car -- my arm got
21 attached to the top racket. That's where I rested my arm.

22 Q Why was your arm there to begin with?

23 A I just had it on the top of the car. I was trying
24 to talk to her through the window.

1 Q Were you trying to physically stop the car from
2 going?

3 A I think that's impossible. I wouldn't try and --
4 try and stop the car from physically going.

5 Q So what --

6 A You see my feet move a bit because I'm not wearing
7 shoes and they're starting to drag on the pavement.

8 Q Okay. What -- okay. And were you injured in that
9 -- in that event?

10 A Severely.

11 Q What was -- what were your injuries?

12 A I had road rash all over my body. There may be more
13 injuries underneath, you know, and the bones and what have it.
14 I never actually went and got it checked. Because I was
15 trying to keep the marriage together and her dad did say you
16 probably should see if you really need to go to the hospital
17 or just wait it out because you can get her in trouble.

18 Q So you want --

19 MR. PAGE: Objection, sustained.

20 MR. BLACKHAM: It's something he already said.

21 THE COURT: Sustained.

22 BY MR. BLACKHAM:

23 Q All right. So now, do you recall what you guys were
24 arguing about that day?

1 A No.

2 Q Okay. What -- what -- and we're going to get to
3 that in -- incident, you know, as far as the background goes,
4 we're actually (indiscernible) from this. I'm not sure how
5 much is left on the video, but I don't know that anything else
6 happens.

7 A You just see me come back as -- I'm ba -- I'm
8 basically laying on -- on the street for quite a bit because I
9 had to detach myself from the car. It might have been going
10 about 40.

11 MR. PAGE: Objection, that just misstates what the
12 video said. It took him --

13 MR. BLACKHAM: And --

14 MR. PAGE: -- maybe 10 seconds from when he
15 disappeared from the street to walk back through their garage
16 inside the house. A long time? Come on.

17 MR. BLACKHAM: The document -- the vi -- it speaks
18 for itself. I mean, that's a subjective --

19 MR. PAGE: And he --

20 MR. BLACKHAM: -- impression.

21 MR. PAGE: -- he's characterizing what can be only
22 described as perjurious.

23 MR. BLACKHAM: How would -- really? That's -- okay.
24 Your Honor, I assume the objection's overruled?

1 THE COURT: Overruled. Yes.

2 MR. BLACKHAM: Thank you.

3 THE COURT: Go on.

4 BY MR. BLACKHAM:

5 Q Okay. So then let's see. All right. Let's --
6 let's go to -- I mean, this is the -- 42, please. And if the
7 audio (indiscernible), please.

8 1:31:30

9 (VIDEO PLAYED)

10 A This is -- this is the domestic incident where --

11 Q Is -- is this the January 2019?

12 A Yes.

13 Q Okay.

14 A And she's trying to leave with Riley again. I
15 believe it's like 10:30 at night during this one where she
16 pulled her out of bed at 10:30.

17 MR. BLACKHAM: Can we pause the video please, Madam
18 Clerk? I just want to -- I just want to -- actually, we -- we
19 can restart it. It -- it's just that --

20 Q Is -- is -- this is the security video from the
21 garage?

22 A Yes.

23 Q Okay. Was there -- did you -- was there any
24 argument between the two of you prior to what is depicted in

1 the garage footage?

2 A Yes. This --

3 Q All right. Tell us what happened.

4 A Riley was in bed sleeping in her room. We were
5 having an argument over -- what it was about, I don't
6 remember, but we were doing it in the master room. And it
7 kind of went from the master room to the bathroom to the
8 master room to the bathroom. And then that's when she -- she
9 struck me in the eye three times. Then she ripped Riley out
10 of bed and left to go to her car. That's when I went out
11 there and said I prefer if you would stay and we can split up,
12 you know, sleeping in the room. We'll deal with this
13 tomorrow. Let's just calm down. It's gotten out of control.
14 But please don't take my daughter if you decide to leave.

15 Q Okay. Now, the -- were you injured from being
16 punched in the eye?

17 A I had a black eye.

18 Q Okay. And were you wearing your glasses at that
19 time?

20 A Yes, these same ones.

21 Q The glasses you're wearing right now.

22 A Yes. And they're still broken.

23 Q Okay. When you say broken, what do you mean
24 specifically?

1 A Like the lens itself will just -- you know, they'll
2 just pop right out.

3 Q Okay. Does the ha -- same thing happened to the
4 other side?

5 A Yeah.

6 Q Okay. So and -- and that's -- did it do that prior
7 to January 20th of 20 --

8 A No.

9 Q -- 19?

10 A No.

11 Q Okay. And did you take a picture of the -- of the
12 black eye?

13 A Yeah, my mom recommended I should take a picture of
14 it and then also send it to her.

15 MR. PAGE: Objection, hearsay.

16 THE COURT: Sustained.

17 BY MR. BLACKHAM:

18 Q Okay. Did -- did you take it? Did you --

19 A Yes.

20 Q Okay.

21 MR. BLACKHAM: Your Honor, may I approach?

22 THE COURT: Sure.

23 MR. PAGE: I'm going to object to any attempt to
24 introduce these particular documents. They were given to me

1 at 5:44 p.m. yesterday.

2 MR. BLACKHAM: Your Honor, I can still try to get
3 them in here.

4 BY MR. BLACKHAM:

5 Q I've handed you what's been marked --

6 MR. PAGE: We -- we don't even have to go down this
7 road. They were given to me at 5:44 p.m.

8 MR. BLACKHAM: Okay. They are -- Your Honor, they
9 are demonstrative.

10 MR. PAGE: It's not a demonstrative exhibit.

11 MR. BLACKHAM: It -- it sure is --

12 MR. PAGE: It's a photograph.

13 MR. BLACKHAM: -- demonstrative. His testimony is a
14 substantive -- is the substantive element of it. The picture
15 he took himself --

16 THE COURT: Okay, but you can't do trial by ambush.

17 MR. BLACKHAM: I --

18 THE COURT: He's right on that so you're not going
19 to --

20 MR. BLACKHAM: I -- I --

21 THE COURT: -- get them in.

22 MR. BLACKHAM: I -- I appreciate that, Your Honor.

23 THE COURT: But you're -- you're -- I'm not going to
24 admit them so we can move on to the next thing --

1 MR. BLACKHAM: Okay.

2 THE COURT: -- because they weren't timely produced.

3 MR. BLACKHAM: Let me take those back.

4 BY MR. BLACKHAM:

5 Q Which eye was black?

6 A I believe it's -- it was in my right eye, if I

7 remember correctly. It's been a couple years.

8 Q You're not sure?

9 A I'm not positive.

10 Q If I were to show you a picture, would that refresh

11 your recollection?

12 A Yeah.

13 MR. BLACKHAM: May I approach, Your Honor?

14 THE COURT: Yes.

15 THE WITNESS: One second. My glasses are back here.

16 MR. PAGE: There's no bruise.

17 MR. BLACKHAM: There it is.

18 MR. PAGE: It looks like you overslept.

19 MR. BLACKHAM: I don't think it's funny, but --

20 THE WITNESS: That's my left eye.

21 Q Okay. And that's the -- is that the lens that you

22 popped out too?

23 A The first one, yeah.

24 MR. BLACKHAM: Now, I -- and Madam -- Madam Clerk, I

1 just -- if we could just go back to when he enters the garage
2 because I --

3 Q Again, and this is -- I know this is difficult to
4 watch. I -- first of all, are you -- the Judge asked you this
5 a little bit before, but are you proud of your conduct on
6 these videos?

7 A None of these videos I'm happy with. This is not
8 who I've ever been in my life. I'm not aggressive towards my
9 (indiscernible) sisters, my daughter, my mom, I mean, around
10 them my whole life. I was not raised that way and it's never
11 -- they're part of my history.

12 Q All right.

13 MR. BLACKHAM: All right. So if we could just
14 rewind it, please. Thank you.

15 1:36:05

16 (Video played)

17 Q So now I want you to tell -- so I want you to tell
18 us what's happening here because --

19 A She's trying to leave with Riley --

20 Q Okay.

21 A -- right now and I'm asking her not to. Let's just
22 de-escalate it and we'll deal with it later. If you leave,
23 don't take my daughter. When she comes out, they said I
24 grabbed her aggressively on the arm. I'm not. I'm trying to

1 just -- just talk to her and then -- then that's when
2 something around that sweater, that's why I threw the sweater.
3 You can see her here kicking me actually and pushing herself.
4 But it looks a little more aggressive. Obviously, I'm pushing
5 -- I'm not happy about my choices.

6 Q Were -- were you in pain at that time?

7 A Not physically. I was upset. I was sad.

8 Q Were you -- were you trying to hurt her?

9 A No.

10 Q Are you aware of any mark that resulted from the
11 interaction between you and Stephanie that day or on
12 Stephanie's body?

13 A No.

14 Q Okay. Okay. Now, you've heard argument and
15 testimony that -- I mean, whose voice was that?

16 A That's Riley.

17 Q Okay. And that's -- that's not from the security
18 video, right?

19 A No.

20 Q What is that from?

21 A That's Riley being held and she's obviously talking
22 about who's on the screen.

23 Q Okay.

24 A Because right here she says where's Mommy -- or

1 where did Mommy go.

2 Q Okay. So do you agree with the contention that
3 Riley could not possibly have seen the video as it was being
4 recorded?

5 A Riley definitely saw it.

6 Q How do you know that?

7 A Because you -- she's almost narrating people in the
8 video.

9 Q Okay.

10 A Like that.

11 Q All right. And then we go over the -- so what's
12 happening there then?

13 A She waits a second, she goes back in. You'll see
14 her come out faster because she grabbed Riley when I was too
15 far away to stop her. And then she leaves. And then in this
16 video you can clearly -- I think -- I'm almost positive you
17 can see her backing out with Riley clearly on her lap.

18 Q All right.

19 A And then there's Riley on the lap.

20 Q Now, what were you doing when you ran out there?

21 A I saw my daughter sitting on her lap and --

22 Q Were you worried about her safety?

23 A Yes. She should be in a car seat.

24 Q Did she -- what happened after that incident, if

1 anything?

2 A I don't remember what happened after that one.

3 Q Did she -- to your knowledge, did she go to the
4 police at that time?

5 A Not at that time. It was later on.

6 Q Okay. When did -- when did she -- So was this
7 ultimately reported?

8 A This was recorded in January 20th of 2019.

9 Q This was reported. I said reported.

10 A Oh, reported. It -- it was either late May, early
11 June.

12 Q Okay.

13 A It was --

14 Q So it was after the May incident that we just saw
15 earlier?

16 A No, she reported it before that one, I believe.

17 Q Okay. You've acknowledged --

18 A Oh, yeah, it had to have been after. I'm sorry.
19 Because that was May 2nd. So yeah, it had to have been after.

20 Q Is it your understanding that there were two things
21 reported at once?

22 A Yes.

23 Q Okay. Now, were you ever prosecuted for the May
24 incident?

1 A No.

2 Q But you were ultimately prosecuted for the January
3 incident that that she reported in May or June.

4 A Yes.

5 Q Okay. And just to clarify the record, you pled what
6 to that?

7 A No contest.

8 Q Okay. And is that case now dismissed?

9 A Yes.

10 Q Okay. All right. I -- and we don't actually have
11 to look at the video, but do you recall there's a video, it's
12 Exhibit 41, the video where -- where Stephanie alleges that
13 you were blocking her --

14 A Yes.

15 Q -- from view? Were you trying to block her -- her
16 exit from the driveway?

17 A No. And I think I even back up in that picture.

18 Q All right. You know what, let's actually -- I apol
19 -- let's -- let's look at it.

20 MR. BLACKHAM: Can -- Madam Clerk, can we do Exhibit
21 41, please?

22 THE CLERK: Yes.

23 MR. BLACKHAM: Thank you.

24 1:40:59

1 (VIDEO PLAYED)

2 MR. BLACKHAM: Can you pause it, please, Madam
3 Clerk?

4 Q Okay. So now she said you're blocking her way. And
5 what did you do after that?

6 A I backed up.

7 Q Okay. So you -- you moved farther away from the
8 driveway.

9 A Yeah.

10 Q All right. What happened just before that video
11 started, if anything?

12 A I'm pretty sure that argument that day had something
13 to do with her rushing out to get Riley to school. I left,
14 came back around the loop. That's why the truck's facing that
15 way, running to grab a binder that I forgot for a meeting.
16 And then that's when the argument started. And then that's
17 when she threw her ring at me.

18 Q She threw her -- which -- her wedding --

19 A Wedding --

20 Q -- ring?

21 A -- ring. Wedding ring.

22 Q And did she hit you with it?

23 A Yes.

24 Q Okay. And that happened just before this video

1 starts?

2 A Yes.

3 MR. BLACKHAM: Okay. Can you continue the video,
4 please, Madam Clerk? Thank you.

5 1:41:48

6 (VIDEO PLAYED)

7 Q So was Stephanie able to leave that day?

8 A Yes.

9 Q Okay. Were you trying to intimidate her in any way?

10 A No, actually, I was just getting ready to pull away
11 and that's when the ring thing went down. I just wanted her
12 to take the ring back so we could move on with the day.

13 Q You gestured with your hand from the open window.
14 Were you holding --

15 A I was holding the ring.

16 Q And you were asking her to take it back?

17 A Yeah.

18 Q Okay.

19 MR. BLACKHAM: The Court's indulgence. Sorry.
20 Okay. Madam Clerk, can we do number 43, please?

21 1:44:10

22 (VIDEO PLAYED)

23 MR. BLACKHAM: Can you pause it right there, please?

24 Q Okay. Now, you're obviously using profanity and you

1 sound upset. What, if anything, happened just before that
2 video started?

3 A This was her -- it was a teacher award ceremony that
4 was kind of a big deal at the Smith Center. We needed a
5 babysitter. And the only people outside of our family that
6 watch Riley was my boss's girlfriend's daughter, who's a
7 college student here. She didn't like how much I was paying
8 her and she didn't want her to do it. She -- at the very last
9 minute, you know, when we didn't have time to get a new
10 babysitter at the very last second she was uncomfortable with
11 it. And that turned into a huge argument.

12 And a lot of the words -- and actually I sound
13 terrible and -- and I'm not happy for it. Like, you know, I
14 wish I would have just walked away or just stayed quiet. But
15 the words I'm repeating is what she used -- what she said
16 about me.

17 Q And what things were those?

18 A I think it was like --

19 Q Well, we --

20 A -- sensitive or -- or, you know, like little bitch
21 and stuff like that. She was calling me a lot of like nick --
22 those names. The ones I'm saying are -- that I'm saying I'm
23 calling myself is because that's what she called me.

24 Q But prior to the video being recorded.

1 A Yeah, we were both at the same level where I was but
2 when she started the video she got quiet.

3 Q Okay. Okay. Was it -- is this -- was this common
4 that -- that --

5 A Oh, yeah.

6 Q -- she would do things before recording and then
7 record you as if you were the first --

8 A Yes.

9 Q -- one to start?

10 MR. PAGE: Objection, leading.

11 THE WITNESS: Yes, that's why in some of these
12 videos --

13 THE COURT: Hold on. Hold on, sir.

14 THE WITNESS: I'm sorry.

15 THE COURT: Sustained.

16 BY MR. BLACKHAM:

17 Q So I am not sure where -- where it was going to cut
18 off. So were you -- was that common?

19 A Yes.

20 MR. PAGE: What common? Objection, vague.

21 BY MR. BLACKHAM:

22 Q Was it -- what you described where there was --
23 where Stephanie would say something to you and then start
24 recording after that? Was that common for her to do that?

1 A Yes. It was very common. And that's why in some of
2 these videos you start seeing me holding my phone because once
3 I started realizing that's what she was doing I just kept mine
4 -- mine on too.

5 MR. BLACKHAM: Okay. Can we continue this, please?

6 1:46:27

7 (VIDEO PLAYED)

8 Q Was Riley in the car?

9 A No, we had already dropped her off.

10 Q All right. Had she called you that too?

11 A Yes.

12 Q Weak ass bitch? All right. And that -- that car
13 sounds pretty loud at that point.

14 A Yes, there was a muffler on the truck.

15 Q You're -- you're clearly accelerating, yes?

16 A I believe we're getting on the freeway, actually.

17 Q Okay. Were you -- were you driving recklessly?

18 A No.

19 Q Okay. So at the end there you talk about female
20 bitch. Is that something she had called you?

21 A Right at the end, yeah.

22 Q And what is she saying -- what did she say at the
23 end? Did you hear it?

24 A Female bitch.

1 Q What did she say?

2 A To which -- which portion -- that was the last word

3 she said, so --

4 Q Okay. And --

5 A Oh, that's why we're going to be late or also that

6 --

7 Q Did she say that's what you were being?

8 A Yes.

9 Q Okay. So did you take that as an acknowledgment

10 that she had called you that?

11 A Yes.

12 Q Okay. And that she thinks that you're too

13 sensitive?

14 A Yes.

15 Q Did you get the impression that she was afraid of

16 you at that time?

17 A No.

18 Q How about when you were initially blocking the

19 driveway that the prior exhibit -- exhibit that was --

20 A No, because she walks back to my truck too. So

21 she's obviously not intimidated by me. Otherwise, she would

22 have just got off.

23 Q Okay.

24 MR. BLACKHAM: Can we go to -- oh, I guess that was

1 43. So 44.

2 1:50:58

3 (VIDEO PLAYED)

4 Q Obviously, all of that happened in front of Riley,
5 correct?

6 A Yeah.

7 Q And in several of these videos Riley is -- is in the
8 middle of it, right?

9 A Yes.

10 Q And how do you -- how does that make you feel to see
11 her in the middle of the --

12 A I don't like it at all.

13 Q Okay.

14 A A lot of times, I try to get her out of the
15 situation and it's --

16 Q But --

17 A -- I -- I regret the -- those moments.

18 Q You regret what?

19 A Just even keeping her around when -- when either
20 both of us or one of us is irate.

21 Q Do you -- okay. Now, I -- did you get the
22 impression that she was afraid of you in that video?

23 A No.

24 Q Were you trying to intimidate her in any way?

1 A No.

2 Q What were you trying to do, if anything?

3 A De-escalate the situation. I was just -- I don't
4 know what fight that was or what -- what it is about but
5 because we had so many of them. But I was trying to de-
6 escalate. And that was more common seeing me doing stuff like
7 that when I was trying to keep her calm. And then these bad
8 ones that you're seeing, those are the ones that obviously
9 just failed, but --

10 Q Had you been drinking that day?

11 A No.

12 Q Had you been drinking the day that -- it -- the
13 driving recklessly -- alleged recklessly one, the Exhibit 43?

14 A No.

15 Q You -- you had -- you did acknowledge having a beer
16 though at a business --

17 A Oh, yeah, I had a beer with a customer at lunch,
18 yeah.

19 Q Were you intoxicated?

20 A No, it was one beer with a customer at probably
21 11:30, 12:00 o'clock at a business lunch.

22 Q Okay. How about the -- how about the May incident?
23 Were you drinking that day?

24 A Earlier in the evening I was drinking that day

1 for --

2 Q Yeah.

3 A -- that I remember. But I do remember because yeah,
4 I wasn't drunk later. We were going to bed. That's -- I
5 think I'm wearing pajamas in that video -- yeah, because
6 that's why I have no socks or shoes on.

7 Q So were you intoxicated at that time?

8 A At that moment, no. I drank earlier in the night.
9 And that -- that took place at like 10:30. I drank probably
10 like 5:00 o'clock.

11 Q Okay. And were you out?

12 A That day -- that day I did not remember if I was out
13 of not.

14 Q Okay. And how many of these videos do you recall
15 that you were intoxicated when the events that occurred in the
16 videos?

17 A One for sure because you can hear it in my voice.

18 Q Do you recall which one that was? If you don't
19 recall it's, fine. I mean, it's not --

20 A I remember it's the one where she took from like her
21 hip as well. And I was in the kitchen.

22 Q Okay. You -- you recall Mr. Page asked you if you
23 -- if you kicked -- I -- I believe he asked you if you kicked
24 Stephanie. And -- and have you -- did you ever kick