

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

*** * ***

ADAM MICHAEL SOLINGER,)
)
 Appellant,)
)
 vs.)
)
 CHALESE MARIE SOLINGER,)
)
 Respondent.)
)
 _____)

Case No.: 84832-COA

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**APPELLANT’S APPENDIX
VOLUME 20**

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Appellant's Appendix* was filed electronically with the Clerk of the Court of Appeals of Nevada in the above-entitled matters on Monday, November 21, 2022. Electronic service of the foregoing document shall be made in accordance with the Master Service List, pursuant to NEFCR 9, as follows:

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/s/ David J. Schoen, IV, ACP
An employee of The Abrams & Mayo Law Firm

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11/02/2022	Transcript from March 2, 2022 Evidentiary Hearing (Trial Day 4)	21	4403 - 4669
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Thomas A. Spivack
CLERK OF COURT

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ORIGINAL

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EIGHTH JUDICIAL DISTRICT COURT

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FAMILY DIVISION

7

CLARK COUNTY, NEVADA

8

9 ADAM MICHAEL SOLINGER,)

CASE NO. D-19-582245-D

10 Plaintiff,)

APPEAL NO. 84832, 81787,
84795, 84832

11 vs.)

DEPT. P

12 CHALESE MARIE SOLINGER,)

(SEALED)

13 Defendant.)

14

BEFORE THE HONORABLE MARY PERRY
DISTRICT COURT JUDGE

15

16

TRANSCRIPT RE: NON-JURY TRIAL

17

TUESDAY, MARCH 1, 2022

18 APPEARANCES:

19 The Plaintiff:
For the Plaintiff:

ADAM MICHAEL SOLINGER
CHARLES R. GOODWIN, ESQ.
3100 W. Charleston Blvd., #100
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22 The Defendant:
For the Defendant:

CHALESE MARIE SOLINGER
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I N D E X O F W I T N E S S E S

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
<u>PLAINTIFF'S WITNESSES:</u>					
JOSHUA LLOYD	109	146	172	--	--
JESSICA SELLERS	194	--	--	--	--
<u>DEFENDANT'S WITNESSES:</u>					
WILLIAM O'DONOHUE	22	64	--	--	--

* * * * *

I N D E X O F E X H I B I T S

	<u>ADMITTED</u>
<u>PLAINTIFF'S EXHIBITS:</u>	
(None presented)	
<u>DEFENDANT'S EXHIBITS:</u>	
LL - William O'Donohue's CV	28

1 LAS VEGAS, NEVADA

TUESDAY, MARCH 1, 2022

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

3 (THE PROCEEDINGS BEGAN AT 9:26:36)

4
5 THE COURT: All right. Good morning. We're
6 on the record in case number D-19-582245-D, Solinger
7 versus Solinger.

8 Ms. Cramer, can you please give me your
9 appearance? I almost forgot your last name.

10 MS. CRAMER: Good morning, Your Honor.

11 Michancy Cramer, Bar number 11545, for the
12 Defendant who's with us today.

13 THE COURT: Thank you.

14 Mr. Solinger, I do recognize the fact that
15 you are a licensed attorney. Unfortunately, you are
16 here in pro per today, so you may go ahead and have a
17 seat.

18 Maybe if I write your name down I will
19 remember it's you. And we have Alex here for some
20 reason.

21 Okay. We are starting the first full day of
22 an evidentiary hearing. I think we've had two half
23 days already. Or was the last one a full day? I think
24 it was only a half.

1 MR. SOLINGER: It was a partial day --

2 THE COURT: Yeah.

3 MR. SOLINGER: -- due to witness
4 availability.

5 THE COURT: Yeah. And so today is our next
6 full day, which is going to be day two. Tomorrow will
7 be day three. All right.

8 MR. SOLINGER: Your Honor, as an initial
9 matter, since we're on the record --

10 THE COURT: I'm denying it. No, I'm just --
11 go ahead.

12 MR. SOLINGER: I'm in a precarious position
13 being that I am an attorney, but also in pro per, and
14 those two parts in my brain conflict. So I -- I'm
15 making the following oral motion very respectfully and
16 not intending to upset the Court. But some of the
17 things that the Court ruled on at the last hearing, as
18 a lawyer, give me no choice but to ask that Your Honor
19 voluntarily recuse on this case. And I --

20 THE COURT: I can't. I'm -- I'm not.

21 You know, my deal is, is that I have no
22 problems with letting people know, based upon the
23 evidence that has been coming in front of me, how the
24 case is proceeding. I don't -- I don't like wasting

1 attorney's fees. I don't like wasting a lot of time on
2 stuff. And I still have an open mind on where it is
3 going. You have not finished with your case.

4 But there is a burden. I have 12 factors
5 that I must look at. And when none of those 12 factors
6 are actually taking effect, when one of your
7 witnesses -- the reason why Mom only had visitation and
8 you primary, was, number one, she was driving fast, and
9 deemed recklessly in the vehicle, by Judge Moss. And
10 then number two, the marijuana.

11 Mr. Doyal even stated he was not sure it was
12 her. He could not pick her out of the room. Nobody in
13 the room looked familiar to him. So that was the
14 recklessness that went out the door.

15 Then number two -- you know, and that was a
16 lot of stuff in which Paglini had even, you know, said,
17 why she shouldn't have this.

18 MR. SOLINGER: Your Honor?

19 THE COURT: No, let me finish.

20 Number two, marijuana is legal. I'm not
21 allowed to use her use until you show that it's
22 affecting her ability to raise the children, and you
23 haven't done that yet.

24 MR. SOLINGER: I understand, Your Honor.

1 I'm -- I'm just simply making this request because --
2 for appellate purposes. If I don't make this record --

3 THE COURT: Correct.

4 MR. SOLINGER: -- subject to a different
5 standard of review -- and I -- I'm very much trying to
6 not anger the Court.

7 THE COURT: I realize that. But just because
8 you're not liking my decisions does not necessarily
9 mean that -- that, you know, I am not a neutral party
10 and not using the actual facts that has come before me
11 to make these decisions.

12 This woman has been -- has had her children
13 taken away for two years based upon something that
14 could have been a false identification.

15 MR. SOLINGER: And, Your Honor, I -- I think
16 that the record as recited by the Court is,
17 respectfully, not accurate. Because that incident of
18 driving did not occur until after Judge Moss' decision.
19 That was in August of 2019.

20 THE COURT: Yeah.

21 MR. SOLINGER: And Judge Moss did that in
22 June of 2019. And it was based on several other things
23 related to letting Josh watch -- watch the children,
24 and drive. So I understand.

1 THE COURT: The problem is, is -- okay, in
2 day one when Mr. Fleeman was sitting here talking about
3 the factors that, you know, and he was absolutely
4 right, these 12 factors must be considered when making
5 a determination, even for a temporary order unless it
6 is an emergency. Okay?

7 You do not normally practice here in family
8 court, and I -- and I recognize that. The -- a lot of
9 the -- a lot of decisions that are made are made on
10 biases that a lot of the judges have or don't have.
11 And the one biases that everyone who has practiced in
12 front of Judge Moss knows is, she is totally against
13 any drug use whatsoever, even with it being legal.
14 Okay?

15 You know, we were at the end of day one.
16 This was only supposed to be a two-day trial. You
17 finished your part of the evidence. If I held you to
18 these standards, but I'm not, you haven't reached a
19 burden to show me why it shouldn't be joint physical.

20 MR. SOLINGER: Understood. And thank you for
21 allowing me to make my record.

22 THE COURT: That's fine.

23 And, you know, and I had to make sure I made
24 my record to show that.

1 MS. CRAMER: And, Your Honor, I just -- since
2 we're making records -- I would like to make a record.

3 THE COURT: No.

4 Okay, go ahead.

5 MS. CRAMER: Thank you.

6 Your Honor, reading through -- I -- I don't
7 know, I think I told you last time I had surgery in
8 December, so I got the opportunity to sit on my
9 sister's couch and read the filings in this case.

10 THE COURT: I'm sorry.

11 MS. CRAMER: And -- me too.

12 THE COURT: I'm -- I'm trying to pick on
13 Mr. Solinger here just a little bit.

14 THE COURT: Please sit down.

15 MR. SOLINGER: It's a habit from criminal
16 court. I'm sorry.

17 THE COURT: I know. You're in the court, you
18 know, and I -- I recognize that. But sit down. Let's
19 be a little bit more relaxed.

20 Go ahead.

21 MS. CRAMER: And over and over and over again
22 I read about this hundred-mile-an-hour driving, which
23 then we get the, you know, big testimony, and he can't
24 even identify the driver. He didn't actually clock

1 her -- anyone doing 100 miles an hour. He even
2 admitted he lost sight of the vehicle that he was
3 trying to follow. So it wasn't true.

4 And Your Honor has already made --

5 THE COURT: I'm -- I'm going to -- you know,
6 before I make a determination, I'm going to wait and
7 see what she has to say before I make that final
8 determination, okay?

9 If she -- if she doesn't convince me -- I
10 mean, being under oath and saying stuff than not being
11 under oath and saying stuff.

12 MS. CRAMER: Your Honor, I talked to my
13 client about the incident, and I'm confident in her
14 testimony.

15 THE COURT: Yeah.

16 MS. CRAMER: And --

17 THE COURT: Yeah, but -- and we will get to
18 her testimony tomorrow.

19 MS. CRAMER: But, Your Honor, I want to make
20 this clear.

21 This is an extraordinarily litigious,
22 narcissistic individual who is already threatening --

23 THE COURT: Okay. Well, well, hold on.

24 First of all, Mr. Paglini only said he was

1 mildly narcissistic, okay?

2 MS. CRAMER: So --

3 THE COURT: Sorry.

4 MS. CRAMER: -- we are -- he's already
5 threatening --

6 THE COURT: Unfortunately that testimony is
7 in the record.

8 MR. SOLINGER: I think, to be fair, he said
9 that I exhibited some narcissistic traits, but I was
10 not diagnosed as that.

11 THE COURT: Yeah, he didn't -- he wasn't able
12 to diagnose you because he didn't do all the thorough
13 testing, but, you know.

14 MS. CRAMER: Nonetheless, this is an
15 individual who has brought my client into court, I
16 would say on average every other month, for -- this is
17 going on four years.

18 He is already threatening the Court to -- no,
19 '19, '20, 21, and now we're on '22, Your Honor.

20 THE COURT: She does have a point.

21 MR. SOLINGER: Well --

22 MS. CRAMER: And he's --

23 THE COURT: But we just started into the
24 fourth year.

1 MR. SOLINGER: It's been (indiscernible)
2 because of (indiscernible).

3 MS. CRAMER: He has -- you know, he has
4 already threatened the Court with an appeal now. He
5 has tried to get --

6 THE COURT: Okay. Let's just be -- let's be
7 clear. I am not wearing rose-colored glasses thinking
8 that -- that my decision in this case is going to
9 stand. I already know it's going to be appealed.
10 Okay?

11 MS. CRAMER: And I --

12 THE COURT: I know this. Without a doubt, I
13 know it.

14 MS. CRAMER: And, you know, my client is of
15 limited means.

16 THE COURT: I know that.

17 MS. CRAMER: And, you know, you have an
18 individual who thinks that because he comes from a
19 place of privilege and education that he is going to
20 steamroll her. And when we get done with this, Your
21 Honor, I am going to ask for significant fees and
22 costs.

23 THE COURT: Well --

24 MS. CRAMER: And I'm going to ask that

1 this --

2 THE COURT: -- keep in mind, I am not allowed
3 to award attorney's fees based upon possible future
4 actions. Only the Supreme Court can award attorney's
5 fees for what takes place in their courtroom.

6 MS. CRAMER: I -- I understand that. But you
7 can award attorney's fees pursuant to Sargeant. And
8 you can award attorney's fees pursuant to --

9 THE COURT: Uh-huh.

10 MS. CRAMER: -- 18.010.

11 THE COURT: And I've -- and I've -- and I
12 have already let him know that if -- that -- that if he
13 does not get primary and all this other stuff, I will
14 be awarding Mom attorney's fees.

15 MS. CRAMER: And -- and I just -- and I'm
16 also going to ask you, Your Honor, to deem him a
17 litigious or vexatious litigant.

18 THE COURT: That I cannot do. I am required
19 to deem people vexatious litigants based upon certain
20 factors. Just because he comes in here filing motions
21 because he thinks that Mom is speeding with the
22 children in the car, that Mom is letting a man who is a
23 known drinker watching the kids, he's got reasons for
24 bringing these motions. Most --

1 MS. CRAMER: He --

2 THE COURT: -- most of the issues, it gets
3 put off to the evidentiary hearing because we have it,
4 but it's a right that he has.

5 I will -- it -- it takes a lot -- and I've
6 already put two people under vexatious litigants.

7 MS. CRAMER: Oh, I -- I'm aware.

8 THE COURT: Okay? So I'm not afraid to do
9 it.

10 MS. CRAMER: I am aware. But, Your Honor --

11 THE COURT: But this man doesn't even come
12 close. He's not filing in all the different
13 courthouses. He's not suing everybody involved.

14 MS. CRAMER: He's already -- he's already
15 threatened previous Counsel.

16 THE COURT: He has a right. He has a right
17 to appeal. He has a right to do, even if he doesn't
18 have a leg to stand on -- and I'm not saying you
19 don't -- even if he does not have a leg to stand on, he
20 has his rights for his day in court.

21 And I will give him that right until he
22 starts crossing that line over and over and over again
23 with the same stuff in different courthouses, including
24 Federal Court, filing lawsuits against everybody that's

1 involved. These are factors I must look at. He's not
2 even close to meeting those factors.

3 MS. CRAMER: And, Your Honor, I had to
4 request a -- a -- I had to file a request and order,
5 for an order that previous Counsel could even release
6 the expert reports to me.

7 THE COURT: I realize that.

8 MS. CRAMER: Because he threatened previous
9 Counsel with litigation.

10 MR. SOLINGER: That's completely inaccurate.

11 MS. CRAMER: And --

12 MR. SOLINGER: And I think --

13 THE COURT: I don't know what happened, but
14 there are rules that we have to follow. You had not
15 come into the case yet. You could not get those until
16 you actually entered the case full time. Unbundled
17 attorneys are not allowed to have these reports. You
18 were unbundled at the time you were making that
19 request.

20 MS. CRAMER: Oh, no, I wasn't, Your Honor. I
21 was never unbundled on this case. I have always been
22 retained.

23 THE COURT: Okay. I -- I -- then I
24 misunderstood. Usually y'all are unbundled, so.

1 But I -- you know, I mean, you filed -- did
2 you even -- yeah, you did file a quick motion, and I
3 made minced meat out of it real fast.

4 MS. CRAMER: No, he filed a motion. I filed
5 an opposition.

6 THE COURT: You filed -- did you file a
7 motion for a protective order?

8 MR. SOLINGER: No. I -- I filed a motion in
9 limine to admit text messages, number one.

10 Number two, there's a difference between
11 releasing this file to an unknown rebuttal expert and
12 disseminating her allegation that I'm a child
13 pornographer versus I would -- well, I had to --

14 THE COURT: Well, the problem that we have is
15 that that is one of the issues that did come out
16 earlier in the case.

17 MR. SOLINGER: It -- it did. And my point, I
18 guess, in all of this, is that had Ms. Cramer, or
19 frankly Mr. Ghibaudo, who I tried to get a hold of for
20 a month, picked up the phone and asked, hey, I'm new on
21 the case, I'm retained, can I have the file,
22 absolutely.

23 And instead, when you come in with this
24 hostility assuming I'm not going to do this or I'm not

1 going to do that, I -- I worked with prior Counsel. We
2 had stipulations. That's not a problem.

3 THE COURT: Yeah.

4 MR. SOLINGER: There are certain issues I'm
5 passionate about.

6 THE COURT: Yeah.

7 MR. SOLINGER: And I have to take a stand,
8 absolutely. This was not one of them. And -- and to
9 just --

10 THE COURT: I -- I -- you know, it's --
11 the -- the vexatious litigant is not going to happen.

12 MS. CRAMER: Well, I'm just making a record,
13 Your Honor. I'll renew my request at a later date, no
14 doubt.

15 THE COURT: Uh-huh.

16 MS. CRAMER: Your Honor, I have Dr.
17 O'Donohue's emails if we want to proceed to the expert
18 witness.

19 THE COURT: Why do we need his email? He
20 needs to be signed on.

21 MS. CRAMER: So we can send him the link.

22 THE COURT: Okay. I thought you had already
23 done that.

24 MS. CRAMER: I -- I don't think that we got

1 one.

2 THE COURT: Okay.

3 MS. CRAMER: Do you have a standing link?

4 Oh, okay.

5 THE COURT: We are all required to have a
6 standing link.

7 MS. CRAMER: Some of the other Departments
8 still send out individual links.

9 THE COURT: Yeah. Well, we -- we still send
10 out individual links for everybody during -- you know,
11 during the hearings unless they're supposed to be in
12 person, but.

13 THE CLERK: I can give you the meeting ID
14 number and the passcode, and he can just download the
15 BlueJeans app.

16 MS. CRAMER: Okay.

17 THE CLERK: So he'll need to down -- he'll
18 need to download the BlueJeans app.

19 MS. CRAMER: Okay. What is the BlueJeans?

20 THE CLERK: So the meeting ID is 239403987.

21 MS. CRAMER: Okay. Is there a passcode?

22 THE CLERK: I don't think he's going to need
23 a passcode. But if so, it's 8074.

24 MS. CRAMER: 8074?

1 THE CLERK: Yes, ma'am.

2 THE COURT: And we don't necessarily send a
3 link. We just send out a blanket email with the ID and
4 the passcode. Because we have found that the more
5 often you try to click on a link, the more it wears it
6 out. So, you know, you just copy -- copy/paste the ID,
7 and then go from there, and it's so much more stable.

8 Did you cut your hair?

9 THE DEFENDANT: I might have.

10 THE COURT: You might have? Okay.

11 THE DEFENDANT: It changes a lot depending on
12 my mood.

13 THE COURT: Okay.

14 THE DEFENDANT: Sometimes I have bangs.
15 Sometimes I'm blonde. Sometimes I'll have pink in my
16 hair.

17 THE COURT: Okay. I'm sitting here just,
18 like, okay, that -- that has to be something that was
19 different about you was your hair.

20 THE DEFENDANT: Yeah. And I changed up my
21 blonde on you.

22 THE COURT: Okay. All right.

23 MS. CRAMER: And, Your Honor, do you have
24 MirrorOp in your courtroom? Where you can --

1 THE COURT: The what?

2 THE CLERK: What's a -- what's the MirrorOp?

3 MS. CRAMER: I used in Judge Ritchie's
4 courtroom where you can mirror my screen to up there.

5 THE COURT: No.

6 THE CLERK: No.

7 MS. CRAMER: Okay.

8 THE COURT: Usually on something like that,
9 you kind of have to make the request in advance,
10 because there's some training that she still has not
11 received.

12 MS. CRAMER: Oh, yeah. Like, Judge Ritchie's
13 courtroom, I didn't even know about it. And --

14 THE COURT: They've been in there forever,
15 though.

16 THE CLERK: Because --

17 MS. CRAMER: Well, Judge Strohm was using his
18 courtroom, and so then her marshal just gave it to me
19 and I downloaded it and was putting stuff up there.

20 THE COURT: Yeah. I -- I do -- you know, my
21 eyesight is not good enough to view exhibits and stuff
22 up there. I can barely see faces. That's why I don't
23 do O'Donohue --

24 MS. CRAMER: Got you.

1 THE COURT: -- you know, on my BlueJeans. I
2 require it to be in person so that I can see the people
3 and see how they act and stuff.

4 MS. CRAMER: Understood.

5 All right, I emailed it to Dr. O'Donohue
6 (sic).

7 THE COURT: Okay.

8 MS. CRAMER: And I texted him that he has the
9 link.

10 MR. SOLINGER: And, Your Honor, I presume Ms.
11 Cramer will start with the witness, given that it's her
12 witness, despite being my case, just because --

13 THE COURT: Yes.

14 MR. SOLINGER: -- it procedurally flows
15 better.

16 THE COURT: Yes.

17 Because of the way that I have it set up, and
18 the way that I like to hear things, we don't
19 necessarily have, okay, you know, your case in chief
20 and back and forth. You know, only when it's primarily
21 just the parties or their normal witnesses. When you
22 got experts, I like hearing, you know, as close
23 proximity as I can.

24 THE COURT: Okay, let's go ahead and go off

1 the record until he appears.

2 (COURT RECESSED AT 9:43:30 AND RESUMED AT 9:47:46)

3 THE COURT: Okay. We are back on the record.
4 And it looks like we have Defendant's expert witness up
5 there. If you would like to introduce him and move --
6 and call him, and then we'll put him under oath.

7 MS. CRAMER: All right. Your Honor, I'm
8 going to call Dr. William O'Donohue as our expert.

9 THE COURT: All right. Mr. O'Donohue, we
10 need to put you under oath, sir.

11 MR. O'DONOHUE: Okay.

12 THE CLERK: If you could raise your right
13 hand.

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

17 THE WITNESS: I do.

18 MS. CRAMER: Okay. All right.

19 Your Honor, can I move over to the witness
20 stand?

21 THE COURT: Yes, please. That's so much
22 easier.

23 MS. CRAMER: And then I think that will make
24 it easier for me to see him as well.

1 THE COURT: Mr. Solinger, are you able to see
2 Mr. Donahue?

3 MR. SOLINGER: I -- I can.

4 THE COURT: Okay. Fantastic.

5 MR. SOLINGER: I -- I can see enough of the
6 sign. I appreciate it, but thank you.

7 WILLIAM O'DONAHUE,
8 called as a witness on behalf of the Defendant, having
9 been first duly sworn, testified upon his oath as
10 follows on:

11 DIRECT EXAMINATION

12 BY MS. CRAMER:

13 Q Good morning, Dr. O'Donohue. I'm Michancy
14 Cramer. We've texted and talked.

15 A Yes. Good morning.

16 Q Okay. So, I know you don't have it in front
17 of you, but in front of me I have Plaintiff's
18 Exhibit -- or, excuse me -- Defendant's Exhibit LL.
19 And that would be your CV.

20 So, can you tell the Court about your
21 education?

22 A Yes.

23 I have a Bachelor's degree in Psychology from
24 the University of Illinois at Champaign-Urbana. I have

1 a Master's and PhD. in Clinical Psychology from the
2 State University of New York at Stony Brook. Then I
3 have a Master's Degree in Philosophy from Indiana
4 University in Bloomington.

5 Q Well, as a side note, my mother grew up in
6 Bloomington. I know that town very well.

7 A Beautiful town. I loved it.

8 THE COURT: Let me -- let me ask -- I'm going
9 to ask one quick question.

10 Are you -- are -- are you wanting her to go
11 through with certifying him as an expert, or are you --

12 MR. SOLINGER: Yep. Yes, please.

13 THE COURT: -- willing to recognize?

14 MR. SOLINGER: Based on my investigation into
15 his background, I am concerned whether he meets
16 qualification. I don't know that I'm moving to strike,
17 but I do want the foundation laid, because after
18 speaking --

19 THE COURT: Okay. Then we will -- then we
20 will take the time to lay the foundation. I was just
21 trying to save some time.

22 MS. CRAMER: We're not going to have that,
23 Your Honor.

24 BY MS. CRAMER:

1 Q Okay. Dr. O'Donohue, can you tell me about
2 your areas of specialization?

3 A One area of my specialization is in child
4 psychology, particularly in child abuse. For the past
5 26 years at the University of Nevada, Reno, where I'm a
6 professor, I've run a free clinic where we assess and
7 treat children who have been physically or sexually
8 abused, and adults who have been sexually assaulted.
9 This is a -- it's a grant from the National Institute
10 of Justice Victims of Crime Act.

11 Another area of interest I have in general is
12 quality improvement in mental health. And I've also
13 written -- co-written a book on child custody
14 evaluations, and published an article on that in
15 Scientific American Mind.

16 Q Okay.

17 And can you -- I know -- I'm sorry, I feel as
18 though this is just repetitive -- but can you tell me
19 about your professional experience working as a
20 psychologist and as a professor?

21 A Yes.

22 I did an internship, a pre-doctoral
23 internship in Columbus, Indiana for a year while I was
24 a full-time therapist. I then became an assistant

1 professor of psychology at the University of Maine.

2 And then I became an assistant and associate
3 professor of clinical psychology at Northern Illinois
4 University. And then for the past 26 years I've been
5 either associate or full professor at the University of
6 Nevada, Reno.

7 All during that I'm, I've had a private
8 practice where I mainly deal with issues in forensic
9 psychology, including family law and criminal law.

10 Q Okay. Are you a member of professional
11 organizations?

12 A Yes.

13 I'm a member of the Cambridge Center for
14 Science. Also a member of the National Association of
15 Psychologists -- National Academy of Psychologists, I
16 mean.

17 Q Okay. And I -- I think this -- there might
18 be some overlap here, but do you have membership in any
19 Boards?

20 A Yes.

21 I've been a member of a Board on the
22 Cambridge Center for Science. I also was on the DSM
23 committee to revise the -- the American Psychological
24 Association committee to revise the diagnostic and

1 statistical manual.

2 Q Okay. And can you give the Court a brief
3 overview of some of your professional publications?

4 A So I published over 80 books, often
5 concentrating on cognitive behavior therapy, the
6 assessment and treatment of both children and adults.

7 Again, I published a book on child custody
8 evaluations. I published books on the philosophy of
9 science and -- and clinical psychology.

10 I've also published books on psychopathology.
11 Published books on substance abuse, the assessment and
12 measurement of that. Published books on various
13 clinical topics, focusing on posttraumatic stress
14 disorder. So a wide variety of topics in clinical
15 psychology.

16 Q Okay. And you have -- you -- again, I
17 apologize, I know some of this is repetitive -- but you
18 have written and studied child custody assessments and
19 evaluations?

20 A Yes.

21 I have peer reviewed publications in journals
22 on that expressing concern about some of the quality
23 issues. And I also, again, published a book by
24 Springer on increasing the quality of child custody

1 evaluations. And I've also lectured to the National
2 Judicial College to judges at the University of Nevada
3 Reno on that issue.

4 Q Okay. And have you ever done a child custody
5 evaluation?

6 A Yes.

7 Q Okay. Have you done more than one?

8 A Yes.

9 Q Okay. And have you, prior to this case, have
10 you done rebuttals on child custody evaluations?

11 A Yes.

12 Q Okay. And you provided my predecessor,
13 Mr. Fleeman, and his colleague Alicia Exley, with your
14 CV, correct?

15 A Correct.

16 Q Okay. And if that CV is offered here as an
17 exhibit, would you agree that what you provided them is
18 accurate and correct?

19 A Yes.

20 Q Okay.

21 MR. SOLINGER: Your Honor, I'd stipulate to
22 the admission of the CV for what it's worth. I think
23 we already did that with all the exhibits.

24 THE COURT: Yeah.

1 MR. SOLINGER: But just to the extent to
2 streamline, if we're going down --

3 THE COURT: Correct. The CV is --

4 MR. SOLINGER: -- the (indiscernible) for
5 that, I'd stipulate.

6 MS. CRAMER: Okay.

7 THE COURT: The CV is admitted.

8 MS. CRAMER: Thank you, Your Honor.

9 (Defendant's Exhibit LL admitted)

10 THE COURT: What page is the CV on?

11 MS. CRAMER: LL. It's page -- it starts
12 on --

13 THE COURT: Way back there.

14 MS. CRAMER: Okay. 1492.

15 THE COURT: I knew it was in Volume 1.

16 MS. CRAMER: It's an auspicious year.

17 BY MS. CRAMER:

18 Q Dr. O'Donohue, have you ever testified in
19 court?

20 A Yes.

21 Q And approximately how many times?

22 A Approximately 200.

23 Q Okay. Have you testified in contested
24 custody matters?

1 A Yes.

2 Q Okay. And about how many times?

3 A I'd have to estimate, but probably about a
4 dozen.

5 Q Okay. And have you ever been qualified as an
6 expert by a court?

7 A All 200 times, yes.

8 Q Okay. And you prepared a written report for
9 this matter, correct?

10 A Correct.

11 Q Okay. And with regard to your report, is --
12 is the -- is a child custody evaluation a recognized
13 field of expertise?

14 A Yes.

15 Q And has this matter been tested, and has
16 it -- is it a testable matter?

17 A It is a testable matter. But -- but I've
18 also published that the predictive validity of child
19 custody evaluations is unclear. Meaning, when experts
20 render an opinion in a child custody evaluation,
21 there's really no studies to show the impact, the
22 positive impact of those decisions.

23 So we really don't know the ultimate quality
24 or consequences of our child custody evaluations in our

1 field.

2 Q Okay. You did -- you did mention you have
3 published on this topic, correct?

4 A Correct.

5 Q And those publications have been subject to
6 peer review?

7 A Correct.

8 Q And is this area generally accepted in the
9 scientific community?

10 A The area of child custody evaluations?

11 Q Yes.

12 A Yes.

13 Q And is your report based more on particular
14 facts than on any kind of assumptions or
15 generalizations?

16 A It's based on the facts of the custody
17 evaluation that I reviewed. And then it's based on
18 principles that can be used to evaluate a custody
19 evaluation.

20 So, for example, are there clear diagnoses
21 where diagnostic criteria are clearly shown that
22 they're met, or -- or ruled out. Is the logic of their
23 report kind of sound. Do statements in the body of the
24 report have their proper role in the conclusions.

1 Is -- were there good assessment procedures used.

2 So -- so those kinds of principles were used
3 in conjunction with the facts of the report.

4 Q Okay.

5 MS. CRAMER: Your Honor, at this point I
6 would move to have Dr. O'Donohue accepted as an expert.

7 MR. SOLINGER: Your Honor, I recognize this
8 as a bench trial rather than a jury trial, and that
9 ultimately any objection I have to his qualifications
10 would go to the weight Your Honor gives to it rather
11 than his admission. I don't think Your Honor's going
12 to strike him. I'm not going to ask you to strike him.
13 I will take up my concerns with his qualifications on
14 cross.

15 And so for now, I guess I submit the matter
16 of recognition to Your Honor, with the caveat that I
17 will re-address his qualifications, with the goal of
18 establishing the Court should give very little weight
19 to it.

20 THE COURT: I -- I am going to recognize him
21 as an expert witness. He has done what appears to be
22 extensive work, not only as an outsource evaluator, but
23 also as a rebuttal witness. So I am going to recognize
24 him as an expert.

1 MS. CRAMER: Thank you, Your Honor.

2 BY MS. CRAMER:

3 Q All right. Dr. O'Donohue, can you provide us
4 with your understanding of what you were retained by
5 the Defendant to do in this case?

6 A Yes.

7 I was given a custody evaluation done by
8 Dr. John Paglini. I think the date was in September of
9 2020. And I was asked to evaluate the quality of that
10 custody evaluation.

11 Q Okay. And prior to receiving that
12 evaluation, were you asked to sign a confidentiality
13 agreement?

14 A I don't have a clear memory of that.

15 Q Okay.

16 And what did you review as part of your
17 evaluation of this custody evaluation?

18 A The custody evaluation itself. They sent me
19 some photos. And also I did three Zoom interviews with
20 Ms. Solinger.

21 Q Okay. And did you have the opportunity to
22 review any of the legal filings in this case?

23 A Yes.

24 They sent me some legal filings, correct.

1 Q Okay. And by they, do you mean my
2 predecessor, Mr. Fleeman, and Ms. Exley?

3 A Correct. Yes.

4 Q And was the information that you were
5 provided sufficient to form an opinion regarding Dr.
6 Paglini's report?

7 A Yes.

8 Q And can you explain what you were looking for
9 in Dr. Paglini's report, or what particular areas drew
10 your attention?

11 A Yes.

12 What I was looking for, again, is how he
13 arrived at his declarative statements. So, for
14 example, how he arrived at statements about drug use,
15 what sort of evidence, what sort of reports he used.

16 Then I also looked at whether all
17 considerations were given due weight in forming those
18 declarative statements. So, for example, if there was
19 any inconsistent reporting, I looked to see if he noted
20 those inconsistencies and tried to resolve them.

21 I also looked at whether he looked at
22 relevant factors and gave relevant factors their proper
23 weight. I looked for bias towards anything, one party
24 versus the other.

1 And finally, I looked at the logic of his
2 report. Whether these declarative statements in the
3 body of the report gave their -- had their proper role
4 in any conclusions that were ultimately drawn.

5 Q Okay. And could you provide us with a -- a
6 brief explanation of what are the -- what is the proper
7 methodology of a child custody evaluation?

8 A Proper -- well, and that's a controversial
9 question. And there's not a clear consensus in the
10 literature about that.

11 But in general, the view is the custody
12 evaluator should be oriented towards what's in the best
13 interest of the children. They should then seek
14 comprehensive information to determine that. That
15 usually means clinical interviews with principal
16 parties, the two parents.

17 It also involves reading background material.
18 It also -- it usually involves what we call collateral
19 reports, seeking to talk to and receive input from
20 people who may know, or may have witnessed various
21 events.

22 It also can involve clinical interviews with
23 current significant others that can have impact on the
24 children. It involves clinical interviews with the

1 children. Often involves home visits.

2 It then involves testing, psychological
3 testing to rule in or rule out mental health problems.
4 It can involve also reviews of records, like school
5 records, or -- or healthcare records.

6 So, those are some of the principal items
7 that -- that ought to be covered in a custody
8 evaluation.

9 Q And in your review of Dr. Paglini's report,
10 did you take any exception with the methodology that he
11 utilized?

12 A He -- he generally would check the box as
13 doing those -- each of those kind of dimensions that I
14 talked about. My concern would be more how he -- what
15 his conclusions were from each of those, and again how
16 he came to general conclusions.

17 But, you know, he -- he did a home visit,
18 talked to the children, did clinical interviews, did
19 testing, had collateral contacts, looked at relevant
20 documents. So those were reasonable ways to go.

21 Q Okay. So in your report, you indicated
22 that -- let me see. I think -- I'm trying to look at
23 the -- which page it is, I'm sorry. Give me one
24 second.

1 So in your report on page 1, you indicated
2 that Dr. Paglini never disputed Ms. Solinger's claim
3 that she was the primary caretaker of the children.

4 And can you explain the significance of that?

5 A Yes.

6 One model in the literature is that whoever
7 has served as the primary caretaker of children, that
8 has significant weight and conclusions, because the
9 primary caretaker generally then has the skills to --
10 to function in that role. They also have attachment to
11 the children. The children are used to -- to this.

12 And so in terms of not disrupting the
13 children's lives, and -- and making sure that the
14 children actually are cared for in a skilled manner,
15 the person who's the primary caretaker is an important,
16 very important consideration in custody evaluations.

17 Q All right. And you indicate as well that he
18 did not -- that Dr. Paglini did not consider the
19 information with regard to the fact that Adam was not
20 involved with the children as much prior to separation.

21 Can you explain the significance of that?

22 A Yes.

23 That again was stated by a number of
24 collateral contacts. It was also stated by Mrs.

1 Solinger. And the significance is, it can reflect
2 choices and priorities. It can reflect that somebody
3 is less interested in -- in that important role.

4 And of course there can be reasons why the
5 person may not be able to function that way. For
6 example, they're heavily involved in work, or -- or
7 they may be physically kind of ill.

8 But some of the reports that were contained
9 in the custody evaluation indicated that Mr. Solinger
10 was interested in recreational activities such as bike
11 riding or being with friends or video games, things
12 like that, as opposed to having really sound reasons
13 why he wouldn't be more involved and have a
14 co-caretaker role.

15 Q And you also noted that Ms. Solinger was,
16 prior to having children, she was employed as a nanny
17 for a year and a half. And she also works currently as
18 a children's hairstylist.

19 Could you explain the significance of that
20 observation?

21 A Yeah.

22 She showed a consistent affinity towards
23 working with children, and a consistent, it appears to
24 be a skillful display of that affinity. She again was

1 a nanny for a year and a half, and there was no
2 indication that that was problematic.

3 She also had a history of baby-sitting, which
4 again shows an interest in -- in certain abilities in
5 caretaking with children.

6 And then, yeah, at that time she was
7 currently involved as a children's hairstylist, which
8 again shows an affinity, and in all likelihood some
9 skills in, you know, dealing with children.

10 Q Okay. And so what -- can you explain,
11 like -- give me a second, I'm trying to word this
12 properly.

13 Can you tell me what the relevance is, is
14 that -- that Dr. Paglini didn't take more of a note of
15 that, didn't have more emphasis on that?

16 A When you're trying to balance what -- this
17 information, understand this information and come out
18 with conclusions about what's in the best interest of
19 the children, somebody who is skilled as a primary
20 caretaker, has a long history of doing this, and shows
21 an affinity towards it, a liking of it, that -- that is
22 relevant to -- to the best interest of the children,
23 and ought to be kind of noted and given significant
24 weight.

1 Q You also indicated that Dr. Paglini failed to
2 specify type, duration or other details of abuse
3 suffered by Ms. Solinger.

4 Can you explain the significance of that
5 failure?

6 A Yes.

7 This was in the context of a possible
8 posttraumatic stress disorder. Posttraumatic stress
9 disorder is a -- a mental diagnosis in the DSM. It's
10 usually given to victims, you know, not perpetrators.
11 And often women are -- are more subject to these kinds
12 of traumas than -- than men. That's what the research
13 shows.

14 PTSD and then this kind of trauma can have
15 long-lasting effects. But in -- in some important
16 sense, it's not the person's fault that they were
17 victimized.

18 Mrs. Solinger reported that she was
19 victimized by a physically abusive step-father for a
20 vast number of years in which there was very serious
21 physical abuse that she experienced, and that she
22 witnessed loved ones experiencing.

23 That's important to get those details and
24 kind of note that. Again, that she had been a history

1 of -- of being a victim. This also can make her
2 understandably more sensitive to bullying or physically
3 threatening behavior in her -- in her present life. It
4 could make her more sensitive to things like PIs
5 following her around, private investigators following
6 her around.

7 People who have been traumatized often
8 display signs of hypervigilance. They're very
9 concerned about their safety and they scan their
10 environment more because of their significant history
11 with this.

12 So I didn't think that he took into account
13 her prior abusive victimization and showed clinical
14 sensitivity and -- and -- and weighted that properly in
15 understanding some of Mrs. Solinger's current
16 behaviors.

17 Q Okay. And you also noted that Ms. Solinger
18 endorsed anxiety, as she had claimed in February of
19 2019 that she was being stalked and harassed by her
20 separated husband.

21 What is the significance of Dr. Paglini's
22 failure to explore that issue and the implications of
23 it?

24 A That again would be an important violation if

1 it's true. It would be important to try to settle
2 this -- settle that matter as -- as clearly as
3 possible.

4 It -- obviously one parent stalking and
5 harassing another is not in the best interest of the
6 child -- of the children. It -- it -- the normal
7 parental reaction to that would be fear and stress
8 and -- and uncertain about safety.

9 And -- and this would be all the more
10 exacerbated if somebody had a history of being
11 traumatized by males who physically intimidate or
12 commit acts of -- of violence.

13 So I didn't think Dr. Paglini, again,
14 resolved the issue, whether it was happening or not,
15 and -- and properly considered it in his conclusions
16 about the best interest of the children and about how
17 it could be impacting Mrs. Solinger's current
18 behaviors.

19 And one other thing I could say is,
20 posttraumatic stress disorder is a treatable disorder.
21 We treat this in our -- our clinic all the time.
22 It's -- it's amenable to cognitive behavior therapy.
23 And I also thought it would have been a positive thing
24 to do to try to inform Mrs. Solinger about possible

1 treatments so she could get help and not have kind of
2 suffering.

3 Q And in his failure to explore these
4 implications of this stalking, would entering
5 Ms. Solinger's home while she wasn't there, or sitting
6 across the street, would that cause the same kind of --
7 of stress and fear that you indicate a victim would
8 feel?

9 A It -- it well could, yes. That -- that would
10 be the kind of thing that people would feel that this
11 is unsafe, why is person doing this. And this leads to
12 further exacerbation of this kind of behavior, so.

13 So the basic idea is that if somebody's
14 violating a rule like stalking them or coming into a
15 house, the -- the person can be reasonably concerned
16 about what other rules could they violate. And -- and
17 could this escalate in where her -- her safety or
18 other -- the safety of others becomes a -- a real
19 issue.

20 Q Okay. With regard to the medications listed,
21 what did -- in his report, what did Dr. Paglini fail to
22 address about those medications, in your opinion?

23 A A couple of issues.

24 One, that these are medications for

1 depression and anxiety. Depression and anxiety are
2 very, very common problems, particularly with
3 individuals going through a divorce. Also individuals
4 that are having financial struggles.

5 You know, depression is called the common
6 cold of mental illness. There's research showing, for
7 example, the major of women have a depressive episode
8 sometime in their life. Depression is also common
9 after trauma.

10 Again, anxiety is also very, very common.
11 They're not unusual mental illnesses.

12 And then he failed to address, one, secondly,
13 that she appeared to be taking these medications
14 appropriately. That physicians appropriately --
15 appropriate medical professionals prescribed this. So
16 I don't think there's anything wrong with following
17 physicians' advice in taking medications appropriately.

18 And the final thing that he didn't clear up
19 well in that situation is, depression/anxiety can range
20 in severity from kind of mild to moderate to severe.
21 The severe cases are -- are particularly important in
22 child custody evaluations, because severe depression or
23 severe anxiety may really interfere with someone's
24 functioning. They might not be able to parent because

1 they're crippled by depression and anxiety.

2 But he never made that assertion. He never
3 made that finding. Just because you have a diagnosis
4 doesn't mean you can't function well in -- in important
5 roles. And so he failed to really clear up the extent
6 to which these problems, which were being treated by
7 professionals, really had any impact at all, or the
8 extent of the impact on her functioning as a parent.

9 Q And is it possible for a parent to, with
10 these common issues, to have custody of a child?

11 A Yes, very common. Because they're such
12 common disorders, that if -- if we said if you have
13 these diagnoses you can't parent, we'd -- we'd have to
14 build huge orphanages, because so many people, you
15 know, have this problem. Especially people going
16 through, you know, divorces and, you know, having
17 relationship problems.

18 Q Okay. So in your opinion, it is perfectly
19 suitable to expect that a parent could be an effective,
20 safe and appropriate parent, and still provide for
21 their children, and still meet the best interest of
22 their children while under treatment for these very
23 common issues?

24 A Correct.

1 Q All right.

2 In Dr. Paglini's report, he noted that there
3 were past rape accusations against Adam, but then they
4 were essentially ignored any further.

5 MR. SOLINGER: Objection. Relevance.

6 BY MS. CRAMER:

7 Q Correct?

8 THE COURT: Hold on.

9 THE WITNESS: Correct.

10 THE COURT: There's an objection.

11 MR. SOLINGER: Objection. Relevance.

12 We've dealt with this with Dr. Paglini,
13 and --

14 THE COURT: This is -- yeah.

15 MR. SOLINGER: -- Your Honor ruled it wasn't
16 relevant.

17 THE COURT: Yeah.

18 MR. SOLINGER: I don't know why we're --

19 THE COURT: The -- the claims of possible
20 rape and stuff has no bearing on what's going on in --
21 in the case today. There was no charges brought.
22 Nothing went any further then what it was.

23 So I'm going to sustain the objection. Let's
24 move on from that.

1 MS. CRAMER: This is a rebuttal expert, Your
2 Honor.

3 THE COURT: I realize that, but --

4 MS. CRAMER: And so we're talking about the
5 legitimacy of Dr. Paglini's report.

6 THE COURT: -- we're going to move on from
7 that, because there was no criminal charges brought.
8 No nothing. It's, you know, to me it's in the same
9 realm that nobody can actually say whether or not she
10 was driving 100 miles an hour.

11 It -- nothing came to fruition with it, so
12 let's move on from that. Because the
13 hundred-mile-an-hour thing, unless she admits to it, is
14 out the door too.

15 MS. CRAMER: All right.

16 BY MS. CRAMER:

17 Q Dr. O'Donohue, in Dr. Paglini's report, he
18 noted Josh's emotional immaturity.

19 Was this the result of any kind of
20 psychological testing?

21 A No.

22 What usually results -- what we usually can
23 do as mental health professionals, is that we have
24 tests that measure our constructs. So, for example, we

1 have the Beck Depression Inventory that measures a
2 construct of depression. And we have the Minnesota
3 Multiphasic Personality Inventory that measures
4 personality.

5 But there's no emotional maturity or
6 immaturity scale that you can give to somebody and see
7 how they -- see how they do. So it was not a product
8 of any validated testing.

9 And it was unclear how the -- that conclusion
10 was reached. Because the logic of that conclusion
11 would be, here's his age, here's the maturity level one
12 would expect for -- for his age, and here's evidence
13 that the maturity level is less than what is expected
14 for that age. But you that kind of logic and
15 information was not provided.

16 Q Okay.

17 In your opinion, would you say that that was
18 a conclusory statement without any logical evidence
19 provided?

20 A Without sufficient, valid -- without
21 sufficient evidence and valid evidence to make that
22 conclusion, correct.

23 Q Okay. And Dr. Paglini had noted that he was
24 concerned about an incident between Josh and Adam.

1 In your opinion, would such an incident cause
2 concern about the emotional maturity of both parties
3 involved, or just one?

4 A Both parties.

5 You'd have to look at the details, which --
6 which he didn't do, and -- and give those details. If
7 one was acting in a very mature manner, and one -- and
8 only one was not, then perhaps we could make that
9 conclusion. But again, he didn't make these
10 declarative statements that would make that issue
11 clear.

12 And -- and also, let me just say this. It's
13 important to look at general traits and general trends
14 in human beings, not isolated incidences. So we all
15 can lose our tempers, or we all can feel very stressed
16 or tired some day and do atypical things, display
17 atypical behaviors.

18 So to -- to make a conclusion of emotional
19 immaturity on any party, one would need to show a trend
20 in this direction, consistency, not isolated behaviors.

21 Q Okay. Dr. Paglini also noted that there had
22 been a road rage incident in which Adam Exhibited road
23 rage on the way to the hospital when Michael was being
24 born, but there was no further exploration of that, and

1 there was no comment regarding Adam's emotional
2 maturity.

3 What is the significance of that being left
4 out of the report, or glossed over, if you will?

5 MR. SOLINGER: Objection. Same objection.
6 It didn't come up with Dr. Paglini. And it falls into
7 the same category of the Defendant's vague allegation
8 against me with zero substantiation, police report,
9 anything.

10 It's -- it's essentially asking what do you
11 think about the Defendant's mudslinging allegation
12 against the Plaintiff, do you think that that's valid,
13 do you think it's relevant. I understand the question,
14 but objection.

15 MS. CRAMER: I've had to listen to nothing
16 but mudslinging against my client. I've had to read
17 nothing but mudslinging against my client.

18 THE COURT: I'm --

19 MS. CRAMER: Family Court essentially
20 devolves into he said/she said.

21 THE COURT: I know. I'm -- I'm going to
22 overrule, because it is a he said/she said. And we
23 can't bring him back in once she testifies to -- to
24 this without being more costly and time-consuming.

1 So I'm going to allow it, and I'll give it
2 weight once I hear all the evidence.

3 MR. SOLINGER: Understood. Thank you.

4 MS. CRAMER: Thank you, Your Honor.

5 THE WITNESS: Could you -- could you repeat
6 the question, please?

7 THE COURT: Yeah. Thank you.

8 MS. CRAMER: I will try. What did I say?

9 THE COURT: It was mudslinging.

10 MS. CRAMER: There was mudslinging, yeah.

11 BY MS. CRAMER:

12 Q So there was an allegation against Adam that
13 he had engaged in an act of road rage on the way to the
14 hospital when Michael was being delivered. And Dr.
15 Paglini's report mentions it, but there's no further
16 explanation or exploration, it's just kind of glossed
17 over.

18 What is the significance of that issue not
19 being explored further?

20 A Again, this would be an example of him
21 mentioning something, but not nailing it down. Not
22 coming to a -- an opinion of it's more likely or not --
23 than not to have occurred, or -- so he mentions things,
24 but he kind of doesn't connect them to anything.

1 So, for example, is this true or is it not,
2 but what -- what does his best judgment of the evidence
3 indicate. If it is true, is this indicative, again, of
4 a mental health problem, like intermittent explosive
5 disorder, an anger disorder that could, you know,
6 impact the best interest of the -- of the children.

7 If not -- if it's not true, well, what does
8 it say about the reliability of people's report who are
9 claim it is true. So it's kind of mentioned there, and
10 it -- it looks significant, but it's never really
11 settled.

12 Q Okay. On that same note, there was also
13 mention that Adam was not in the hospital when Chalese
14 was in labor, that she was going through a -- a
15 traumatic birthing process and that Adam had left the
16 hospital. And again, that was not explored in depth
17 in -- in Dr. Paglini's report.

18 In your opinion, what is the significance of
19 that not being explored further?

20 A It was particularly relevant to the theme of
21 one person, Mrs. Solinger, being a primary caretaker
22 and being devoted to the children, and then again
23 collateral contacts and concerns that Mr. Solinger was
24 removed, distant, didn't display the same kind of

1 priority concerning caretaking of his children.

2 So the idea is that, you know, if your spouse
3 is undergoing a difficult birth, I think it was, like,
4 30 hours or so, you're to show concern about both
5 the -- the future of the child that's going to be born
6 and your spouse, that you would be present there.

7 Again, there can be some good reasons not to
8 be present. But again, Dr. Paglini never nailed that
9 down. Was -- he never made conclusions that were clear
10 about that issue. Were there good reasons, and
11 therefore there's not an issue here, or were there not
12 good reasons.

13 And this can again reflect perhaps a poor
14 priority of Mr. Solinger's about the welfare of his
15 children and welfare of his family, that can be
16 relevance for what's in the best interest of his
17 children ultimately.

18 Q Okay. So we know by his own admission, that
19 Adam repeatedly entered the home after he had moved
20 out. So Chalese was living there and he had had moved
21 out, was living in an apartment or with his girlfriend,
22 and he repeatedly entered Chalese's home without her
23 permission, and when she was not home.

24 In your review of Dr. Paglini's report, did

1 he give that any weight?

2 A He mentioned it, but did not give it a lot of
3 weight, no.

4 Q And did he mention anything about it in his
5 conclusions?

6 A Not that I recall, no.

7 Q Okay. And in his report, did he appear to
8 consider this through the lens of a woman experiencing
9 abuse?

10 A No, he did not.

11 And he didn't also consider it in the context
12 of -- of what -- what possibly -- what were some of the
13 nefarious reasons somebody could do that. Could they
14 alter -- because, for example, I was getting
15 photographs of a messy home, and the claim was that he
16 messed the home up as opposed to the home being that
17 messy.

18 So he didn't kind of consider that either,
19 why was this person doing this, and what could be
20 motivations that were behind him doing that, and how
21 could this have altered, essentially, evidence in the
22 case.

23 Q Thank you.

24 And in considering the best interest of the

1 children, does this kind of behavior, entering someone
2 else's home without their permission, is it possible
3 that that could fall under the umbrella of domestic
4 violence?

5 A Well, that -- that would be a legal
6 conclusion that -- that I wouldn't want to make.

7 Q Okay.

8 A But I guess the answer, is it possible? You
9 know, yes, it could be possible. But again, I'm not
10 a -- a legal authority.

11 Q Okay. And did Dr. Paglini explore the
12 possibility that this was a -- an incident of domestic
13 violence at all in his report?

14 A No.

15 Q Oh, okay.

16 In his report, Dr. Paglini indicated that
17 Josh -- he indicates that Josh displays a reliance on
18 THC. But this is vague.

19 In your review of Dr. Paglini's report, did
20 he make a diagnosis of substance abuse?

21 A No, he did not.

22 So, you know, people can use THC, now that
23 it's legal, and it -- it could -- it could meet
24 criteria for substance abuse disorder if there's

1 tolerance and withdrawal and interference with -- with
2 social or occupational functioning. He didn't make
3 that diagnosis.

4 Sometimes people use the phrase sub-clinical
5 use. And what sub-clinical use is -- means, like, well
6 it doesn't meet these more stringent criteria, but it's
7 coming close, and it's an area of concern. He failed
8 to do that also.

9 So, the report essentially says that, you
10 know, Josh was using THC. It made vague allusions to
11 perhaps this isn't good for the children. But again,
12 these were vague and -- and -- and they were, like,
13 allusions as opposed to nailing it down. Does it meet
14 diagnostic criteria. Is it interfering with his
15 functioning to -- to be a co-guardian with the
16 children. So -- so again, he fails to really kind of
17 nail this down.

18 Q So would it be safe to say that this
19 allegation by Dr. Paglini that Josh is reliant on THC,
20 is it safe to say that that is a conclusory statement
21 that lacks evidentiary support in the report?

22 A Yes.

23 Q Okay. Dr. Paglini made numerous comments
24 about what a beautiful home that Adam and his

1 girlfriend live in. And he indicated that they are
2 financially stable, but that Chalese and Josh have
3 financial instability. Or financial limitations. Let
4 me correct that.

5 Does -- in -- in his report, did Dr. Paglini
6 discuss any indication of maturity about the level of
7 support that Adam and his girlfriend receive from
8 Adam's father?

9 A No, he did not.

10 And I thought that was strange that he seemed
11 to be concerned about emotional maturity about Josh,
12 and he seemed to be concerned at the income level of
13 that household, but he then really didn't explore
14 the -- the piece of information that was contained in
15 the report from others that part of the reason that Mr.
16 Solinger lived in such a nice house was he was
17 receiving significant financial help from his father.

18 And that, you know, is allowable, and people
19 can spend their money the way they want to. But -- but
20 it is relevant to the idea that someone's functioning
21 so well that they can provide this nice home because
22 they're doing it themselves as opposed to doing it with
23 relative -- helps from relatives.

24 And the other thing I thought was unusual,

1 and that is, there seemed to be a -- kind of this
2 implicit notion that nicer homes with pools are better
3 environments for children than less expensive homes.
4 And there's -- there's no literature indicating that
5 that's true. And there seemed to be sort of a classist
6 sort of dimension to that analysis.

7 MR. SOLINGER: Your Honor, just in the vein
8 of time, because we're getting close, and I want to
9 make sure Ms. Cramer makes her hearing -- it seems that
10 this line of questioning is all proffering something
11 from his report and then having him repeat his
12 conclusions.

13 I'm sure Your Honor has already read the
14 report. I don't -- I'm not telling Ms. Cramer how to
15 do this, but I'm trying to --

16 MS. CRAMER: Jesus Christ.

17 MR. SOLINGER: -- make sure we (indiscernible)
18 on time.

19 MS. CRAMER: I would like to not be
20 interrupted. Yeah, I've been interrupted numerous
21 times for --

22 THE COURT: She -- she -- let her put on her
23 case. There's some of this stuff, and the way he's
24 putting it that's actually making the report a little

1 bit clearer for me, so I'm appreciating it.

2 MR. SOLINGER: Understood.

3 THE COURT: He may have to come back this
4 afternoon, but, you know.

5 MS. CRAMER: Right.

6 BY MS. CRAMER:

7 Q Can -- while we're on the topic of the house,
8 Adam's home has a pool. In your recollection, did Dr.
9 Paglini note if there were any safety measures in place
10 for the pool?

11 A No, he did not.

12 And I was concerned about that. I've -- I've
13 been involved in treating parents whose children have
14 drowned in -- in pools. And again, you know, the
15 literature on some of that, and pools are one of the
16 most dangerous things for children.

17 And again, they could made -- could be made
18 less dangerous by pool alarms and fences and padlocks
19 and all that sort of thing, but Dr. Paglini didn't
20 explore the safety of that pool and the safety of
21 the -- the practice of the guardians at that house with
22 respect to the children and the pool.

23 And also, let me just say, the children were
24 of an age where these drownings occur. They weren't

1 14. They were, I think, five and two at the time.

2 Q Thank you.

3 There was also -- I've had to read many
4 filings about it as well -- but there was also
5 allegations about a so-called medicine that Chalese was
6 giving Michael at night, which Michael reported was to
7 help him breathe.

8 Did Dr. Paglini report anything about
9 Chalese's explanation for that?

10 A No.

11 Q Okay. And did he provide any analysis about
12 Michael's maturity level or ability to comprehend what
13 he was even being given?

14 A No, he did not.

15 And he didn't make any conclusions about
16 whether this is inappropriate giving of something, or
17 appropriate. So he again described some information,
18 but -- but the bottom line, is -- is this
19 inappropriate. Is this a reliable report. Is this
20 report was never the logic of -- that conclusion was --
21 was never specified.

22 Q And in his report, did Dr. Paglini provide
23 any insight as to why he just accepted this as fact and
24 didn't explore these limitations on the report?

1 A No, he did not.

2 Q Okay. You had indicated with the -- on Dr.
3 Paglini's conclusions, you had indicated that there was
4 problematic asymmetry of Dr. Paglini's analysis
5 regarding the parties' use of marijuana.

6 Can you explain to the Court what you mean by
7 that?

8 A He seemed concerned about Josh's -- Josh's
9 use and -- and allegations about his use, and also
10 Mrs. Solinger's past use. But there were reports of
11 Mr. Solinger's use, and including use of other drugs,
12 and yet he seemed to focus only on the Mrs. Solinger's
13 side of the equation and not Mr. Solinger's involvement
14 with drugs.

15 Q And I would like your opinion on the --
16 Dr. Paglini's analysis of the validity scale of
17 Mr. Solinger's psychological testing.

18 A The Minnesota Multiphasic Personality
19 Inventory is the most common personality test that we
20 have. It was invented in the 1950s. It's kind of old
21 and venerable. It has clinical scales so we can assess
22 things like depression and psychosis. But it also has
23 what we call validity scales.

24 And the validity scales get at, is the person

1 answering in an honest way. Are they -- seem to be
2 forthright. Or do they seem to be exaggerating
3 positives or exaggerating negatives.

4 Mr. Solinger's MMPI, according to Dr.
5 Paglini, indicated that he was faking good. What that
6 means is he was presenting himself in an overly
7 positive light by denying common faults, and then
8 exaggerating positives.

9 So that in some sense invalidates
10 self-report. It invalidates the testing because the
11 testing is not getting a true picture. Getting a
12 distorted picture with -- with somebody who's trying to
13 manipulate the test results by again displaying --
14 hiding negatives and -- and exaggerating positives.

15 Q And in Dr. Paglini's report, do you believe
16 that it affects the validity of his report by the fact
17 that he did not take into consideration that Adam is an
18 attorney and has a far greater understanding of the
19 legal process?

20 A Yes.

21 Q And --

22 A I thought that was imbalanced in -- in -- in
23 the dynamic in the relationship. And it was not in
24 Mrs. Solinger's favor. And that should have been

1 given -- it should have been mentioned in the report.
2 And it should have been explicated about how he's
3 handling that asymmetry.

4 Q Okay. And so just because someone's an
5 attorney and has a better understanding of the court
6 process, does that mean they should be given primary
7 custody of their children?

8 A No.

9 Q Do you believe that Dr. Paglini's
10 recommendations were clearly linked to his methods and
11 to the information in his report?

12 A No.

13 Q Thank you.

14 And do you believe that Dr. Paglini gave
15 Chalese's allegations of Adam violating the court order
16 and withholding the children the proper weight that
17 they deserved?

18 A No.

19 Q What is your professional experience and
20 opinion with regard to parents that withhold children
21 and violate custody orders?

22 A Well, violating a court order is a serious
23 matter. It shows either a lack of comprehensive --
24 comprehension of the court order, or willful -- willful

1 display of -- of noncompliance.

2 Court orders are -- are usually there because
3 they're consistent with the children's best interest.
4 So it also can be construed as an act in which the
5 children's best interest is not being duly emphasized.

6 Q There was a note in Dr. Paglini's report that
7 indicated that Mr. Solinger had referred him a criminal
8 case in late 2019, and that he had discussed the case
9 with Adam prior to doing this custody evaluation.

10 In your opinion, should that have been
11 disclosed prior to conducting the evaluation?

12 A Yes.

13 And anything that either party can construe
14 as a lack of impartiality should be placed on the
15 table, put in sunshine, and people debate about its
16 implications.

17 Q And does it -- in your opinion, does it
18 appear that there was a bias in Dr. Paglini's report?

19 A Yes.

20 Q And -- and what would that bias be?

21 A Against Mrs. Solinger and for Mr. Solinger.

22 Q Okay. Thank you.

23 MS. CRAMER: Your Honor, I'll pass the
24 witness.

1 THE COURT: Mr. Solinger?

2 MR. SOLINGER: Your Honor, may I approach the
3 witness stand --

4 THE COURT: Yes.

5 MR. SOLINGER: -- to question him?

6 THE COURT: Absolutely.

7 MR. SOLINGER: You never know what you're
8 going to need till you get up there.

9 Ms. Cramer, did you leave your exhibit book
10 up here?

11 MS. CRAMER: I don't know if you wanted it or
12 not.

13 MR. SOLINGER: I'd appreciate it.

14 MS. CRAMER: I'll remove it. Bumping the
15 microphone is always helpful. Sorry about that.

16 THE COURT: Thank goodness it's not so loud
17 it bust our eardrums.

18 MS. CRAMER: Sorry about that.

19 CROSS EXAMINATION

20 BY MR. SOLINGER:

21 Q Good morning, Dr. O'Donohue.

22 A Good morning, Mr. Solinger.

23 Q I recognize that this is awkward having to be
24 questioned by the -- the person in the custody battle,

1 so I'm going to do my best to try to refer to things in
2 the third person to make this less personable and more
3 about your report, if that's all right with you.

4 A Sounds good. It's preferred.

5 Q As far as your qualifications are concerned,
6 I think earlier you said you'd done approximately 12
7 custody evaluations?

8 A Yes.

9 Q And how many of those were done in 2021?

10 A None.

11 Q 2020?

12 A None.

13 Q Prior to this case, when was your last
14 custody evaluation?

15 A You know, I'm --

16 Q Sorry, let me rephrase. I know you're doing
17 a rebuttal report here, so I want to be very specific.

18 When was your last full-fledged custody
19 evaluation completed?

20 A I'm not very good at time. But -- but I
21 would say about 2017 or so.

22 Q And is your last rebuttal -- I -- I don't
23 want to call it an evaluation, but I guess your last
24 rebuttal, when was that last done?

1 A Probably 2018 or so.

2 Q And how many -- when you say you've done 12
3 custody evaluations, does that include your rebuttal
4 reports, or are those separate?

5 A Separate.

6 Q How many rebuttals would you say you've done?

7 A Probably about a dozen also. It would be my
8 estimate.

9 Q Are you a member of the AFCC?

10 A No.

11 Q How many CEUs have you done regarding child
12 custody in the last year?

13 A Zero.

14 Q The year before that, 2020 -- I guess because
15 we're in 2022 now, so in 2021, did you do any CEUs on
16 child custody evaluations?

17 A Not that were entirely focused on child
18 custody evaluations, but things -- I did CEUs, like, on
19 child sexual abuse, child physical abuse, and child
20 custody evaluations were mentioned in those.

21 Q And the year -- I guess, when was your last
22 CEU that you did that was strictly on child custody
23 evaluations?

24 A I don't recall.

1 Q Have you -- there was some questioning about
2 how many times you've been recognized as an expert, and
3 you switched from the custody domain to 200 times.

4 How many times have you been recognized in a
5 court as a child custody expert?

6 A Well, each of those times in which there was
7 a -- a rebuttal. Although, I don't remember if I
8 testified. Some of these cases settle.

9 So -- so if I do a rebuttal, I have a
10 question in order to answer it -- if I do a rebuttal
11 and the Court -- and the case settles and I -- and
12 doesn't go to trial or hearing, am I recognized as an
13 expert then or not?

14 Q Unfortunately I can't answer that for you.
15 It would require a legal conclusion, and I think it's
16 probably inappropriate that I answer that.

17 THE COURT: I'm going to say if they settled
18 and it was also based upon not only the evaluation but
19 the rebuttal, you should have been deemed an expert.

20 THE WITNESS: Okay. Thank you. That's
21 helpful.

22 So again, I would say I did about a dozen
23 of -- of those.

24 BY MR. SOLINGER:

1 Q One of the things you testified to on direct
2 is that you have no memory of a confidentiality
3 agreement; is that correct?

4 A Correct.

5 I treat the material confidentially, but I
6 don't remember if I signed a document. I may have.

7 Q Do you recall whether there was any
8 discussion about that with prior Counsel?

9 A No, I don't have a clear memory of that.

10 Q I'd like to talk about your New York Times
11 interview that you gave in 2004. And I recognize that
12 that's a while, and so I'm going to proffer a quote
13 from that to you so that you can tell me if you
14 remember saying this.

15 "Psychologists don't have any knowledge to do
16 what they attempt to do when they do custody
17 evaluations. Many custody decisions involve not
18 scientific findings, but competing values like a
19 father's wish that his child settle into sports versus
20 the mother's emphasis on studying."

21 A Well, let me say I don't remember exactly
22 saying that. Actually forgot that I did a New York
23 Times interview. But I would -- I -- I would agree
24 that I probably said that, and I would agree with it

1 today.

2 Q And when did you become involved in the child
3 custody domain?

4 A Again, I'm -- I'm bad with dates, pinpointing
5 dates.

6 That in 2004, I believe that interview was
7 due to a peer review publication co-authored critiquing
8 scientific basis of many custody evaluations. So
9 probably in the early 2000s. 2001 or so.

10 Q And is that belief why you co-authored the
11 book on trying to improve the quality of child custody
12 evaluations?

13 A Correct.

14 Q And -- and that book was obviously called
15 Improving the Quality of Child Custody Evaluations.

16 A Yeah, it's pretty straightforward, yeah.
17 Exactly. I think there was a subtitle too, but yes.
18 You got the name --

19 Q You -- you are correct. I -- I just left my
20 copy of your book out in the car, so I -- I couldn't
21 tell you what it is, but.

22 And as part of this, you developed a model
23 for child custody evaluations, right?

24 A Correct.

1 Q And the idea behind it is, in very scientific
2 terms, to have the dependent variable being a custody
3 decision, and to then have that dependent variable
4 equal a bunch of independent variables that you hope to
5 set out based on the scientific literature that would
6 render a more objective decision rather than a
7 subjective decision?

8 A I think that's close, but I wouldn't say it's
9 exactly this -- or that. I would say it's twofold.

10 One is, the construct of best interest of the
11 child is vague and it ought to be explicated. All its
12 dimensions ought to be specified so we really have an
13 understanding of it. And we try to do that in that
14 book.

15 Two, that once you've explicated these
16 dimensions, for example, you can say parents' mental
17 health is relevant to the best interest of the child,
18 then you need to get valid tests so you can make a
19 accurate determination.

20 And that's -- and then you also need -- you
21 need to do that with all the dimensions. Then you need
22 two more things.

23 Then you need to have a -- an explicit and
24 valid system to combine all this information to render

1 an ultimate decision about how much time with Mom, and
2 how much time with Dad, and kind of why.

3 And then finally, the last dimension, you
4 need to test all this to see if you're making
5 accurate -- if this model gives you accurate decisions.
6 If -- if, when using this model, children are thriving,
7 children are flourishing, parents perhaps are
8 co-parenting better than if you use some alternative
9 model, or -- or treatment as usual.

10 But that's the kind of information that's
11 need to -- which is needed to really improve the
12 quality of -- of these custody evaluations, as opposed
13 to it being done where everybody is does it
14 differently, and everybody has a different definition
15 of child best interest, everybody uses different tests,
16 and so on.

17 Q And to -- to develop that model, you went and
18 looked at the scientific literature to see what
19 variables people have isolated that led to either
20 positive or negative child development outcomes?

21 A Well, no, that information is exactly --
22 well, yes and no.

23 That information is missing with respect to
24 this being done in child custody evaluations. However,

1 you're right in the sense that there's some basic
2 research that shows, for example, permissive parenting
3 is not as good as authoritative parenting, or
4 authoritarian parenting is not good. So there's
5 information, for example, on parenting styles that one
6 can use to -- in this model so that that part is
7 correct.

8 Q And to do that, you kind of broke, I guess,
9 variables into two archetypes being egregious factors
10 and promotive factors?

11 A Correct. That's correct.

12 Q And egregious factors are egregious because
13 the idea being that they're harmful to the children if
14 those factors are present?

15 A Correct.

16 Q And promotive ones are obviously beneficial
17 to the children, hence the names, right?

18 A Yes, hence the names. And you need to look
19 for both, correct.

20 Q And your model starts with the assumption
21 that joint physical custody should be a presumption
22 rather than a preference, right?

23 A Yes. The idea that you start at equality,
24 joint, and then you see whether egregious factors weigh

1 in for one side or the other, or promotive factors
2 start to tip the balance, correct.

3 Q And so if neither parent has harmful factors
4 or egregious factors, and both have similar positive
5 factors, then joint custody should be presumed under
6 the model that you wrote about, or designed, I guess?

7 A Correct.

8 MS. CRAMER: Your Honor, I just want to point
9 out that my client has only paid for two hours for
10 Dr. O'Donohue's time.

11 This report was issued on March 4th of 2021.
12 The Plaintiff had an opportunity to depose this
13 witness. He's going to -- if we continue talking about
14 every book this man has written, he spent decades in
15 academia and practice. He has four degrees. He's
16 written umpteen million books. If this is what we're
17 going to do, he is going to have to pay for Dr.
18 O'Donohue to come back.

19 THE COURT: Well, just keep in mind, you
20 know, attorney's fees also includes expert witness
21 fees, so if I find that there's wasteful time, all of
22 that will be added into it.

23 MS. CRAMER: Thank you, Your Honor.

24 THE COURT: I'm -- I'm going to give him the

1 latitude to explore like I would have given you the
2 latitude to explore as well.

3 MS. CRAMER: All right. Thank you, Your
4 Honor.

5 MR. SOLINGER: To be clear, I don't believe I
6 had sufficient time based on when discovery closed
7 prior to our first trial date in order to depose him,
8 get a transcript issued, and then do it. I think
9 that's an inaccurate statement.

10 MS. CRAMER: There is technology that they
11 can issue a transcript almost immediately as the court
12 reporter's typing it.

13 THE COURT: The -- the problem is, is with
14 the trial date, the first trial date was May 10th.
15 Discovery shut off -- wasn't it May -- March -- April
16 10th?

17 MR. SOLINGER: April 10th. 30 days before.

18 THE COURT: And given the -- the notice
19 requirements and everything, he probably didn't have
20 time to depose him.

21 MS. CRAMER: I don't know that he requested
22 an extension either. And since that wasn't --

23 THE COURT: I would not have allowed the
24 extension.

1 MS. CRAMER: No, for opposing Counsel to just
2 do a depo. That would be between attorneys, and that
3 would be with my predecessor. Which, dealing with Mr.
4 Fleeman in the past, I know that he's amenable to all
5 of that.

6 THE COURT: The -- the problem --

7 MS. CRAMER: And it was during COVID.

8 THE COURT: Yeah.

9 MS. CRAMER: It was --

10 THE COURT: The problem --

11 MR. SOLINGER: And --

12 MS. CRAMER: Everything was remote.

13 THE COURT: Let me -- I'm going to go in
14 here, okay?

15 Things that Dr. O'Donohue stated in 2004,
16 just like every human being, could possibly change. We
17 need to focus on this report, because you've got 30
18 minutes and this man's going to be excused. So you may
19 want to get to the meat and potatoes of what you're
20 wanting on testimony, because I'm recognizing him as an
21 expert.

22 MR. SOLINGER: Understood.

23 BY MR. SOLINGER:

24 Q Dr. O'Donohue, you wrote a report in this

1 case that was eight pages long?

2 A Correct.

3 Q Dr. Paglini's report was over 60 pages?

4 A I don't remember the exact number, but that
5 sounds about right.

6 Q And your report lists the materials you
7 considered in it?

8 A Correct.

9 Q And you reviewed Dr. Paglini's custody
10 evaluation?

11 A Correct.

12 Q You reviewed exhibits?

13 A Correct.

14 Q You wrote legal, for whatever that is worth.

15 A Correct.

16 Q On page 1 of your report.

17 You reviewed photos without a description of
18 what those photos are?

19 A Correct.

20 Q And to be clear, in your report itself, you
21 don't make a recommendation as to custody, you merely
22 point out where you believe Dr. Paglini didn't consider
23 things appropriately?

24 A Yes.

1 It would be ethically inappropriate for me to
2 make a recommendation concerning custody. I've not met
3 all the principles. I wasn't doing a custody
4 evaluation. I was asked to do a critique of a custody
5 evaluation.

6 Q And you would agree that in a custody
7 evaluation, it's really difficult, if not impossible,
8 to list every single thing you know about the case?

9 A Correct.

10 Q You were hired by the Defendant in this case?

11 A Correct.

12 Q And you were hired to evaluate and rebut
13 Dr. Paglini's report?

14 A Correct.

15 Q You've self-titled your report a, quote,
16 forensic report?

17 A Correct.

18 Q Forensic report, by definition, is intended
19 to be neutral and examine a situation forensically?

20 A Correct.

21 Q You need to necessarily review Dr. Paglini's
22 report in order to do that?

23 A Correct.

24 Q Additionally, you interviewed the Defendant

1 in this case?

2 A Correct.

3 Q You interviewed her three different times?

4 A Correct.

5 Q You didn't interview me?

6 A No.

7 Q You didn't solely rely on Dr. Paglini's
8 report in forming your rebuttal, and instead you
9 interviewed Chalese, the Defendant, by adding new
10 information to your frame of reference in evaluating
11 Dr. Paglini's report?

12 A Could you restate that question? It was a
13 little confusing to me.

14 Q Understood. I'm still working it out myself
15 because I'm trying to combine and save time.

16 But in essence what I'm getting at, is that
17 you were not a strict rebuttal expert because you
18 reviewed new information that Dr. Paglini didn't have
19 access to?

20 A I think that's a legal question, rebuttal --

21 THE COURT: Like what?

22 MR. SOLINGER: He interviewed the Defendant
23 three times.

24 THE COURT: And Dr. Paglini didn't have the

1 opportunity to interview her?

2 MR. SOLINGER: He wasn't part of whatever
3 interviews that took place. Dr. Paglini's report is
4 necessarily bound by the sandbox of information he had,
5 whereas Dr. O'Donohue made the sandbox bigger with
6 three new interviews.

7 I think that's problematic in the role of a
8 rebuttal expert because you are now taking new data,
9 new things, and new conclusions and critiquing somebody
10 else's formula that didn't have all of that information
11 and variables.

12 MS. CRAMER: He interviewed the exact same
13 person.

14 THE COURT: Yeah, he interviewed the exact
15 same person.

16 And to be honest, Dr. O'Donohue has pointed
17 out a lot of deficiencies that the Court had already
18 recognized itself.

19 MR. SOLINGER: Understood.

20 BY MR. SOLINGER:

21 Q You didn't use the model that you've
22 developed in your book for purposes of this rebuttal
23 report?

24 A The model that I have developed in my book is

1 for performing a custody evaluation, not performing a
2 critique of a custody evaluation.

3 Q But you could have taken those same promotive
4 and egregious factors, taken the data as reported by
5 Dr. Paglini, and categorized them to at least come to a
6 more scientifically-backed conclusion?

7 A No, I couldn't. Because his report had so
8 many problems, many of those dimensions were not
9 addressed or were not addressed clearly, for reasons
10 I've already testified to.

11 Q In your first paragraph, you take issue with
12 Dr. Paglini not giving enough weight to the fact that
13 the Defendant described herself as the primary
14 caregiver.

15 A Correct.

16 Q Or that the Defendant reported that I was --
17 that -- that I was not involved in parenting.

18 A Correct.

19 Q You recognize that by the time Dr. Paglini
20 had come onto the case and done this custody
21 evaluation, that the kids had been with me on a primary
22 basis for over a year?

23 A Yes.

24 Q So largely, this primary caregiver idea was

1 not really valid anymore, right?

2 A No.

3 Q So his --

4 A No, I don't agree with that, not no, it
5 wasn't valid. It was still valid.

6 Q You talk about primary caregiver. Isn't that
7 just the Tender Years doctrine under another name?

8 A I think it's related to that, correct.

9 Q And the Tender Years doctrine of course being
10 that children should be with mothers more than fathers
11 during their tender years?

12 A No. And that's why I said it's related.
13 It's -- usually mothers are the primary care --
14 caretakers as opposed to fathers.

15 But I'm not invoking the Tender Years
16 doctrine, what I'm invoking is children who have a
17 history of receiving their primary care from one
18 parent, that is relevant to ultimate decisions about
19 what's the best interest of the children going forward.

20 Q And so as you sit here today, do you still
21 think that that's a relevant factor?

22 A The children have a history of receiving
23 their primary care from Mrs. Solinger? Yes, I think
24 that's a important factor.

1 Q Okay. Michael was born in -- strike that.

2 As of today, Michael is six years old and he
3 has been with me on a primary basis for almost two and
4 a half years. So, wouldn't that play into who the
5 primary caregiver is now?

6 A Yes.

7 Q And -- thank you.

8 You conclude that Dr. Paglini didn't take the
9 Defendant's alleged PTSD into account.

10 A Correct.

11 Q You haven't received any documentation from
12 the Defendant that she's been diagnosed with PTSD?

13 A Correct.

14 Q And you obviously haven't diagnosed her?

15 A Correct.

16 Q So, really the critique about Dr. Paglini not
17 nailing things down with more specificity, isn't that
18 something you could have done?

19 A And I did. I -- I asked her about the
20 details of the trauma that Dr. Paglini failed to
21 include in his report. And then I put that in my
22 rebuttal. I -- I indicated what those details were.

23 Q But you've already agreed that you can't put
24 everything that you know about a case into a report?

1 A Correct.

2 You've got to put the most important pieces
3 of information in the report. And the traumas that
4 people have experienced, especially severe physical
5 abuse on the hands of a step-father, and witnessing
6 severe physical abuse of -- of one's mother at the
7 hands of a step-father for, I think it was over 14
8 years, is the kind of thing that has high priority and
9 ought to be in a report.

10 Q And so what you're expressing is a values
11 assessment that you value that as a data point more
12 than necessarily Dr. Paglini valued it?

13 A Well, it's not a values assessment, like, he
14 likes chocolate ice cream and I like vanilla ice cream.
15 It's -- it's more about professional quality.

16 That the idea is that we all ought to assess
17 in trying to understand somebody whether or not they
18 have a trauma history because it's always significant,
19 and whether that -- how that trauma history is
20 affecting them now. So that's just basic competent
21 assessment in trying to understand a person.

22 Q On direct you testified that violating a
23 court order is a very serious thing that ought to be
24 considered.

1 A Correct.

2 Q Do you believe it's one of the most important
3 things?

4 A Is a very important thing? Correct. Yes.

5 Q If a person has an issue with a court order
6 and chooses to violate that court order rather than
7 move for relief from that court order, what does that
8 say to you? What do you take from that?

9 A Well, there's a couple possibilities. One is
10 they don't understand the importance of a court order.
11 Two, that they might not have understood the court
12 order itself. Three, that they're defiant and not rule
13 following, which is a problem. And four, that they may
14 suffer some -- from some mental health issue that does
15 not allow them to control their behavior and act in
16 compliance with rules.

17 Q What value do you give to co-parenting as a
18 variable in determining a custody outcome?

19 A High value.

20 Q And what would your conclusion be if a parent
21 took a six year old little boy to get his ears pierced
22 without saying anything to the co-parent?

23 A If they don't have the legal right to do
24 that, if -- if -- if the legal documents indicate that

1 they need that permission, that would be a serious
2 problem. Even if the legal documents don't say that,
3 it would be good co-parenting to attempt to talk to
4 that parent and -- and reach a consensus.

5 Q What about -- strike that.

6 Do you agree that preschool education is
7 important?

8 A Yes.

9 Q And that it's predictive of later success in
10 life?

11 A Yes.

12 Q And if a parent continuously refuses to take
13 somebody who's otherwise enrolled in preschool and has
14 been enrolled in preschool to school going forward,
15 what would that mean to you?

16 A I didn't understand your question. Are they
17 dismissing one or two things? Are they -- are they
18 opting out completely in preschool?

19 Q In the situation where during that parent's
20 custodial time share, they're missing three out of the
21 four days of instruction that they would otherwise
22 receive?

23 A I would have to see the -- if there's good
24 reasons for that. If the child's sick, or there's a --

1 a problem at the school, the child's being bullied, or
2 some kind of concern.

3 But consistency of a routine can be important
4 to children. Falling behind if there's an educational
5 curriculum can be stressful to a child, so unless
6 there's good reasons to have the child consistently
7 going and participating in the curriculum so they don't
8 fall behind would be, in my opinion, the best interest
9 of the child.

10 Q One of the things you said on direct was that
11 Dr. Paglini didn't really explore a sound reason why I
12 wasn't involved with the kids during their earlier
13 life.

14 A Correct.

15 Q You gave an example of video games, bike
16 riding, et cetera?

17 A Correct.

18 Q You recognize that I was studying for the Bar
19 when Michael was born in 2015?

20 A Yes, I -- I knew you were studying for the
21 Bar roughly during some period of -- of -- of that --
22 of his life. The beginning of his life, yes.

23 Q Well, the Bar is in July of 2015. Michael
24 was born in June ever 2015. Does that give you any

1 more information that you think is relevant as to that
2 factor?

3 A No.

4 Q You have a PhD.?

5 A Correct.

6 Q And you had to write a dissertation to
7 receive that PhD.?

8 A Correct.

9 Q And that was an all-consuming process?

10 A No.

11 Q No? You -- how much time did you spend --
12 strike that, it's not relevant.

13 You said that there was a possibility of a
14 fear reaction based upon somebody sitting across the
15 street?

16 A Correct.

17 Q And would you think that a fear reaction is
18 appropriate if that person is withholding children and
19 the person that's across the street is waiting for the
20 police to respond?

21 A No.

22 Q One of the consistent themes throughout your
23 evaluation was that something has been mentioned but
24 not settled or nailed down, for example.

1 A Correct.

2 Q The example you gave was the road rage
3 allegation.

4 A Correct.

5 Q How would you nail down --

6 A But there's other -- sorry -- but there's
7 other examples beyond that. But -- but that was one of
8 the examples, correct.

9 Q I fully recognize that. I'm just exploring
10 that one in particular. Because how would you settle
11 something that's a he said/she said allegation?

12 A Well, you can try to get additional
13 information. You can attempt to make conclusions based
14 on the general reliability or credibility of the he or
15 the she.

16 For example, the MMPI testing showing that
17 you were faking good can be relevant to this --
18 evaluating descriptions of he said/she said situations.
19 But if you can resolve it, then you need to say that
20 and not use it.

21 Q And to be clear, I don't think it was the
22 MMPI, I think it was the CAP assessment. But largely
23 which test had a issue with the reliability scale
24 doesn't matter.

1 I guess the point is that as a clinician, you
2 use therapeutic discretion in determining what weight
3 to give somebody despite what a test may or may not
4 say?

5 A Correct.

6 Q So the test is just the starting point to
7 kind of put you on guard, but then you have to exercise
8 your face-to-face communication that you have with the
9 person and decide do I think that that test is
10 reliable, or do I discount that because I've seen him,
11 I've talked to him, and I'm seeing this person?

12 A That wouldn't be the whole picture. You
13 would also want to see what collateral contacts are
14 saying about the person's reliability and response
15 style. You want to see about the plausibility of kind
16 of their explanations of matters.

17 MR. SOLINGER: And, Ms. Cramer, what time do
18 you need to be out of here?

19 MS. CRAMER: 11:30.

20 THE COURT: 11:30.

21 BY MR. SOLINGER:

22 Q I want to turn to your discussion of, I
23 guess, CSAM. Child sexual assault material is the
24 current nomenclature, right?

1 A Could you repeat? I didn't -- CSAS, is that
2 what you said?

3 Q CSAM. Because instead of -- the literature
4 doesn't refer to it as child pornography any longer.
5 It refers to it as child sexual assault material,
6 right?

7 A Okay. Got you. Okay.

8 I testify on the child sexual assault
9 accommodation syndrome, which is called CSAS. I
10 thought that's what you said, but -- but okay. Okay.

11 Q No.

12 A Misheard.

13 Q One of the things that you said in your
14 report is that if there was a child pornography issue,
15 that it would be very troubling.

16 A Correct.

17 Q And in your interviews with the Defendant,
18 she insisted that there was still an issue with child
19 pornography in this case?

20 A She does.

21 THE COURT: I stopped that. You know, I'm
22 not finding any of that to be relevant.

23 MR. SOLINGER: And I -- I understand that.

24 The proffer of why I'm doing this, Your

1 Honor, is that if she proffered to her own expert that
2 it was still a problem --

3 THE COURT: Yeah.

4 MR. SOLINGER: -- and that his eval wasn't
5 done until March of 2021, and we've already stipulated
6 that that was a non-issue because there was nothing
7 there as opposed to a chain of custody, then she's
8 lying to her own expert. And what does that do --

9 THE COURT: Okay.

10 MR. SOLINGER: -- for her credibility with
11 him.

12 THE COURT: All right. Now I see where
13 you're going.

14 Okay. Go ahead.

15 BY MR. SOLINGER:

16 Q Obviously you -- you heard where I'm going.
17 And so in your interviews with the Defendant, she told
18 you that the issue was a chain-of-custody issue, and
19 that they couldn't resolve it, not that the devices
20 have been examined and that there was no child
21 pornography on any device, correct?

22 A I believe that's the case, correct.

23 Q And your interview was done in March of 2021?

24 A Correct.

1 Q And if I were to tell you that the devices
2 were examined in November of 2019 and a stipulation was
3 entered into that upon examination of those devices
4 there was no child pornography present, yet she
5 repeated that same lie to you in March of 2021, what
6 does that say to you about credibility?

7 A She repeated what same lie? I don't
8 understand what that refers to.

9 Q If she repeated a lie to you, if she lied to
10 you and told you, the Defendant, that child pornography
11 was still at issue but there was just a
12 chain-of-custody problem, but in fact the truth of it
13 was that there was no child pornography issue because
14 it was a lie, you would agree that the Defendant
15 lying --

16 MS. CRAMER: I'm going to object to that,
17 Your Honor, because that misstates the facts of the
18 case.

19 THE COURT: No, it doesn't.

20 If she told him that it was still an issue
21 when it had already been cleared up, then --

22 MS. CRAMER: No, I mean --

23 THE COURT: -- it had been cleared up, it
24 was -- I've read the reports. There was nothing found

1 on the computers.

2 MS. CRAMER: But we need to be clear here,
3 because there was a chain-of-custody issue. Lou
4 Schneider's office, God only knows what they did with
5 these devices.

6 THE COURT: I know. I understand that.

7 MS. CRAMER: It's --

8 THE COURT: But the key is, is whether there
9 was a chain-of-custody issue or not, they didn't find
10 any child pornography on it, and that's what Mom should
11 have said. Not that it was just a chain-of-custody
12 issue. She should have been fully disclosing and not
13 just partially disclosing.

14 MR. SOLINGER: May I resume?

15 THE COURT: Yes.

16 BY MR. SOLINGER:

17 Q So, Dr. O'Donohue, you said that she told you
18 it was a chain-of-custody issue, not that it was
19 because there was no child pornography found on those
20 devices?

21 MS. CRAMER: Well, there was no finding that
22 there was never any child custody (sic). There was
23 a -- there was an agreement that it was going to be
24 eliminated because of what happened at Lou Schneider's

1 office and the chain of custody.

2 MR. SOLINGER: That -- that is
3 categorically --

4 THE COURT: Just let him answer.

5 MR. SOLINGER: First, for the record, that is
6 categorically inaccurate.

7 I had a discussion with prior Counsel, where
8 I, under Rule 11, sent a proposed motion for sanctions
9 because Jack Fleeman, and Pecos frankly, came into
10 court in front of Judge Moss and told them that the
11 computers were still being examined at the end of
12 November.

13 I want to say it was November 17th we were in
14 court, and in their filing said that it's still an
15 issue, they're still being examined, and they have to
16 be looked at. But lo and behold, when discovery was
17 conducted, there's an email from their expert to Jack
18 saying that they had finished an evaluation of all of
19 the devices, and that there's nothing on them. And
20 that email was dated November 7th --

21 THE COURT: When --

22 MR. SOLINGER: -- 10 days before --

23 THE COURT: Okay.

24 MR. SOLINGER: -- their false representation

1 to the Court. So their --

2 THE COURT: Okay. All right.

3 Can we agree that we're going to disagree on
4 this issue? That the question -- here's -- here's the
5 question, if you don't mind my coming in here.

6 If it comes out that she lied to you for even
7 one reason, how would that affect your assessment?

8 THE WITNESS: I would then conclude that it
9 is more probable that other statements she made were
10 not complete and accurate.

11 THE COURT: Okay.

12 MR. SOLINGER: Thank you, Your Honor.

13 THE COURT: A very simple question.

14 MR. SOLINGER: No, it -- it is. It's just
15 sometimes the buildup is just --

16 THE WITNESS: But can I say one thing to
17 clarify this?

18 THE COURT: Yes, sir.

19 THE WITNESS: When I say in the report about
20 an issue, and her statements about an issue, I'm not
21 speaking about a legal issue. I'm not a lawyer. I
22 don't -- this is a complex matter.

23 THE COURT: Yes.

24 THE WITNESS: I don't understand the legal in

1 it. She did not either. When I use the word issue, I
2 was using it to indicate that she personally felt that
3 it was a concern. She had personal beliefs --

4 THE COURT: Yeah.

5 MR. SOLINGER: -- that it may be true. She
6 had personal beliefs that the way it was handle muddied
7 the waters.

8 THE COURT: Okay.

9 THE WITNESS: So that's what I mean by --

10 THE COURT: So when you talked --

11 THE WITNESS: -- an issue.

12 THE COURT: -- the issue, it's -- it's more
13 of a concern than issue?

14 THE WITNESS: Exactly.

15 THE COURT: Okay.

16 THE WITNESS: More of a concern that -- a
17 personal concern as opposed to a legal concern.

18 THE COURT: Okay. All right. Thank you,
19 sir.

20 THE WITNESS: Thank you.

21 BY MR. SOLINGER:

22 Q Dr. O'Donohue, did you review the video of
23 Josh from December of 2019?

24 A I don't remember.

1 Q So you opined on direct that you have to
2 evaluate how people act during the confrontation,
3 because it could speak to the maturity of both parties,
4 depending on their reaction?

5 A I think my testimony was that's important.
6 But also to look at traits and to see whether this is
7 an atypical behavior, correct.

8 And my -- my job was not to make diagnoses or
9 conclusions about Josh. My job was to make conclusions
10 about Dr. Paglini's report.

11 Q Correct.

12 And if Dr. Paglini had reviewed a video and
13 you didn't review that same video, would you feel that
14 your job wasn't done because you didn't review the same
15 material?

16 A No.

17 Because his responsibility in the report is
18 to describe the raw data that he observed in a way that
19 a third party doesn't have to repeat his basic actions,
20 but a third party can read this report which thoroughly
21 describes the raw data, and then thoroughly describes
22 his conclusions, which he did not do.

23 Q So on page 17 of Dr. Paglini's report, the
24 date's wrong, but when he describes there was yelling

1 between Josh and Mr. Solinger, and Mr. Solinger filed
2 charges against Josh for attempting to fight, there is
3 a video on the dynamic, both were screaming at each
4 other.

5 When asked what Josh did to create the
6 alleged disturbance, Chalese stated Mr. Solinger would
7 not open his door or window from the car, Josh tried to
8 talk to Mr. Solinger and Josh yelled at him. And then
9 the Defendant goes on.

10 So I guess isn't that describing the -- the
11 altercation, the issue, at least from one perspective?

12 A Yes, there's some description there. But --
13 but then what are valid conclusions based on that was
14 not clear.

15 Are they saying -- is he saying that somebody
16 has an anger control problem? Is he saying somebody
17 has a problem with violence? Is there somebody -- is
18 he even making conclusions about who started it, who
19 tried to de-escalate it? Is this an example of the
20 emotional immaturity of both parties, only one party?

21 What conclusions were kind of drawn, and how
22 does all this relate to the best interest of the child,
23 especially as in the context of other information, that
24 was missing.

1 Q Okay. And so when he goes on, Dr. Paglini,
2 in his report on page 27, and he says, in December the
3 Defendant informed the Plaintiff that he would not be
4 able to pick up the kids. The Plaintiff then went to
5 pick up the children and Defendant refused.

6 The Plaintiff called the police as -- the
7 Plaintiff called the police as the Defendant was
8 withholding the children. The Defendant called
9 Mr. Lloyd. Mr. Lloyd arrived. He came running to the
10 Plaintiff's truck stating I will knock you the fuck
11 out, end quote, and threatened to beat the shit out of
12 him. Mr. Lloyd tried to open the truck door. Video
13 reviewed.

14 So I guess what I'm getting at is, you take
15 umbrage with Dr. Paglini for not describing the video
16 with sufficient characteristic that a third-party
17 reviewer could draw conclusions possibly about one or
18 both parties' maturity, yet it appears in his report
19 that he did exactly that.

20 And it -- did you not read that?

21 A I did read it, yes.

22 But -- but again, he didn't describe context.
23 He didn't describe how typical this was. He didn't
24 describe his conclusions. There seemed to be a very

1 unfortunate interaction, but I'm not sure what
2 Dr. Paglini made of that, especially relating to the
3 bottom line issue of what's the best interest of the
4 children.

5 Q Is it the best interest of the children to be
6 around somebody who had a disagreement, threatens to
7 knock someone the fuck out and beat the shit out of
8 them?

9 MS. CRAMER: I would object to that
10 characterization, because that was not just a
11 disagreement.

12 MR. SOLINGER: I don't think I use --

13 MS. CRAMER: And also -- never mind. I'll
14 withdraw my objection. Just keep going.

15 THE COURT: Thank you. Because I was going
16 to overrule it.

17 MS. CRAMER: It's -- you know, I just -- he
18 can just keep going. It's --

19 THE COURT: Yeah. We've -- we've got about
20 six minutes here before she has to go to another
21 courtroom.

22 MR. SOLINGER: I understand. And --

23 THE COURT: So let me -- let me ask that.

24 Dr. O'Donohue, are you available this

1 afternoon if we need to re-call you at about 1:30?

2 THE WITNESS: I can change some things around
3 and make myself available, yes.

4 THE COURT: All right. We'll make decisions
5 based on that.

6 All right. Go ahead, sir.

7 BY MR. SOLINGER:

8 Q You keep opining about the best interest of
9 the children, and critiquing Dr. Paglini's evaluation
10 for not ultimately being tied to that.

11 MS. CRAMER: I would object to that. It
12 mischaracterizes the doctor's testimony. He didn't
13 opine about the best interest. He opined about
14 Dr. Paglini's report and how the best interests were
15 addressed in that report.

16 THE COURT: I agree with that.

17 BY MR. SOLINGER:

18 Q Dr. O'Donohue, to get back to the maturity
19 issue and the failing to describe adequately what
20 occurred, you just testified that the context was
21 missing.

22 A Correct.

23 Q What context do you need besides somebody
24 running down the street based on a -- for -- for no

1 reason and threatening violence?

2 A Well, there's -- there can be a history
3 relating to this. For example, a possible history
4 of -- of Mrs. Solinger being followed, Mrs. --
5 Mrs. Solinger's privacy, her home being inappropriately
6 gone into, a history of disagreements.

7 So -- so again, these events generally don't
8 occur in a vacuum. And at some point, people's ability
9 to cope and deal with stress can be cumulatively kind
10 of overrun and they can behave in atypical ways.

11 And so again a -- a good report attempts to
12 place these events in any kind of historical context
13 like that in order -- before they make any
14 psychological conclusions about this.

15 Q And everything you just said about the
16 history of followed, privacy, how does that excuse
17 Mr. Lloyd's behavior?

18 A My job isn't to say that -- that his behavior
19 should be excused or not.

20 Dr. Paglini's report is attempting to
21 understand the behavior, an attempt to understand what
22 psychological conclusions can be drawn from behavioral
23 episodes so again to render the best opinion possible
24 about the best interest of the children. And to do so,

1 one needs to understand that kind of context to -- to
2 derive valid conclusions.

3 And again, I'm saying that that context was
4 often missing in his report.

5 Q Do you believe court orders enforce
6 themselves?

7 A I think that's a legal -- I'm not a lawyer.
8 I'm not sure you how court orders are enforced. That's
9 not my expertise.

10 Q Well, if you are ordered to do or not do
11 something -- strike that.

12 You -- you mentioned about being stalked and
13 harassed and fear and stress reaction on your direct
14 testimony. Do you recall?

15 A Yes.

16 Q And you're also aware, obviously, that the
17 Defendant was ordered to abstain from certain things by
18 the previous Court?

19 A I don't understand phrase abstain from
20 certain things. That's -- that's vague. I --

21 Q Ordered not to -- not to consume marijuana,
22 not to allow Josh to be alone with the children, not to
23 allow Josh to drive the children.

24 A I -- I -- I did receive information about

1 that, correct. And I do have in my report that if
2 Mrs. Solinger violated court orders, that is a serious
3 matter, and -- and should be considered in the
4 conclusions.

5 Q You believe it was inappropriate to have a
6 private investigator in this matter?

7 A I believe -- well, again, inappropriate is a
8 vague term.

9 What I do believe is that Dr. Paglini did not
10 adequately address the stressors and how stressors can
11 produce atypical behavior by the behavior of a private
12 investigator. Especially when that private
13 investigator is possibly following, observing somebody
14 who has been a victim of abuse before, and is in a
15 context where possibly somebody is coming into her
16 house uninvited and inappropriately.

17 MR. SOLINGER: Your Honor, I recognize we're
18 right at that time.

19 THE COURT: Okay.

20 MR. SOLINGER: I -- I'm in a predicament
21 because I'm not done. I don't feel like I've done
22 everything that I want to accomplish, but I recognize
23 the direction that has been entered and where we're
24 going. And so I will --

1 THE BAILIFF: Do we need an extra five
2 minutes? Because I've already set it up with
3 (indiscernible).

4 THE COURT: Would five minutes even be
5 enough?

6 MR. SOLINGER: It would -- it would not, Your
7 Honor. I --

8 THE COURT: How much -- how much more time do
9 you think you need? And then how much more time do you
10 think you're going to need for, you know --

11 MS. CRAMER: I'm not.

12 THE COURT: You're not?

13 MS. CRAMER: I'm not going to do redirect.
14 Dr. O'Donohue's made himself abundantly clear.

15 MR. SOLINGER: I mean, I've written it --

16 THE COURT: How much more time do you need?

17 MR. SOLINGER: I would need --

18 THE COURT: And that --

19 MR. SOLINGER: -- about three hours with him,
20 I think.

21 THE COURT: You're not going to get three
22 hours.

23 MR. SOLINGER: And I understand that. And so
24 I'm --

1 THE COURT: This was supposed to be for two
2 days. This is going to be the second full day, and I'm
3 still giving you a third day.

4 MR. SOLINGER: I understand. I -- I will end
5 my examination here, because I think I can do what I
6 need to with what I've gotten.

7 THE COURT: Okay.

8 MR. SOLINGER: And I would just be beating a
9 dead horse at this point.

10 THE COURT: Okay. All right. Fantastic,
11 then.

12 Dr. O'Donohue, I definitely appreciate your
13 appearance. And it was a pleasure.

14 THE WITNESS: It was a pleasure, Your Honor.
15 I appreciate it.

16 THE COURT: Okay, sir.

17 THE WITNESS: Thank you.

18 THE COURT: Have a good afternoon.

19 THE WITNESS: You too.

20 THE COURT: Okay.

21 MS. CRAMER: Thank you, Your Honor.

22 THE COURT: All right. We can set everything
23 we're. We're going to run to lunch. We're not going
24 to be back until 1:30.

1 MS. CRAMER: Okay.

2 THE COURT: And then we'll listen to the two
3 significant others this afternoon.

4 MS. CRAMER: Okay.

5 THE COURT: And expect me to beat both of
6 them up --

7 MS. CRAMER: Okay.

8 THE COURT: -- if you don't.

9 (COURT RECESSED AT 11:29:30 AND RESUMED AT 1:33:24)

10 THE COURT: All right. Good afternoon. We
11 are back on the record in Case No. D-19-582245-D,
12 Solinger versus Solinger.

13 We are just plodding along. Hopefully sooner
14 or later we'll get this trial over with.

15 MS. CRAMER: Your words to God's ears.

16 THE COURT: All right. We're going to get to
17 the end of it. Okay.

18 MR. SOLINGER: Plaintiff would call
19 Mr. Joshua Lloyd as a witness. I'm not sure, given
20 that he's technically an adverse witness, if Ms. Cramer
21 would like to do a direct first if she wants to. Or do
22 I just --

23 THE COURT: Which way do we want to do it,
24 just let him go at it, and then --

1 MS. CRAMER: He can just go, Your Honor, and
2 I'll do cross and direct at the same time.

3 THE COURT: Okay.

4 MS. CRAMER: If that's okay with the Court.

5 THE COURT: That is fine. That's how I
6 prefer it, you know.

7 Chip, you want to go out and get Josh for us,
8 please?

9 THE BAILIFF: You got it. He's in one of the
10 ante rooms.

11 THE COURT: Oh, he's the one hiding out, huh?

12 THE BAILIFF: Yes.

13 MS. CRAMER: I put him in there, Your Honor.

14 THE COURT: He's hiding from me. I don't
15 blame him hiding from me. Sometimes I can be really
16 ornery.

17 MS. CRAMER: You and me both.

18 (Pause)

19 MR. LLOYD: Good afternoon, Your Honor.

20 THE COURT: Good afternoon.

21 THE BAILIFF: And then remain standing. The
22 court clerk's going to swear you in.

23 THE CLERK: Sir, raise your right hand.

24 You do solemnly swear the testimony you are

1 about to give in this action shall be the truth, the
2 whole truth and nothing but the truth, so help you God?

3 THE WITNESS: Yes, ma'am.

4 THE CLERK: Okay.

5 THE COURT: Thank you.

6 Go ahead and -- go ahead and sit down, we're
7 going to beat you up today.

8 THE WITNESS: All right.

9 THE COURT: I'm giving you fair warning.

10 THE WITNESS: I'm ready for it.

11 THE COURT: It's just not physically.

12 THE WITNESS: I'm ready.

13 THE COURT: Okay.

14 Go ahead, sir.

15 JOSHUA LLOYD,

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

19 DIRECT EXAMINATION

20 BY MR. SOLINGER:

21 Q Please state and spell your name for the
22 record.

23 A Joshua Lloyd.

24 THE COURT: Spell your name.

1 THE WITNESS: J-o-s-h-u-a. Last name,
2 L-l-o-y-d.

3 BY MR. SOLINGER:

4 Q I recognize this is uncomfortable, so I'm
5 going to try to be efficient with our time. If you
6 could just bear with me here.

7 Specifically I'd like to draw your attention
8 to about June of 2019 when you posted some online
9 reviews of me. Do you recall that?

10 A Yes, I do.

11 Q And it's fair to say that you had posted a
12 negative online review about me and my workplace?

13 A Correct. I did that in hopes to get you to
14 leave my family and my other custody case alone.

15 Q And you say leave your family and your other
16 custody case alone. Can you elaborate on that?

17 A You were getting involved in my custody
18 chase -- or case, with my ex-girlfriend.

19 Q Would you agree that when there's this kind
20 of blended co-parenting dynamic going on that
21 discussing shared custody issues with everyone involved
22 is beneficial?

23 A Absolutely. But I was not part of that
24 conversation.

1 Q Okay. In July of 2019, you were helping the
2 Defendant move out of the former marital residence.

3 MS. CRAMER: Is that a question?

4 MR. SOLINGER: It's leading. And Ms. Cramer
5 knows it's a question.

6 MS. CRAMER: I don't hear a question there.
7 I heard a statement.

8 BY MR. SOLINGER:

9 Q Correct?

10 THE COURT: Just yes or no.

11 THE WITNESS: Yes.

12 THE COURT: Okay. Thank you.

13 BY MR. SOLINGER:

14 Q And you were present when I came over to
15 retrieve some of my belongings?

16 A Correct.

17 Q At one point when I was retrieving
18 belongings, isn't it true that you confronted me at my
19 vehicle?

20 A I don't recall that.

21 Q You don't recall an incident where you were
22 discussing the part and you had a beer and some kind of
23 cigarette and/or marijuana cigarette in your hand?

24 A Not specifically.

1 THE WITNESS: Ma'am, this was four years ago.

2 THE COURT: I want to -- and it's only three
3 years ago -- but I want to go into something.

4 THE WITNESS: Yes, ma'am.

5 THE COURT: If you give him a hard time in
6 answering questions, but you do not give her a hard
7 time in answering her questions, I'm going to find you
8 not credible.

9 THE WITNESS: Okay.

10 THE COURT: Okay?

11 THE WITNESS: Okay.

12 THE COURT: You answer the questions
13 honestly. I don't care how bad it is. It's her job to
14 make you look good if it's something that goes against
15 you.

16 THE WITNESS: Yes, ma'am.

17 THE COURT: I do not find it credible that
18 you don't remember the run-in that you had with him.
19 Nobody forgets that crap.

20 THE WITNESS: I don't remember the exchange
21 of words, ma'am.

22 THE COURT: Okay. But you remember the
23 incident?

24 THE WITNESS: Yes, ma'am.

1 THE COURT: Then let's go from there.

2 THE WITNESS: Absolutely.

3 THE COURT: Don't try to hide the bad stuff.

4 She will make it better if it can be.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Okay?

7 THE WITNESS: Yes, ma'am.

8 THE COURT: All right. Thank you.

9 Go ahead and continue. Now maybe we can
10 smoothly go through this.

11 MR. SOLINGER: Thank you, Your Honor.

12 BY MR. SOLINGER:

13 Q Turning to December of 2019, there was
14 another altercation?

15 A Correct.

16 Q Can you describe that altercation?

17 A Yes.

18 I received a telephone call from Chalese who
19 was very distraught and unaware of the pickup that had
20 been arranged, I don't know how many months before.
21 And I called the police because I personally seen
22 videos of my child, just had people following me,
23 following her, stalking, harassing, all that. So I
24 called the police before I approached him.

1 I said, sir, if I can see the papers, I will
2 walk the kids out. And I'm not sure if you have that
3 video, but we can provide that if necessary, that I
4 said that about five or six times.

5 Q Isn't it true you also threatened to knock me
6 the fuck out?

7 A I didn't threaten you, sir. I said it --
8 that it was physically possible.

9 Q So --

10 THE COURT: It's the same thing.

11 THE WITNESS: All right.

12 THE COURT: Don't split hairs with me.

13 THE WITNESS: Yes, ma'am. I understand, Your
14 Honor.

15 BY MR. SOLINGER:

16 Q And you were criminally charged for that?

17 A I was criminally charged. I don't recall the
18 exact charges. I don't have them in front of me.

19 THE COURT: That's okay. That's all right.

20 BY MR. SOLINGER:

21 Q And ultimately you pled guilty to some kind
22 of criminal offense based on that?

23 A Correct. But I -- yes.

24 Q And now that that's resolved, you admit that

1 you tried to open the truck door?

2 A Yes, sir.

3 Q What was your intent in trying to open the
4 truck door?

5 A To talk to you.

6 Q And this was before or after you threatened
7 to knock me the fuck out?

8 A I believe it was before.

9 Q You tried --

10 A I -- I -- I don't recall the -- like, this
11 was 2019, and I'm sorry, I don't exactly remember the
12 exchange of words off the top of my head.

13 I know that I went out there in attempts in
14 good faith to help resolve the situation. That's why I
15 called the police before I approached him.

16 Q Given that there'd been already a prior
17 altercation and the police had been called, why did you
18 feel it was necessary to go out there?

19 A Because I wanted to be present and let the
20 police know that you were stalking and harassing me,
21 and following, and also recording my seven year-old
22 son.

23 Q As the reporting party, don't you believe the
24 police would have come to speak with you?

1 A I was there when the police arrived.

2 Q But my question was, don't you believe they
3 would come to see you whether you were right next to
4 the truck or not?

5 MS. CRAMER: That calls for speculation, Your
6 Honor.

7 MR. SOLINGER: I'm asking about his
8 subjective belief, because he testified that he had to
9 be, like --

10 MS. CRAMER: No, he's -- he's asking about
11 doesn't he believe the cops would do something. And
12 whatever the cops would do is speculation.

13 THE COURT: She's right on that one.

14 MR. SOLINGER: All right. I'll withdraw.

15 THE COURT: How about rewording it or
16 something like that?

17 MR. SOLINGER: I'll -- I'll --

18 THE COURT: If you can. I can't think of how
19 to reword it.

20 MR. SOLINGER: And I can't either. But I
21 will withdraw it.

22 THE COURT: Thank you.

23 BY MR. SOLINGER:

24 Q At some point during that altercation, you

1 left?

2 A Yeah. When police told me to return back to
3 my residence, yes.

4 Q When did they tell you to return back to your
5 residence?

6 A After they had arrived and spoke to you and
7 assessed, I'm assuming, that there was nothing
8 criminally wrong.

9 Q So, you get a call from Chalese?

10 A Yes.

11 Q You then go to the house?

12 A Yes.

13 Q You see that the doors are locked, that the
14 children are inside with her?

15 A Correct.

16 Q And then you come to find where I've parked?

17 A Correct.

18 Q And that was out of view of your house down
19 the street?

20 A Correct.

21 Q And you come running down that sidewalk to
22 the truck?

23 A Correct.

24 Q And that's when you say the things that you

1 say and try to open the truck?

2 A Correct.

3 Q Then you leave to go back to your house?

4 A Correct.

5 Q You get in your vehicle?

6 A Correct.

7 Q You then drive back down the street?

8 A Correct.

9 Q You drive the wrong way into traffic?

10 A I pulled onto the shoulder. I crossed over
11 the line, yes.

12 Q So that's a yes?

13 A Yes.

14 THE COURT: Were the children with him?

15 MR. SOLINGER: The children were not with
16 him.

17 THE COURT: Okay.

18 BY MR. SOLINGER:

19 Q You then came to a sudden stop less than a
20 foot away from the bumper of the truck that I was in?

21 A That's untrue. If you could stipulate the
22 distances.

23 I drive a diesel, or I drove a diesel, and
24 it's an old pickup truck. It's heavy. The shocks are

1 no good in the front. When you -- you come to a stop,
2 it kind of dips.

3 Q How far would you say you stopped away from
4 the front of the vehicle I was in?

5 A About six feet. And we can reflect on the
6 video, if need be.

7 Q After that, you proceeded to get out of the
8 truck again?

9 A Correct. And I believe that's when the
10 police arrived.

11 Q I'd like to refer you to January of 2021,
12 specifically related to a custody exchange. Do you
13 recall that?

14 A I believe so, yes.

15 Q To be more specific, a custody exchange where
16 you were criminally charged for your actions.

17 A Correct.

18 Q You were --

19 A To -- to elaborate. I came home to do the
20 custody exchange. The kids were in another vehicle. I
21 had my children. And his fiancée, girlfriend, I'm not
22 sure who she is, was blocking the driveway, the only
23 place that I can park, okay. So I asked her to move
24 her vehicle, okay.

1 And I walked my kids to the door. And I come
2 back out, because Chalese is still out there. I didn't
3 go inside. And I stood at the garage and I said some
4 words that I probably shouldn't have, that I feel bad
5 for, that I regret.

6 THE COURT: What did you say? He's going to
7 ask you, so I might as well.

8 THE WITNESS: I called her a fucking fat
9 bitch.

10 THE COURT: Okay. Bad boy.

11 THE WITNESS: Yes, ma'am.

12 THE COURT: You don't insult women in that
13 way.

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Would you want someone to insult
16 her that way?

17 THE WITNESS: No, ma'am. Not at all.

18 THE COURT: Then why would you do it to his
19 girlfriend.

20 THE WITNESS: I -- I was -- I was upset.

21 And then as soon as -- as soon as they seen
22 my face out of the car, they pulled out a GoPro and
23 said there he is. And that's how I got -- that's how I
24 ended up with the violation, the TPO. I was in my

1 driveway.

2 THE COURT: You were in your driveway?

3 THE WITNESS: I was in my driveway.

4 MR. SOLINGER: Judge Chelini had ordered that
5 he remain in the house during custody exchanges because
6 she didn't want any kind of game playing with, well,
7 he's within 100 feet, what have you.

8 THE COURT: So she's part --

9 MS. CRAMER: Blocking his --

10 THE COURT: -- blocking his driveway, and you
11 violate him for that?

12 MS. CRAMER: Yes, Your Honor.

13 MR. SOLINGER: I can be more specific here.

14 THE COURT: No.

15 MR. SOLINGER: Because it's not me violating
16 him.

17 THE COURT: No, no, no. No.

18 MR. SOLINGER: No, I'm -- I'm --

19 THE COURT: This is a legal game that I'm
20 seeing that you're using your legal knowledge to try to
21 screw with these.

22 MS. CRAMER: And, Your Honor, I will point
23 out --

24 THE COURT: Well, I don't know. I may -- I

1 may be wrong. Because he should have just went inside
2 and shut up.

3 THE WITNESS: Yes, ma'am.

4 MR. SOLINGER: Well, and I can clarify the
5 record. Because I attempted to have him violated, but
6 that did not work.

7 THE COURT: Yeah.

8 MR. SOLINGER: Ultimately, he was criminally
9 charged based on the contact.

10 THE COURT: Yeah.

11 BY MR. SOLINGER:

12 Q And the follow-up question I have is,
13 Mr. Lloyd, do you regularly park in the side yard in
14 front of your house because of the size of the multiple
15 vehicles?

16 A It depends.

17 Q So you use part of your yard as a driveway at
18 times?

19 A Sometimes.

20 Q And --

21 A Driveways --

22 THE COURT: This is after they moved over
23 here?

24 MR. SOLINGER: Correct.

1 THE COURT: Okay.

2 THE WITNESS: Driveway --

3 THE COURT: I'm just wanting to make sure I
4 had the right houses straight.

5 THE WITNESS: The driveway was empty, so I
6 parked there.

7 THE COURT: Do you always park there, or do
8 you -- or --

9 MS. CRAMER: For the -- for the most part.
10 It goes back and forth. If she parks there, I don't
11 park there. Usually can't fit two vehicles. It's a
12 small house.

13 BY MR. SOLINGER:

14 Q The point being is, sometimes you use the
15 side yard to park your vehicle?

16 A Correct.

17 Q When you said the things that you said, where
18 were the children?

19 A Inside the house. And in their grandmother's
20 rental vehicle.

21 Q So there were children outside?

22 A They were in the rental vehicle with Katrina
23 Jenkins. Or Bullock. I'm not sure of her last name.

24 Q And to be clear, you said the things that you

1 said in front of the house, and then you went up to the
2 top of the driveway?

3 A No. As I've stated before, I was in front of
4 my vehicle in the driveway. I did not step one foot
5 any further than one foot away from my garage door.

6 Q And you remained outside and you kept saying
7 things?

8 A No, sir. They pulled the GoPro, and I went
9 into the house.

10 Q So have you seen a recording of that
11 incident?

12 A No. But again -- I have not.

13 MR. SOLINGER: And, Your Honor,
14 foundationally, I'd like to play that video for the
15 Court. I don't know that the Court has a copy of it
16 because it had been previously filed, I believe,
17 with -- I guess it wouldn't have because of Judge Moss
18 and the changeover. But I -- I have that video.

19 Foundationally -- I, unfortunately, can't lay
20 the foundation, but Ms. Sellers who took the video can
21 lay that foundation. I don't know how the Court wants
22 to do this, given that they're distinct in time. I can
23 just, I guess, wait to play it with Ms. Sellers, if
24 that's the Court's preference.

1 THE COURT: Let's -- let's wait and play it
2 with Ms. Sellers, because there may be things that jogs
3 his memories that makes him realizes that maybe he did
4 say stuff he shouldn't have said afterwards.

5 THE WITNESS: I may have. And that's a good
6 possibility. I'll admit that, yes, ma'am.

7 THE COURT: Yeah.

8 BY MR. SOLINGER:

9 Q I'd like to talk about your drug usage. Do
10 you use --

11 THE COURT: If it's marijuana, I don't care.

12 MR. SOLINGER: I understand. With the
13 exception that the Court did at the last session order
14 that no one is to smoke marijuana with the children
15 present.

16 THE COURT: When the children are present,
17 correct.

18 BY MR. SOLINGER:

19 Q How often do you use marijuana?

20 A I've used it medicinally, usually two or
21 three times a day.

22 Q And that's every day?

23 A Yes.

24 Q And that's with children present?

1 A In my own room, yes.

2 Q What about drinking, do you drink?

3 A Yeah, I have a drink after work.

4 Q And every day?

5 A It varies. Sometimes I don't. Sometimes I
6 do. Sometimes I have two or three. Sometimes I have
7 none.

8 Q If you had to quantify the amount of alcohol
9 you drink on average per week, what would you say that
10 is?

11 A Maybe a 12-pack.

12 Q You did not use to live on -- now, I, for the
13 life of me, I can't remember the name of the street.

14 What street do you live on?

15 A Currently?

16 Q Correct.

17 A Curdsen Way.

18 Q And you didn't always live on Curdsen Way?

19 A Correct.

20 Q Okay. When did you move there?

21 A I believe it was September of 2019. You
22 signed a quit deed to the property.

23 Q And previous to that, you had to live with
24 your parents on Grand Clover?

1 A No, sir.

2 Q Where did you live previous to that?

3 A I was staying at my grandfather's house,
4 helping him.

5 Q You moved into the Curdsen Way property
6 specifically because it was less than a mile away from
7 your parents' house?

8 A That's the only place we could afford, sir.

9 Q All right. And so during your deposition --
10 do you recall being deposed in this case?

11 A Yes, sir.

12 Q You recall providing testimony under oath?

13 A Yes, sir.

14 Q And during that deposition, isn't it true
15 that you said that you moved there because it was close
16 to your parents' house?

17 A Correct. Not -- not only including the fact
18 that it was the only place we could afford. I make
19 very low income. My family helps me with childcare,
20 and they have since my son was born.

21 Q And so your testimony is that you said all
22 that during your deposition, or you only said that it
23 was because it was close to your parents' house?

24 A I may have left that out.

1 Q You have a son named Jesse (ph)?

2 A Correct.

3 Q Does Jesse have any behavioral issues?

4 A Yeah.

5 Q What are those?

6 A I believe --

7 THE WITNESS: Excuse me, ma'am, may I speak
8 to you for a moment? Can I --

9 THE COURT: No.

10 MS. CRAMER: No. You have to -- you have to
11 answer question.

12 THE COURT: You have to answer the question
13 that's asked.

14 THE WITNESS: Okay. Answer the question. So
15 there's no laws against whether he knows anything about
16 my son's health. There's no HIPAA laws or anything?
17 Okay.

18 All right. So he has detachment issues
19 because his mother took off when he was a year and a
20 half.

21 THE COURT: Detachment or attachment?

22 THE WITNESS: Detachment.

23 THE COURT: Okay.

24 MS. CRAMER: His mother took off when he was

1 a year and a half old. And I was 20 years old. And I
2 have been out of trouble since -- until I met this
3 gentleman. And I have -- I have not --

4 THE COURT: Are you saying he triggers you?

5 THE WITNESS: I feel like he tries to set me
6 up because he has more --

7 THE COURT: Then why do you --

8 THE WITNESS: -- knowledge.

9 THE COURT: Then why do you put yourself in a
10 position for him to set you up?

11 THE WITNESS: You got me. And he -- and he
12 got me.

13 THE COURT: In other words, you should stay
14 away from him and just stay out of it.

15 THE WITNESS: A hundred percent, yeah.

16 THE COURT: Okay.

17 THE WITNESS: I'm -- I'm going to remain
18 neutral. And this is not my fight to fight.

19 THE COURT: Thank you.

20 THE WITNESS: I'm going to support Chalese in
21 every way I can. But --

22 THE COURT: Then why did you not follow my
23 order? I told Chalese that no one in that house was to
24 use marijuana when the children were present. No one.

1 That included you.

2 THE WITNESS: Okay. I wasn't aware of that.

3 THE COURT: And she told me she would make
4 sure that it took place.

5 MS. CRAMER: Your Honor, I -- I think there
6 needs to be some clarification here, though. Because
7 if he was not in the room with the children, we --

8 THE COURT: It's not to be used in the house
9 when the children are present.

10 THE WITNESS: Okay.

11 THE COURT: He could go outside on the back
12 porch.

13 THE WITNESS: Understood.

14 THE COURT: But it's not to be used in the
15 house.

16 THE WITNESS: Well, it is illegal to smoke
17 outside. You can catch a fine. I believe that's
18 why --

19 THE COURT: Actually, you know, would you
20 rather do it that way or have the children taken away
21 from her because she's not following orders?

22 THE WITNESS: I would rather go outside,
23 ma'am, a hundred percent.

24 THE COURT: Well, there are other ways of

1 doing it.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: Marijuana is not good to be
4 smoking in the presence of children. It permeates into
5 the walls and everything.

6 THE WITNESS: Okay.

7 THE COURT: Your kids go to school smelling
8 as if they're smoking.

9 THE WITNESS: Okay. I wasn't aware of that,
10 Your Honor.

11 THE COURT: Trust me, I can get in an
12 elevator 24 hours after someone who's smoked and I know
13 they'd been in there.

14 THE WITNESS: Yes, ma'am.

15 THE COURT: This is what your kids go to
16 school smelling like.

17 THE WITNESS: Okay.

18 THE COURT: Sorry.

19 MR. SOLINGER: No, you're all right.

20 THE COURT: That's one thing I can't stand.
21 I can't stand the smell of it.

22 THE WITNESS: Yes, ma'am.

23 THE COURT: I don't mind it, but I cannot
24 stand the smell of it.

1 THE WITNESS: Yes, ma'am.

2 MR. SOLINGER: I think we were in the middle
3 of the --

4 THE COURT: Sorry.

5 MR. SOLINGER: No, no, no, you're okay. One
6 thing I am good at is keeping track.

7 THE COURT: I'm glad you are. That's why I'm
8 typing a lot.

9 BY MR. SOLINGER:

10 Q The pending -- the pending question was
11 related to any behavioral issues that Jesse had. And
12 the pending answer in the middle of it was related to a
13 detachment disorder. And I don't know if that was the
14 conclusion of the answer in regards to that.

15 A That is the conclusion.

16 Q What does -- what is your understanding of a
17 detachment disorder?

18 A That he's used to people being around, and
19 then not being around. Like I said, his mother took
20 off when he was a year old. As far as, you know,
21 people coming in -- in and out of his life, you're
22 aware that myself and Carmen, my ex that he was in
23 contact with, did not last. You know, we -- we are
24 separated, obviously.

1 So he -- he went from knowing his mother --
2 well, not really knowing his mother, but knowing this
3 woman as step-mom, and then she was taken away. And he
4 has a fear of losing people is what it is.

5 Q Does that result in behavioral outbursts?

6 A Absolutely. Sometimes, yes.

7 Q Is he enrolled in any programs through the
8 school district, or -- strike that.

9 Does he go to traditional school currently?

10 A No, sir. He's in a magnetic (sic) school.
11 In a magnet school --

12 THE COURT: Magnet.

13 THE WITNESS: -- doing robotics.

14 BY MR. SOLINGER:

15 Q What's --

16 A And his -- his academic is a hundred percent.
17 He's doing well. I just got a message from his teacher
18 doing -- saying he's doing amazing yesterday. And I
19 can show you, like --

20 THE COURT: Is your hair normally longer?

21 THE WITNESS: Yeah, a little bit. I got a
22 haircut for you.

23 THE COURT: Because I was trying -- I was
24 trying to picture you with the video that I saw.

1 THE WITNESS: Yeah.

2 THE COURT: I was, like, hair is usually --
3 okay. That's --

4 THE WITNESS: It was a little shaggy.

5 BY MR. SOLINGER:

6 Q Do you recall sending me a text message in
7 May of 2019?

8 A That is a good possibility, yes, sir.

9 Q And that in that text message, you
10 essentially threatened to make a report of child
11 pornography allegations unless I left you alone?

12 A Oh, I stated to go to the media with what I
13 was told by Louis Schneider. That you had animated and
14 hand-drawn child pornography in your computer with over
15 8,000 images flagged as grooming, and multiple other
16 things that was a bit weird for me.

17 Q And to be clear, you never saw any of that?
18 That was just --

19 A No. --

20 Q -- per Lou Schneider?

21 A -- I did not want to look at that, sir. He
22 offered, but I did not want to partake in looking at
23 that.

24 Q And you formerly had Lou Schneider as your

1 attorney, correct?

2 A Yeah. He was my attorney for my divorce case
3 against Carmen, which you know about.

4 THE COURT: Let's go off the record for a
5 couple seconds.

6 (COURT RECESSED AT 1:56:55 AND RESUMED AT 1:57:18)

7 THE COURT: Okay. We're back on the record.
8 Thank you for allowing that brief recess.

9 MR. SOLINGER: Yeah, no worries.

10 BY MR. SOLINGER:

11 Q You also sent me a text message on December
12 11th of 2019?

13 A That's a good possibility, yes, sir.

14 Q That was after the truck incident, for lack
15 of a better term?

16 A No, absolutely not. Not that I recall.
17 Unless there's some kind of proof, I have not had
18 contact with you since that day.

19 Q Since the day with the truck in December
20 of --

21 A Correct, yes, sir.

22 Q -- 2019?

23 So if you want to take a minute to consider
24 your testimony, the truck occurred on December 7th.

1 I'm asking if you sent messages after that.

2 A I don't -- I don't recall doing so. I
3 mean --

4 Q You don't recall saying does your dad know he
5 raised a pussy?

6 A Oh, yeah. Yeah, I -- I do recall saying
7 that, yes, sir.

8 Q And punk ass bitch, won't even be a man and
9 talk?

10 A Yes, sir.

11 Q Nobody wants to beat you up scary little boy?

12 A Yes, sir.

13 Q I was trying to have a conversation with you
14 as a man, but your dad failed to raise one.

15 A Yes, sir.

16 Q And I never responded to you or said anything
17 to you?

18 A I believe that's correct.

19 Q How did you get my phone number?

20 A I believe it's online. I don't recall
21 exactly how.

22 Q Your testimony is that my personal cell
23 phone, and not my business one, is online?

24 A I -- I have no idea. I possibly took it out

1 of Chalese's phone. Honestly, I couldn't tell you how
2 I got the number. It was so long ago.

3 Q You mentioned Carmen, but let's be very
4 specific. Who is Carmen?

5 A Carmen is my ex-girlfriend.

6 Q And do you share a child with Carmen?

7 A Yes, sir.

8 Q Is it fair to say that you've had a custody
9 case with her?

10 A Yes, sir. You are aware of that.

11 Q As part of that, are you aware of a photo she
12 took with marijuana in your center console?

13 A Yes, sir. And I just got a photo of
14 marijuana in her center console yesterday. So I'm not
15 sure where you want to take that, but that was a long
16 time ago.

17 Q But it's during the pendency of this divorce
18 case that that photo was taken.

19 A Yes, probably.

20 Q You recall that there was a custody
21 evaluation done in this case?

22 A In which case?

23 Q In the one you're testifying in presently.

24 A Yes, sir.

1 Q And you met with Dr. Paglini?

2 A The -- yes, sir.

3 Q Do you recall that there was a home visit
4 that was scheduled?

5 A Yes, sir.

6 Q Were you present for that home visit?

7 A I don't recall. I -- I don't think I met
8 with him. I think I did a video chat, if I'm not
9 mistaken. I may have met with him once or twice.

10 Q But to be clear, you don't recall whether you
11 were present for a home visit when Dr. Paglini came?

12 A I'm not sure if he came more than once. I --
13 I'm not sure what you're asking.

14 If I was there during one visit with Chalese?
15 I was not.

16 THE COURT: And why not?

17 THE WITNESS: I -- I don't remember, Your
18 Honor. I apologize.

19 THE COURT: You don't think it would be
20 important to be there to -- so that Dr. Paglini
21 could --

22 MS. CRAMER: I think, Your Honor, I know why.
23 I can -- I can address this on cross.

24 THE COURT: Okay.

1 MR. SOLINGER: And -- and I can proffer it as
2 well, I guess.

3 BY MR. SOLINGER:

4 Q Would it jog your recollection if I proffered
5 to you that you weren't present because your dad got a
6 flat tire?

7 A Yeah, probably. That sounds familiar.

8 Q Did he in fact have a flat tire, or did you
9 not want to be there for the home visit?

10 A I'm pretty sure he had a flat tire.

11 Q Does your son Jesse have his ears pierced?

12 A Yes, he does. Well, he did.

13 Q What do you mean he did?

14 A He wasn't listening to me, so I took them
15 out.

16 What's this -- what's this relevant to?

17 MR. SOLINGER: Well, I mean it's not for him
18 to decide, but it's -- I -- I can't get through.

19 THE COURT: That's what I'm wondering. I
20 mean --

21 MR. SOLINGER: I'm --

22 THE COURT: You're -- you're --

23 MR. SOLINGER: I will get to the point.

24 THE COURT: The point is, is how is what he

1 does with his son enter -- you know, this is a custody
2 battle between the two of you. You want him to stay
3 out of it, don't bring him into it.

4 MR. SOLINGER: I'm -- I'm not trying to bring
5 him into it. It's --

6 MS. CRAMER: That's exactly what he's trying
7 to do.

8 THE COURT: It's what you're doing.

9 MR. SOLINGER: No. The -- the rationale for
10 it, or I guess the reasoning --

11 MS. CRAMER: It's -- the rationale for it
12 is --

13 MR. SOLINGER: -- if I can be heard. I've
14 (indiscernible) this misbehavior --

15 THE COURT: Let -- let him be heard.

16 MR. SOLINGER: -- consistently, and the pearl
17 clutching. And it's -- it's -- I've tried to remain
18 just happy faced about it. But there's a decorum that
19 the courtroom calls for, and it's not being observed.
20 And I just --

21 BY MR. SOLINGER:

22 Q Isn't it true that Chalese pierced Michael's
23 ears approximately two weeks ago? Two and a half weeks
24 ago?

1 A Yes, sir. He asked to get them pierced. And
2 Jessica removed them against his own will.

3 MR. SOLINGER: Objection. I -- I don't think
4 he can -- or I guess move to strike as non-responsive.

5 THE WITNESS: Okay.

6 MS. CRAMER: That was responsive.

7 THE COURT: Just answer the question.

8 MS. CRAMER: He said yes.

9 THE WITNESS: I did.

10 MS. CRAMER: He said yes. That was
11 responsive.

12 THE COURT: And then he explained why they
13 were taken out.

14 MS. CRAMER: Yeah.

15 MR. SOLINGER: And that's non-responsive.

16 THE WITNESS: The -- the answer is yes.

17 THE COURT: Well, it's -- it's a little bit
18 too much responsive. Answer the question that's asked
19 only.

20 THE WITNESS: Yes.

21 BY MR. SOLINGER:

22 Q Did Chalese discuss piercing Michael's ears
23 with you before she did it?

24 A She talked about it, not specifically to me,

1 but she had mentioned it openly. She thinks aloud,
2 though, like a lot of us do.

3 Q What's your relationship like with Michael?

4 A I barely know him. You took the kids away
5 from her for two years.

6 Q Have you ever told Michael you'd whoop his
7 ass if he wasn't quiet?

8 A Yes, I've told him I'd spank his butt.

9 Q Were those the words you used, or did you say
10 whoop his ass?

11 A I -- I don't -- I probably said I'll whoop
12 your ass.

13 Q What kind of relationship do you have with
14 Marie?

15 A I don't really have a relationship with
16 Marie. You took the kids away from their mother for
17 two years.

18 Q Are you currently employed?

19 A No. I was just diagnosed with SVT and I'm
20 having heart surgery.

21 THE COURT: What's SVT?

22 MS. CRAMER: Supraventricular tachycardia.

23 THE COURT: Okay. Thank you.

24 Sometimes initials don't do me any good.

1 THE WITNESS: Yeah, she said --

2 MS. CRAMER: My -- my sister has that, Your
3 Honor, so I'm very familiar.

4 BY MR. SOLINGER:

5 Q Without belaboring the point, is it fair to
6 say that throughout the course of this divorce, you
7 would post disparaging things on Facebook, and write AS
8 or JS underneath them?

9 A Are we talking about Facebook?

10 Yeah. Yeah, I posted things on -- on
11 Facebook. I posted a lot of things on Facebook.

12 Q Once again the question was, would you
13 post --

14 A Yes.

15 MR. SOLINGER: Court he's brief indulgence.

16 THE COURT: If you are leading to the point
17 that you think I should exclude Josh from the lives of
18 the children based upon him insulting you, it's not
19 going to happen.

20 MR. SOLINGER: No, absolutely not. I think
21 that when we're looking at everything, we have to look
22 at the totality of the circumstances. So my final
23 argument will not be he lie on that, but I do think it
24 is a relevant factor.

1 And Paglini, Dr. Paglini pointed out that it
2 was a relevant factor as far as maturity, and their
3 expert took exception with it. And so I think that it
4 ultimately goes into the pot, so to speak, but it's not
5 a starring role.

6 THE COURT: I -- you know what? They're not
7 even married, okay? You're not married to your
8 girlfriend, but I'm pretty sure that behind closed
9 doors, even with your kids sleeping in the next
10 bedroom, she's calling this woman every dirty name in
11 the book. That's the difference. You're doing it
12 publicly, and she's not.

13 MR. SOLINGER: I can -- I'll move on.

14 The Court's indulgence?

15 THE COURT: I'm more concerned about someone
16 going against joint legal custody principles and
17 piercing her son's ears without talking to Dad first,
18 and allowing boyfriend to smoke marijuana in the house.

19 MS. CRAMER: Your Honor, I think that there's
20 testimony by Counsel. I apologize, I'm just not saying
21 anything.

22 THE COURT: I'm sure you'll get to it.

23 MS. CRAMER: Yes. Thank you.

24 BY MR. SOLINGER:

1 Q Aside from the -- the health issues that you
2 outlined, do you have any mental health issues?

3 A I have depression.

4 Q Anything else?

5 A Anxiety.

6 Q Is that the sum of it?

7 A High blood pressure. I mean, how far -- I've
8 got heart problems.

9 Q Well, no, mental health.

10 A I've got a million things.

11 Q Are you on any medications for anxiety or
12 depression?

13 A Yes. I'm on Clonazepam. And I am on
14 fluoxetine.

15 Q And do you smoke marijuana every day while on
16 those medications?

17 A Yes, I do. Not -- I mean, not right after I
18 take them, but yeah. And the doctors are aware of my
19 self-medicating with the marijuana as well before
20 prescribing me said medicines.

21 MR. SOLINGER: Your Honor, in the interest of
22 brevity, I don't think I have anything else at this
23 point.

24 THE COURT: Depression, anxiety, heart

1 problems.

2 THE WITNESS: Torn disc. I got a -- it's a
3 spinal disease, but I forget what it's called.

4 THE COURT: Scoliosis?

5 THE WITNESS: Not scoliosis. It's
6 degenerative disc disease. And then, yeah, hemorrhages
7 and lots of stuff.

8 When you're young you think you're tough and
9 you can do anything. It'll catch up to you.

10 MS. CRAMER: Your Honor, may I proceed?

11 THE COURT: Yes, you may proceed.

12 MS. CRAMER: All right.

13 CROSS EXAMINATION

14 BY MS. CRAMER:

15 Q Josh?

16 A Yes, ma'am.

17 Q The online reviews, do you think that was a
18 very smart idea?

19 A No, ma'am. I regret doing them.

20 Q Are you repeating that behavior?

21 A No, ma'am, I have not.

22 Q All right.

23 So in this December 2019 altercation, the
24 truck incident, when you asked Adam to show you the

1 paperwork and you said I'll bring the kids out if
2 that's what the paperwork says, I will bring them out
3 to you --

4 A Absolutely.

5 Q -- what was his response?

6 A No, absolutely not.

7 Q Okay.

8 A And he was on the phone with the police. And
9 he was listing out a number of things that I was going
10 to go to jail for when the cops got there.

11 Q So he was calling the cops and threatening
12 you with jail because you offered to bring the children
13 out if he would show you the paperwork?

14 A Because I -- he didn't -- he didn't want me
15 at his window. And that's -- that's when I did get
16 upset and I did impulse control. And I know now to
17 stay neutral and not -- not get involved.

18 Q Okay. Did that strike you as a very
19 reasonable response to you offering to help, was for
20 him to start listing off charges against you?

21 A No. No, ma'am.

22 Q Okay. So I'm going to talk about the
23 incident with Jessica.

24 A Yes, ma'am.

1 Q So she parked in front of your driveway, or
2 in your driveway?

3 A Blocking both parks in the driveway. It's a
4 small driveway. I got 12 feet, maybe.

5 Q Okay.

6 A So maybe 10 feet to the sidewalk.

7 Q Okay. So she blocks your driveway, parking
8 on the street but blocking the parkway, the driveway?

9 A Yes, absolutely.

10 Q And so there was no way for you to get into
11 your house without walking by her?

12 A Exactly.

13 Q Okay. And so then you made some nasty
14 comments to her and told her to get her truck out of
15 the way?

16 A Yes, ma'am.

17 Q Okay. And then she got out the GoPro and
18 shoved it in your face?

19 A When I was -- yeah. When I got the vehicle
20 parked and got the children inside, I had made the
21 comments, and she had pulled out the Go -- it was a
22 setup -- pulled out the GoPro, said there he is. And
23 it's not the first time I've been set up.

24 Like I said, I -- I've got video of my seven

1 year old playing outside.

2 THE COURT: I -- I need to clarify this in my
3 head.

4 THE WITNESS: Yes, ma'am.

5 THE COURT: During the incident when -- with
6 the truck and everything, and the police were called,
7 and Chelini, was Jessica there when that took place?

8 MR. SOLINGER: Yes. Jessica, and at the time
9 her older daughter were -- or I guess her only
10 daughter --

11 THE COURT: Okay.

12 MR. SOLINGER: -- Courtney (ph).

13 THE COURT: All right. Because I couldn't --
14 I couldn't remember if --

15 MS. CRAMER: Okay.

16 THE COURT: -- who all was there. Okay.

17 BY MS. CRAMER:

18 Q So let's -- let me back up, Josh.

19 In the December 2019 incident with the -- the
20 paperwork and the truck, was Jessica and her daughter
21 in the car?

22 A Yes, ma'am.

23 Q They were? Okay. And --

24 A They were all -- they were all filming me.

1 Q Okay. So they were all filming you --

2 A Yeah.

3 Q -- offering to help? And then he starts
4 listing off various criminal charges that you're going
5 to be charged with because you offered to help; is that
6 correct?

7 A Yes.

8 Q Okay. So then she comes to your house while
9 this TPO is still in existence?

10 A Correct.

11 Q And parks, blocking your property?

12 A Correct.

13 Q And you had no option except to walk by her
14 to get into your house?

15 A Correct.

16 Q And then she whips out a GoPro and shoves it
17 in your face?

18 A Yeah.

19 And again, when I was -- when I made the
20 remarks, I was probably 30 -- or, no, it's not even 30
21 feet. I don't know how many feet the driveway is. I'm
22 not going into measurements. But I was at my garage
23 door. My garage door is here, and I was here. I was
24 up against it.

1 Q And she was --

2 A I didn't step out to the end of my vehicle.
3 I didn't go out to the sidewalk. I didn't go out to
4 the end of my yard. I stayed at my garage.

5 Q Okay.

6 THE COURT: But you knew you weren't supposed
7 to do that?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: The two of you have habits of
10 going against court orders, don't you?

11 THE WITNESS: I -- I made a mistake, Your
12 Honor, and I regret that. And I shouldn't have said
13 what I said. And I am very remorseful.

14 BY MS. CRAMER:

15 Q So, Josh, Adam attempted to use this incident
16 to get an extension on that TPO, didn't he?

17 A Correct. And --

18 MR. SOLINGER: Objection. Misstates -- it
19 just misstates the facts.

20 BY MS. CRAMER:

21 Q And that --

22 MS. CRAMER: He did apply for an extension --

23 MR. SOLINGER: Which --

24 MS. CRAMER: -- and it was denied.

1 THE WITNESS: Three times. Two -- I believe
2 it was two civil and a criminal. He got me on the
3 criminal.

4 So he -- he tried --

5 THE COURT: Criminal's mean, aren't they?

6 THE WITNESS: There was -- there was a
7 substitute judge that denied it. And he went above to
8 the judge that she was sitting in for, the one that was
9 covering. She denied it. And then he took me to
10 criminal. And he's in the DA's office -- I don't know
11 he who he talked to -- to get me criminally charged for
12 that.

13 THE COURT: He's not in the DA's office.

14 MS. CRAMER: No, he's in the AG's office.

15 THE COURT: He's --

16 THE WITNESS: Sorry. Something like that. I
17 don't -- I don't -- I try not to pay attention anymore.

18 BY MS. CRAMER:

19 Q Okay. So -- so the pro tem judge denied his
20 request to extend the TPO, and then --

21 A I'm -- I'm not sure exactly who denied it,
22 but I know it was denied.

23 Q Well, pro tem is lawyer speak for substitute
24 judge.

1 A Okay.

2 Q So that, the pro tem judge denied it,
3 correct?

4 A Yes. Yes.

5 Q And then the sitting judge --

6 A Yes.

7 Q -- also denied it?

8 A Correct.

9 Q And then Adam who works for the AG's Office
10 suddenly as the DA's Office filing charges against you,
11 correct?

12 A Correct.

13 Q Okay. And so because you told her to get the
14 F out of your parking space or quit blocking your --
15 your driveway --

16 A Yeah.

17 Q -- you were charged with a felony?

18 A Yeah. Yeah, and then it was supposed to be
19 dropped to disturbing the peace. But I guess it's a
20 disorderly conduct. I don't know how it ended up
21 there, but.

22 Q Okay.

23 A I'm not a lawyer and I don't know most of the
24 people in the --

1 Q Okay.

2 A -- in the area.

3 Q So as far as your son -- well, let me -- let
4 me back up. Strike that.

5 When you do smoke, are the children in the
6 room with you?

7 A No. I'm usually upstairs with the windows
8 open.

9 Q Okay. Where are the children when you decide
10 to smoke?

11 A They're downstairs. They could be outside.
12 They could be in the back yard, playing basketball.

13 Q Okay.

14 A I don't like them on tablets. I don't keep
15 them on the electronics much, so. I try to keep them
16 active.

17 Q Okay. How much -- I know this is kind of
18 hard to quantify. Are you smoking, like, an excessive
19 amount at a time. Because you said two or three times
20 a day.

21 So, can you give me an idea of how much you
22 are smoking at a time when you do smoke?

23 A Maybe a joint.

24 Q Okay. And by joint, you mean -- like,

1 describe how big of a joint you're talking about. Are
2 you talking about, like, a blunt size, or?

3 A No, no.

4 Q Or a pre-rolled, or?

5 A I mean --

6 Q Is it the size of a cigarette?

7 A Yeah, just about the size of a cigarette.

8 Q Okay. Now, you -- you guys' current house,
9 do you guys own that together?

10 A Yes.

11 Q Okay.

12 A Well, I believe so. I don't know. It's a --
13 it's a tricky situation right now.

14 Q Okay. And you are close to your parents?

15 A Yes, sir. Or, yes, ma'am.

16 Q And did you guys look at any other
17 neighborhoods when you guys were looking for a place to
18 live?

19 A Yes.

20 Q And what did you find when you were looking
21 at other neighborhoods?

22 A Well, we looked at a house with a thousand
23 square feet for the same price in Henderson, that's
24 where I wanted to go. And, I mean, we can't fit five

1 kids in the house with a thousand square feet. Just
2 couldn't work.

3 Q Right. Okay.

4 THE COURT: Why would you want to take the
5 kids, when they -- when you already know that Dad lives
6 clear across town from Henderson, why would you even
7 think about taking these two diagonally opposite
8 corners of town?

9 THE WITNESS: I wasn't aware of his
10 residence.

11 THE COURT: Okay. Were you aware where she
12 used to live and where the kids would more likely be
13 going to school?

14 THE WITNESS: I was aware of where she used
15 to live. And it's kind a --

16 THE COURT: And did it --

17 THE WITNESS: -- it's still a distance
18 between where he's at now, where his dad's at now.

19 THE COURT: And -- and wouldn't it have made
20 sense that that's pretty close to where Dad's currently
21 living? I mean, I don't know. Is it close?

22 MR. SOLINGER: It's relatively close. It was
23 Alton, Durango, (indiscernible) Village. And I'm now
24 on (indiscernible), so it's a 10-minute freeway drive

1 real quick.

2 THE COURT: Oh, jeez, are you that close to
3 me? I'm just joking.

4 MS. CRAMER: It's not that close. That's
5 actually quite a distance.

6 THE COURT: I'm -- you know, yeah.

7 But, you know, it's a huge distance. I mean,
8 why would y'all even consider -- bed rest there would
9 have been a joint physical --

10 THE WITNESS: I -- I wasn't aware --

11 THE COURT: -- driving the children that
12 distance every school morning she would have them?

13 THE WITNESS: I wasn't aware. And I'm still
14 uncertain that --

15 THE COURT: In other words, you weren't
16 really thinking about her kids?

17 THE WITNESS: No, I -- I don't --

18 THE COURT: Just like she wasn't thinking
19 about her kids.

20 THE WITNESS: We couldn't afford anything but
21 where we're at. We've looked. We looked on that side.

22 THE COURT: Actually, it's a lot closer than
23 where you were looking.

24 THE WITNESS: We looked on -- he we looked on

1 the north side. Everything was over 300. We got -- I
2 think 240 was our loan, I believe. Maybe 237,
3 something like that. But I wasn't aware that his
4 father had purchased his home.

5 THE COURT: When did you buy that house?

6 THE WITNESS: What's that?

7 THE COURT: When did you buy the house?

8 THE WITNESS: 2019. September.

9 And I'm not -- I'm unsure when his father
10 purchased his house.

11 THE COURT: Oh, that's okay.

12 THE WITNESS: Okay.

13 THE COURT: That's all right. I was just --
14 I'm trying to put these time periods into my head.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: Okay.

17 BY MS. CRAMER:

18 Q So when you guys bought the house, you were
19 pre-approved for a loan?

20 A Yes, ma'am.

21 Q Okay. So you basically had to restrict your
22 house hunting to what you were pre-approved for?

23 A Exactly. That was the 240.

24 Q Okay. So were you pre-approved for anything

1 in the northwest?

2 A No.

3 Q Were you pre-approved for anything in
4 Summerlin?

5 A Unfortunately not. Because I -- I know it
6 would have been closer, but.

7 Q Were you pre-approved for even anything in
8 the, like, Rainbow Curve area?

9 A Nothing over 240. And we couldn't find
10 anything. I looked and looked. And she looked. We
11 looked for months.

12 Q Okay. So approximately how long did you guys
13 do house hunting?

14 A A couple months, I believe. August -- no?
15 I'm not sure. Four months? Okay.

16 Q All right. So let's talk about your son
17 Jesse.

18 How is his behavior in school?

19 A Excellent. The teacher --

20 Q Okay. How's his -- how's his behavior at
21 home?

22 A Well, he has some hard times, because he's
23 unsure if Chalese is going to be around or not.

24 Q Okay. And does he actually have a diagnosis

1 of a detachment disorder?

2 A Yes.

3 Q Okay. And is he in treatment for it?

4 A Yes.

5 Q Okay. And how does it manifest? Like, you
6 how does he display his disorder at home?

7 A He tells me, hey, I'm upset, I don't -- you
8 know, I'm feeling weird, I need to sit down, I need to
9 take a break, you know. Sometimes he gets destructive.
10 He'll, you know, smash a toy. I mean, normal kid
11 stuff, I -- I would believe. I've got nephews and
12 stuff that kind of went through the same thing.

13 Q All right. So if he's, like you say,
14 destructive, is it restricted to, like, smashing a toy
15 or throwing something, or is it more destructive?

16 A No, it's -- that's just about it.

17 Q Just throwing a toy or hitting a toy?

18 A Yes, ma'am.

19 Q Okay. All right.

20 So, does he have any, like, severe symptoms?

21 A Not that I know of.

22 Q Okay.

23 A Obviously I'm going to push further to see
24 exactly what's going on. I'm going to continue and --

1 Q Okay.

2 A I've been doing the best I can since I was 20
3 years old as a single father, you know?

4 Q Okay. So when your dad -- so, Adam here
5 asked isn't it true that your dad had a flat tire and
6 that's why you didn't meet with Dr. Paglini. Was this
7 just like he walked outside and saw his tire was flat,
8 or was it some other kind of situation?

9 A I believe he was driving.

10 Q Okay. So, to your knowledge, what happened?

11 A I don't recall. He just -- he had a flat
12 tire and I came and changed it. He has had multiple
13 back surgeries as well, so I try to help him when I
14 can.

15 Q Okay. So he was driving?

16 A Yeah.

17 Q Did he have, like, a blow out?

18 A Yeah.

19 Q Okay. So his tire blew up and he needed
20 help?

21 A (No audible response)

22 Q Okay. So had you stayed at the home with Dr.
23 Paglini, your dad would have been sitting on the side
24 of the road with a blown-out tire?

1 A Most likely, yes.

2 Q Okay. I want to ask you about the dog feces
3 in the back yard. Why did you have a pile of bog feces
4 in the back yard?

5 A I have a, like, torn disc in my back. And
6 like I said, I have multiple issues. I had gotten to a
7 point where I -- like, a stopping point, and we had
8 been in and out of the -- not the NICU, but the OB/GYN,
9 because she was having pre-labor symptoms. And she was
10 on bed rest. So it was hard for me to get a hold of at
11 that point.

12 But at this moment, I have photos of the
13 children's room, the back yard. I mean, I've -- I've
14 got everything if you want to see it. If you'd like to
15 see it.

16 THE COURT: Not right now.

17 THE WITNESS: If not, that's fine.

18 BY MS. CRAMER:

19 Q So, please correct me if I'm wrong in
20 characterizing this. But is it safe to say at the time
21 she was having pre-term labor, you're having back
22 problems, and the poop just piled up?

23 A Yeah. And I -- I had raked it to a point
24 where I could shovel it up.

1 Q Okay. So at that -- you just hadn't
2 shovelled it, actually --

3 A Exactly.

4 Q -- into the trash yet?

5 A I had not put it into the bags, yeah.

6 THE COURT: Oh, I could make puns off of that
7 so bad. I'm sorry.

8 MS. CRAMER: Well, Your Honor, it's -- it's
9 not a pleasant topic, but we're going to talk about it.

10 THE WITNESS: It's -- it's your house.

11 BY MS. CRAMER:

12 Q Is -- is it normal that it gets out of hand
13 like that?

14 A No.

15 Q Okay. Well, what's the back yard normally
16 look like?

17 A Most of the time it's clean. I mean, there's
18 a couple issues where it piled up and we were having a
19 baby, and we were in the NICU. We -- we were driving
20 from Sunrise Mountain to Summerlin Hospital every day
21 to see our baby that was born at 29 weeks.

22 Q Okay. And how often do you regularly clean
23 up after the dogs?

24 A Maybe a couple of weeks. A week or two.

1 Q Every week or so?

2 A Yes.

3 THE COURT: Can -- can I ask real quick?

4 THE WITNESS: Yes, ma'am.

5 THE COURT: And I'm going to go backwards a
6 little bit.

7 When was the incident with the truck?

8 MR. SOLINGER: It would be December 2019.

9 THE COURT: December 2019. Okay.

10 THE WITNESS: December 7th, yes, ma'am.

11 THE COURT: All right. I, for the life of me
12 I was thinking it was 2018. I'm, like, this wasn't
13 filed in -- okay. I -- I get years mixed up sometimes.

14 MS. CRAMER: All right.

15 BY MS. CRAMER:

16 Q So when you tell the kids you're going to
17 whoop them if they don't be quiet, are you in there
18 beating the children?

19 A No.

20 Q All right.

21 Like, when you say that, like, what is your
22 intention?

23 A Hopefully they'll knock it off and start
24 behaving.

1 Q Okay. And if they don't, do you beat them?

2 A No, ma'am.

3 Q Okay.

4 A They -- they get sent to their room, or they
5 get time out.

6 Q Okay. How do the kids act when they're over
7 at you guys' home?

8 A Ecstatic to be -- to be there. They're
9 ecstatic to see their mother. They're ecstatic.
10 They -- they hold onto her all day long. I mean, she
11 was there, you know, when I -- when we -- me and her
12 first, like, started reconnecting again. The kids were
13 there. I got to know them.

14 And then when he found out who I was,
15 illegally put a tracker on the vehicle, the kids were
16 gone. And she -- she was left there crying on my
17 shoulder.

18 Q How do the kids get along with your kids?

19 A They get along, yeah. We take them out
20 riding dirt bikes, four-wheelers, camping.

21 Q Do they like going out and playing in the
22 desert?

23 A Absolutely. They'll go out there and play in
24 the sand. Throw sand at each other sometimes.

1 Q Do you guys go out with any other families?

2 A Yeah. My brother, his friends go out. My
3 father has an RV. He has a toy hauler. He's got a
4 house boat. We've got two different boats over there.
5 I mean, we're just a typical family. I mean, we like
6 to go out and have fun.

7 Q So do the children get their fingernails
8 dirty when they're out playing in the desert?

9 A Absolutely.

10 Q Okay.

11 A Or they play in the garage if they, you know,
12 they're playing with tools and stuff that are greasy.
13 Or if they're working on skate boards and scooters and
14 being men -- or boys. I like to teach them to be men,
15 so they know, you know, how to work on stuff. They
16 love to get out there.

17 Q Okay. Do you, as a parent -- and you have a
18 couple kids of your own. You've been a single dad to
19 your son Jesse. Do you as a parent think it's abusive
20 when your children have dirty fingernails?

21 A No.

22 Q Okay. Do you think it's healthy for children
23 to be in front of a screen all day every day?

24 A No, ma'am.

1 Q Do their fingernails stay clean when they
2 play on an iPad all day?

3 A Absolutely.

4 Q Okay. Since we have binders and binders of
5 your Facebook posts, have you continued to file -- to
6 post Facebook posts about Adam?

7 A No, ma'am. To be clear, I've deleted my
8 Facebook altogether so there's no more controversy
9 regarding that. I -- I don't know what else to say. I
10 mean, I didn't know Facebook posts would be brought
11 into court.

12 Q And yet here we are.

13 A Yeah, right.

14 Q Okay. So you've just deleted your Facebook?

15 A Absolutely.

16 Q Okay.

17 MS. CRAMER: All right. Your Honor, is there
18 anything that I haven't touched on that you would like
19 me to question the witness?

20 THE COURT: I would like more of -- how is
21 Mr. Solinger getting involved in your custody case?

22 THE WITNESS: I'm not sure if there's money
23 transactions, but I know there was conversations
24 between him and my ex, which I believe I have

1 screenshots of her stating that Adam has made this up,
2 or said this or said this. And I've got recent ones,
3 more recently in the past couple months, he's reached
4 out to my son's mother, and I'm not sure what that
5 concluded of, so.

6 THE COURT: Okay.

7 THE WITNESS: I just -- I feel -- I take it
8 personally, you know, when I've done the best I could
9 for my son and this gentleman -- you know, I've been
10 out of trouble since he was born, and this gentleman
11 comes along and he's getting -- interfering, you know,
12 with what -- what I'm doing, you know, my parenting.

13 THE COURT: Okay.

14 THE WITNESS: He's never had a problem in
15 school. He's been amazing in school since he started
16 preschool.

17 BY MS. CRAMER:

18 Q Has Adam involved himself in your litigation
19 with your ex, Carmen?

20 A I have reason to believe so.

21 Q And what's the reason that you believe that?

22 A She stated that he's -- she's been talking to
23 him. So I'm assuming he's either helped her with her
24 filings or her -- what to say. Some of the things I'm

1 pretty sure she copy and pasted from what he has texted
2 her to send to me. But, yeah.

3 Q Okay.

4 THE COURT: What -- what is your driving
5 record?

6 THE WITNESS: What's that?

7 THE COURT: What is your driving record? Do
8 you have any DUIs or anything like that?

9 THE WITNESS: No, ma'am. No DUIs. No --
10 nothing like that.

11 THE COURT: Okay.

12 THE WITNESS: Nothing -- no reckless driving,
13 I believe. I mean --

14 THE COURT: All right. You recognize the
15 fact that we have laws about driving under the
16 influence?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: And you smoke, on your own
19 testimony, three times a day.

20 THE WITNESS: Correct.

21 THE COURT: Then why would you even think
22 about getting behind the wheel with children in the
23 vehicle with you?

24 THE WITNESS: I don't smoke when I get in the

1 vehicle with them.

2 THE COURT: But you have. If you smoke three
3 times a day, you're high out there on the road.

4 So, what would make you think that you're a
5 safe driver?

6 THE WITNESS: I just believe that I am. I
7 don't believe that I'm --

8 THE COURT: You're not allowed. It's just
9 like drinking under the influence of alcohol. If you
10 smoked enough for it to have calmed you down or to help
11 your pain or to help your anxiety, or whatever reasons
12 why you're smoking it, you're under the influence,
13 aren't you? And you're driving.

14 Okay. So I figured I'd hit that for you.

15 THE WITNESS: Yes, ma'am.

16 MR. SOLINGER: I appreciate it, Your Honor.
17 I was going to wait for argument, but.

18 BY MS. CRAMER:

19 Q So, Josh, do you have any DUIs whatsoever?

20 A No, ma'am.

21 Q Have you ever been cited for driving while
22 high?

23 A No, ma'am.

24 Q Okay.

1 THE COURT: But he's just admitted it. He
2 smokes three times a day. I could see if he's smoking
3 at 10:00 at night and he doesn't go back outside, then
4 yeah, I can do that. But if he's smoking three times a
5 day, that's morning, noon and night.

6 MS. CRAMER: But, Your Honor, that's --

7 THE COURT: He's under the influence.

8 MS. CRAMER: Your Honor, his testimony was
9 not that he smoked morning, noon, or night.

10 THE COURT: No, he smokes three times a day.

11 MS. CRAMER: You could drive in the morning
12 and smoke three times in the afternoon. You could do
13 it.

14 THE COURT: You could do it. But you -- I
15 think we all understand what his testimony was.
16 He's -- he's -- if it's medicinal marijuana, he's using
17 it like clockwork.

18 MS. CRAMER: We didn't that --

19 THE COURT: He's -- he's taking that just
20 like Mom would be taking her Xanax. The big difference
21 is, is if Mom has already shown that she's not sleepy
22 while taking Xanax, there's not much of a problem for
23 that.

24 MS. CRAMER: Well, if we have someone that's

1 not sleepy --

2 THE COURT: It doesn't affect everybody that
3 way.

4 MS. CRAMER: -- while they're smoking
5 marijuana --

6 THE COURT: The law is the law.

7 MS. CRAMER: All right.

8 BY MS. CRAMER:

9 Q Josh, do you drive while you're actively
10 high?

11 A No, ma'am.

12 Q All right.

13 MS. CRAMER: Your Honor, I'll pass the
14 witness.

15 REDIRECT EXAMINATION

16 BY MR. SOLINGER:

17 Q I'd like to go back to December of 2019 and
18 your testimony on, I guess, direct, redirect, whatever
19 we want to call it, was that if I would have shown
20 paperwork to you, you would have brought the children
21 out to me?

22 A Correct.

23 Q What paperwork would you have wanted to see?

24 A The paperwork you claimed to have stating

1 that it was your day to pick them up after she had them
2 less than 24 hours.

3 Q So your testimony earlier was that I had
4 noticed vacation time months in advance that she had
5 forgotten about --

6 A Supposedly, yeah.

7 Q -- but now you're saying I claim that I have
8 paperwork? I just want to be clear what your testimony
9 is.

10 MS. CRAMER: I didn't hear him testify to
11 that, Your Honor.

12 THE COURT: He didn't. He just said he asked
13 for the -- for paperwork showing you should have them.

14 MS. CRAMER: Yeah. I didn't hear anything
15 about vacation time.

16 THE COURT: Yeah. This is --

17 MR. SOLINGER: No, the vacation time was his
18 testimony previously, that I had noticed vacation time
19 months in advance.

20 MS. CRAMER: When was that his testimony?

21 MR. SOLINGER: At the very beginning when I
22 talked to him about the incident. We can can review
23 the JAVS.

24 MS. CRAMER: Did I miss something?

1 MR. SOLINGER: Mr. Lloyd --

2 THE WITNESS: I -- I stated that. Yes, I
3 did. And I stated the fact that she was unaware of the
4 dates because it had been such a prior instance.

5 THE COURT: Is this the one where I had to
6 get involved?

7 MR. SOLINGER: No. This would have been well
8 before Your Honor's time, I believe.

9 THE COURT: Okay. Okay.

10 MR. SOLINGER: This -- this was resolved in
11 December of 2019 with Judge Moss.

12 THE COURT: Oh, yeah, that's right. It's the
13 truck. It's with the truck.

14 MR. SOLINGER: Yeah, with the truck.

15 THE COURT: It was, yeah. Okay.

16 BY MR. SOLINGER:

17 Q So if I had shown you the message from
18 September noticing it, you would have gone and gotten
19 the kids and brought them out?

20 A Absolutely. As I man, I would appreciate if
21 somebody offered me the same thing.

22 Q And -- and you can understand the
23 consternation when somebody comes running down the
24 street towards your vehicle when the police have

1 already been called and trying to handle it in such an
2 aggressive manner?

3 A Yeah. I -- I notified the police well before
4 I approached your vehicle. I notified them of you
5 following my son around, hiring people to surveillance
6 my son, videotape my child. Yes, sir.

7 Q Did you ask Chalese to see if she had the
8 messages?

9 A I did not.

10 Q Were you aware that she had been reminded,
11 literally, before she had picked them up about the
12 upcoming vacation time?

13 A Did you send her a confirmation? Did you
14 send her any proof --

15 Q I'm asking --

16 A -- or did you just state --

17 Q -- what your awareness is.

18 MS. CRAMER: Josh?

19 THE WITNESS: Yes.

20 MS. CRAMER: Don't argue with him.

21 THE WITNESS: Okay. Okay.

22 MS. CRAMER: Answer the question yes or no.

23 THE WITNESS: I didn't see anything on her
24 phone.

1 BY MR. SOLINGER:

2 Q So she didn't talk to you about it the night
3 before?

4 A No.

5 Q She didn't express concern and say, hey, I'm
6 not going to have them for less than 24 hours
7 because --

8 MR. SOLINGER: Your Honor, asked and
9 answered. He already said no.

10 MR. SOLINGER: I'm being more specific, I
11 guess.

12 MS. CRAMER: It's asked and answered.

13 THE COURT: It's asked and answered. And it
14 was almost three years ago. And it's only three years
15 ago. The divorce was filed in January 2019. Until we
16 get to December of 2022, it's not four years.

17 MS. CRAMER: Fair enough, Your Honor.

18 BY MR. SOLINGER:

19 Q When --

20 THE COURT: But still three years, it's a
21 long time, really.

22 BY MR. SOLINGER:

23 Q When on Ms. Cramer's questioning of you, you
24 mentioned that Jessica was at your house in January of

1 2021?

2 A I do believe that was the date that her
3 mother was in town and we went to dinner.

4 Q The custody exchange that resulted in
5 criminal charges, to be very specific.

6 A What are you asking?

7 Q I'm asking if that was your testimony when
8 you said she was at the house?

9 A That who was at the house?

10 Q Ms. Sellers?

11 A Ms. Sellers was parked in front of the
12 driveway, like we've concluded in multiple --

13 MR. SOLINGER: Your Honor, I'd ask that you
14 admonish the witness. He was very admirable. And it
15 seems that on redirect he's getting quite --

16 THE WITNESS: I'm -- I'm -- I'm confused.

17 MS. CRAMER: Well, Your Honor, he's asking
18 him the same question over and over again.

19 MR. SOLINGER: No.

20 MS. CRAMER: He's already testified
21 repeatedly --

22 THE WITNESS: That she's --

23 MS. CRAMER: -- she was in front of the
24 driveway. Why is he asking him that again?

1 The Plaintiff here is -- is badgering --

2 THE COURT: Well, what was the question you
3 asked him?

4 MR. SOLINGER: The question -- I'm
5 reestablishing his testimony so that I can then ask a
6 clarification question.

7 THE COURT: Okay.

8 MR. SOLINGER: The way that you do on
9 recross.

10 THE COURT: Then, okay, let me clarify this.
11 You stated she was parked in front of the
12 driveway, yes or no?

13 THE WITNESS: Yes.

14 BY MR. SOLINGER:

15 Q Why was she at the house?

16 MS. CRAMER: No, no, no. Why was she in
17 front of the driveway?

18 MR. SOLINGER: It's my question.

19 THE COURT: Not at the house. Why was she
20 parked the way she was parked, blocking the driveway,
21 when it's illegal to block a party's driveway.

22 MR. SOLINGER: I'm -- let me be very specific
23 here. I can't have him speculate on why she did or
24 didn't do something.

1 THE COURT: Well --

2 MR. SOLINGER: Because that would draw an
3 objection.

4 THE COURT: -- then don't ask him to try to
5 speculate either.

6 MR. SOLINGER: No. I'm -- I'm asking what,
7 if he knew the purpose of her being at the house,
8 period.

9 MS. CRAMER: I would object to that as asked
10 and answered as well. Because he already said there
11 was a custody exchange. That's already been
12 established.

13 THE COURT: It has been.

14 MS. CRAMER: Plaintiff is just using this as
15 a time to badger this witness.

16 THE COURT: Please just --

17 MS. CRAMER: It's a personal vendetta.

18 THE COURT: Hold on. Hold on.

19 MR. SOLINGER: I -- I have this number of
20 questions.

21 THE COURT: Hold on.

22 MR. SOLINGER: And I'm trying to get through
23 them without the pearl clutching. If we can't --

24 THE COURT: Let's -- let's get through it.

1 Answer them as --

2 MS. CRAMER: I'll show you pearl clutching.

3 THE COURT: -- as we're going. If I need --
4 if I need more clarifications, I will. And if I want
5 to make a smart aleck remark, I will also. I've been
6 doing it all along.

7 MR. SOLINGER: I appreciate the levity.

8 BY MR. SOLINGER:

9 Q To be clear, you took your children inside
10 once you arrived at the residence?

11 A Correct. I walked them to the gate, and they
12 walked to the door.

13 Q So you didn't personally take them into the
14 house?

15 A No. I walked them to the door.

16 Q Did you go into the house itself?

17 A No.

18 Q So you chose to stay outside?

19 A Correct. I -- I stated that previously
20 because Chalese was still out there.

21 Q Have you ever talked to the district
22 attorney's office about why they did or didn't file
23 charges?

24 A Not yet, no.

1 Q So you were speculating earlier when you said
2 I had the district attorney's office file charges?

3 A I was assuming so because you were working
4 there, or wherever you're working. I'm not sure. I
5 know you could pull some strings. I don't -- I don't
6 what you -- who you do know, who you don't know. I
7 don't know --

8 MR. SOLINGER: Move to strike as
9 non-responsive.

10 MS. CRAMER: No, Your Honor, he answered
11 question. That was an --

12 THE COURT: You -- you asked an open-ended
13 question.

14 MS. CRAMER: -- open-ended question. He got
15 what he asked for.

16 BY MR. SOLINGER:

17 Q How many grams of marijuana do you smoke a
18 week?

19 A I don't know. I don't weigh it.

20 Q I mean, you've purchased it, right?

21 A Yeah.

22 Q So I (indiscernible).

23 A Three joints a day, half a joint, I mean, 1.5
24 grams a day times 7. That's a gram times seven, and

1 half of that.

2 MS. CRAMER: So it's about 10 --

3 THE COURT: 2.5 grams --

4 THE WITNESS: Ten and a half.

5 THE COURT: -- a week.

6 MS. CRAMER: Or approximately 10, yeah. Ten
7 and a half.

8 THE WITNESS: Right. I mean, did you want to
9 do the math yourself?

10 MR. SOLINGER: No, no.

11 THE WITNESS: Okay.

12 MR. SOLINGER: I just -- I appreciated all
13 the lawyers in the room trying to do the math
14 desperately together, and that it was just a --

15 THE COURT: We're -- we're not accounts,
16 we're attorneys. Okay?

17 BY MR. SOLINGER:

18 Q In December of 2019 after the truck incident,
19 you allowed a lie to be perpetuated on the Court that
20 you had broken up with Chalese and moved out of the
21 residence?

22 MS. CRAMER: Objection, Your Honor. That --
23 that is -- it's argumentative. It's badgering the
24 witness. It's assuming facts not in evidence.

1 THE COURT: That was actually something that
2 was brought up in the -- in the past. It was an issue.
3 I -- I don't know how much weight I'm going to give
4 it --

5 MS. CRAMER: But there's --

6 THE COURT: -- if it matters. You know, you
7 can --

8 MS. CRAMER: But there's no proof -- there
9 is --

10 THE COURT: -- break up and get back together
11 the next day.

12 MS. CRAMER: Right. Yeah, exactly. There is
13 no proof that this was a lie perpetuated on the Court.

14 THE COURT: Correct.

15 Did you lie to the Court about breaking up
16 with Chalese?

17 THE WITNESS: No, ma'am. I moved in with --

18 THE COURT: Did she lie to -- to the Court
19 about breaking up with you?

20 THE WITNESS: No, ma'am.

21 THE COURT: Did y'all get in a fight and
22 break up?

23 THE WITNESS: We had an argument, and I went
24 to my grandfather's house, yes, ma'am.

1 THE COURT: Did you break up?

2 THE WITNESS: Yes, ma'am.

3 THE COURT: Okay. Move on.

4 BY MR. SOLINGER:

5 Q You testified about fingernails being dirty,
6 and -- and perpetuating habits of masculinity or being
7 a man.

8 Do you agree that children should generally
9 keep good hygiene?

10 A Yes.

11 Q And having dirty, grungy fingernails all the
12 time may not be the best thing for children?

13 MR. SOLINGER: I mean, she brought it up.

14 MS. CRAMER: I'm sorry, Your Honor.

15 THE COURT: I do a lot of gardening, and you
16 don't want to see my fingernails.

17 MR. SOLINGER: I'm just assuming Your Honor
18 washes --

19 THE COURT: See, they're seeing my hide my
20 fingernails every time you ask that question.

21 THE WITNESS: Me too, Your Honor.

22 MR. SOLINGER: I'm just assuming Your Honor
23 washes her hands afterwards.

24 THE COURT: Well, I do. But I don't always

1 get the dirt from underneath my fingernails.

2 THE WITNESS: Right.

3 THE COURT: It doesn't always come out
4 easily.

5 MS. CRAMER: And when you use a pen all day,
6 you end up with pen ink under your fingernails.

7 THE COURT: Now, that's all of our hands.
8 Go ahead.

9 MR. SOLINGER: I -- I think he admitted -- or
10 he said, I don't want to put words in his mouth, is --

11 THE COURT: Good hygiene is important.

12 MR. SOLINGER: -- good hygiene is important.

13 THE COURT: Yeah.

14 MR. SOLINGER: I don't think I have anything
15 furthe.

16 Oh, Court's -- I don't know the best way to
17 approach with Exhibit 80. Exhibit 80 had already been
18 admitted via the stipulation of the parties.

19 THE COURT: Uh-huh.

20 MR. SOLINGER: So for purposes of Court's
21 review --

22 THE COURT: Which page -- which book is that
23 one in?

24 MR. SOLINGER: Exhibit 80.

1 THE COURT: That was in 1.

2 MR. SOLINGER: This would be Binder 1,
3 towards the back of it. It's got a Bates number of
4 5144. They're dark-colored photos. I have actual ones
5 here that I ripped out of my binder. That makes things
6 easier.

7 MS. CRAMER: Well, the ones that were
8 provided to me were never labeled, so.

9 THE COURT: Oh, you poor thing.

10 MS. CRAMER: Which exhibit is this?

11 MR. SOLINGER: This is Exhibit 80, Bates
12 number 5144. It's towards the back of Binder number 1.

13 MS. CRAMER: 5144.

14 THE COURT: Mr. Solinger, remind me to take
15 you out back and teach you a lesson about killing
16 trees.

17 And, yes, I try to keep things lively.

18 THE WITNESS: Yes, ma'am. Understood. This
19 is your house. We're following you.

20 THE COURT: Okay.

21 MS. CRAMER: This is Exhibit 80?

22 MR. SOLINGER: Correct. It's a picture of
23 two screenshots of Zillow listings.

24 THE WITNESS: Zillow?

1 MR. SOLINGER: Correct. House listings.

2 MS. CRAMER: All right.

3 MR. SOLINGER: His testimony was that it's
4 the only place they could afford, and they couldn't do
5 anything --

6 MS. CRAMER: And what is the Bates stamp on
7 this?

8 MR. SOLINGER: 5144.

9 THE COURT: You can't see it.

10 MR. SOLINGER: 5145.

11 THE COURT: I don't -- I don't see any Bates
12 stamp on it. It's -- it's because it's black.

13 MR. SOLINGER: It's black. It is quite hard
14 to see. You have to squint. And I apologize for that.
15 My Bates numbering program didn't let me hit different
16 colors for a combined exhibit like this, the way I
17 printed it.

18 MS. CRAMER: I don't even have that exhibit
19 in here.

20 THE COURT: You probably do. It's --

21 MS. CRAMER: No, I have 77 to 93. So I'm
22 missing --

23 THE COURT: Oh, you're missing 77 to 93?

24 MS. CRAMER: No, I have 77. And then the

1 next exhibit I have is 93.

2 MR. SOLINGER: I mean, I've got my copy here
3 if Counsel wants to see it.

4 THE COURT: Yeah, it's -- it's on house
5 listings there. They've got Colonial Way, Old Colonial
6 Way up there and everything.

7 MS. CRAMER: Zillow is -- Your Honor?

8 THE COURT: But it is still \$10,000 more out
9 of their price range. Now what he testified to, he
10 said 240. This is 250. This one's 250.

11 MR. SOLINGER: Understood. And I think the
12 point has been expressed by the Court. So I have no
13 further questions.

14 THE COURT: 89108, where is that?

15 MR. SOLINGER: It is -- I just --

16 UNIDENTIFIED MALE: Jones and Rainbow.

17 MR. SOLINGER: Yes.

18 THE COURT: Okay. That's what I was
19 thinking. All right. That's a cute little house.

20 MS. CRAMER: Yeah, that was the Rainbow Curve
21 area. So I already -- I already --

22 THE COURT: 1424.

23 MS. CRAMER: -- examined the witness on this
24 issue.

1 THE COURT: 1243.

2 What size house do y'all have now?

3 THE WITNESS: 1750.

4 THE COURT: Okay.

5 THE WITNESS: It's three bedrooms and a loft.

6 A side yard for the -- the toys. Campers.

7 THE COURT: Okay. What's your current
8 mortgage payment?

9 THE WITNESS: 1186, 1187, something like
10 that.

11 THE COURT: Okay. All right.

12 MR. SOLINGER: No further questions.

13 THE COURT: Okay. Thank you. Do you have
14 any more?

15 MS. CRAMER: No.

16 THE COURT: Okay. Thank you.

17 THE BAILIFF: Okay. You can go ahead and
18 step down.

19 THE WITNESS: Thank you, sir.

20 You want me to step back -- you want me to
21 step back in that ante room, or?

22 THE COURT: Are we -- do we have -- are we
23 going to possibly need to call him back?

24 MS. CRAMER: I am not.

1 MR. SOLINGER: I don't know if once I play
2 the video from January of 2021, if Defense Counsel is
3 going to want to. But I assume at that point as a
4 cooperative witness he'd be more than willing to --

5 THE COURT: I mean, he admitted that he's
6 already done all that stuff.

7 MS. CRAMER: Yeah. We're just going to play
8 the video for grins, so I don't really care.

9 THE COURT: S and Gs?

10 MS. CRAMER: Yes. That's exactly it.

11 You can go.

12 THE WITNESS: Okay.

13 THE COURT: Yeah, go ahead.

14 MS. CRAMER: Did you guys drive separately or
15 you drove together.

16 THE DEFENDANT: Together.

17 THE WITNESS: We drove here -- I need the
18 keys.

19 THE COURT: I mean, we've -- we'll be done
20 probably pretty quick.

21 MR. SOLINGER: I think so.

22 THE WITNESS: Thank you, ma'am, for your
23 time. You have a great day, okay?

24 THE COURT: You too, sir.

1 MR. SOLINGER: I can go fishing.

2 I need to check --

3 MS. CRAMER: Thank you.

4 THE COURT: And cutting your hair don't do
5 any good with me.

6 THE WITNESS: No? Oh, man. Now, I know for
7 the next court date.

8 THE COURT: You cut it for no reason.

9 Sorry, I had to say something.

10 THE DEFENDANT: I'm the one who cut his hair,
11 so I'm kind of taking it personally? You don't like
12 it? I thought I did a good job. It was way too long
13 and driving me crazy.

14 (Discussion off the record)

15 THE COURT: Gosh, I'm -- yeah, I am spending
16 all this time trying to shut this book.

17 MR. SOLINGER: Well, I've never done a family
18 case before, and I'd rather have something --

19 THE COURT: I can guarantee you, 99 percent
20 of this stuff is not useful.

21 MR. SOLINGER: I recognize that, and I see
22 that now. But that doesn't help me when I had to
23 prepare pro per for this, and I had --

24 THE COURT: You could have asked me how many

1 trees do I need to kill, and I would have said don't
2 even kill one. Minimal. One example. Cumulative
3 don't work here.

4 MR. SOLINGER: With the discovery rules being
5 what they were --

6 THE COURT: I know.

7 MR. SOLINGER: -- my thought process was more
8 is less. A bad habit.

9 THE COURT: More is better than -- I know, I
10 understand.

11 MR. SOLINGER: I get that now. I have
12 learned.

13 THE COURT: Sometimes -- sometimes just
14 getting to the most important nitty gritty is so much
15 better than trying to go -- trying to pick up every
16 little pebble to get to that big rock. Those little
17 pebbles don't matter. It's the big rocks that matter.

18 MR. SOLINGER: If I may inquire of the
19 marshal.

20 Was there a young lady outside?

21 THE BAILIFF: Not a young lady, but a lady.
22 No offense. We define by the law as young lady, as
23 under 21.

24 THE COURT: Is there a pretty lady?

1 THE BAILIFF: I don't think she's under 21.

2 THE COURT: Is there a pretty -- the question
3 is, is there a pretty lady out there?

4 THE BAILIFF: Yes.

5 THE COURT: Okay.

6 MR. SOLINGER: All right.

7 THE COURT: Let's -- let's give Jessica a
8 call.

9 MR. SOLINGER: Yes, please.

10 THE COURT: I hope y'all don't mind me trying
11 to make things a little bit lighter. You know, these
12 cases can be pretty bad and drag on your nerves and
13 stuff like that. And I just -- I try to, you know --
14 before I hammer you, I try to make it at least a little
15 fun.

16 THE BAILIFF: And then when you get to right
17 there, remain standing. The clerk is going to swear
18 you in.

19 MS. SELLERS: Okay.

20 THE COURT: And you told us that she was --
21 never mind.

22 THE CLERK: If you can raise your right hand.

23 You do solemnly swear the testimony you are about
24 to give in this action shall be the truth, the whole truth

1 and nothing but the truth, so help you God?

2 THE WITNESS: I do.

3 THE CLERK: Thank you.

4 MR. SOLINGER: And, Your Honor, I don't know
5 if you wanted to proceed with any questions you had up
6 front, or if you wanted to (indiscernible).

7 THE COURT: Nope. I wait -- I wait to see
8 what y'all ask, and then if I need to get something
9 out, then I'll ask.

10 MR. SOLINGER: Understood.

11 THE COURT: But I do need to know her last
12 name.

13 JESSICA SELLERS,
14 called as a witness on behalf of the Plaintiff, having
15 been first duly sworn, testified upon her oath as follows
16 on:

17 DIRECT EXAMINATION

18 BY MR. SOLINGER:

19 Q Could you please state and spell your name
20 for the record.

21 A Jessica Sellers. First name is
22 J-e-s-s-i-c-a. Last name is S-e-l-l-e-r-s.

23 THE COURT: All right. Thank you.

24 BY MR. SOLINGER:

1 Q Do you recognize anyone in the courtroom?

2 A Yes.

3 Q Who do you recognize?

4 A You, Chalese.

5 Q And how do you recognize the two of us?

6 A Well, I live with you. And Chalese is
7 Michael and Marie's mom.

8 Q And just because you live with me doesn't
9 mean you're going to say anything other than what's
10 true today, right?

11 A Correct.

12 MS. CRAMER: Objection, Your Honor, leading.

13 THE COURT: That is leading.

14 MR. SOLINGER: I'm laying a foundation.
15 I'm -- I'm taking it as an early background question.

16 THE COURT: Just --

17 MR. SOLINGER: I'll -- I'll move on.

18 THE COURT: Thank you.

19 I wouldn't expect her to be anything less
20 than honest.

21 BY MR. SOLINGER:

22 Q Is there a pool in the house?

23 A There is.

24 Q And where --

1 A Or outside, sorry.

2 Q -- where is it on the property?

3 A In the back yard.

4 Q Are there any safety measures that have been
5 taken to make sure that no accidents occur?

6 A Yes.

7 Q What are those?

8 A We put an additional lock on the sliders and
9 the windows that can go to the back yard that are
10 really high up. And we have a, like, little floating
11 device, that if something goes into the water an alarm
12 will sound. And the dog doors have locks on them.

13 Q Have there been any other steps to ensure
14 pool safety?

15 A We were really vigilant on teaching the kids
16 how to swim. If they played out back, they weren't
17 allowed to be out there without a life jacket or a
18 little swimmer on, even if we were, you know, out there
19 with them.

20 Q And we wouldn't just -- strike that.

21 I -- I don't want to get into a position,
22 Your Honor, where I'm testifying from here. And so
23 this is a difficult thing. And so I'm just going to, I
24 guess, ask the witness from her perspective.

1 THE COURT: Ask the question as if she was
2 Joshua.

3 MR. SOLINGER: So I can lead now, is that --

4 THE COURT: No. I'm just saying, you know,
5 without you testifying, you ask the question and let
6 her answer it.

7 MR. SOLINGER: Understood.

8 BY MR. SOLINGER:

9 Q Would you ever let the children just be in
10 the back yard by themselves and you're completely
11 somewhere else?

12 A No.

13 Q Where would you typically be if the children
14 are in the back yard?

15 A Outside with them.

16 Q Was there ever an occasion where Chalese
17 picked the children up from you at Creative Kids?

18 A Yes.

19 Q And are you good with dates and times with
20 specificity?

21 A Not really.

22 Q How do you remember things?

23 A Just by the incident, or, you know, like a
24 little explanation of something.

1 Q So when Chalese picked the kids up from you
2 Creative Kids, what happened?

3 A Well, originally I had picked up the kids
4 from Creative Kids because Chalese wasn't supposed to
5 pick them up till later on in the day. And I went and
6 picked them up because we promised them that they could
7 go swimming. So I picked them up, and then Chalese
8 attempted to pick up the kids the Creative Kids after I
9 already had them. And she was extremely upset. And --

10 THE COURT: What was the time that she was
11 supposed to pick up the kids?

12 THE WITNESS: At that time, I -- I don't
13 recall.

14 THE COURT: Was it -- was it after the time
15 you picked them up, or was it before the time you
16 picked them up?

17 THE WITNESS: I picked them up before the
18 time.

19 THE COURT: Okay.

20 BY MR. SOLINGER:

21 Q So to be clear, you picked them up before the
22 normal custody exchange time?

23 A Correct.

24 Q And you -- why did you do that again?

1 A Because I promised the kids I'd take them
2 swimming.

3 Q Did you take them swimming?

4 A I did not get an opportunity to.

5 Q And why is that?

6 A Because when Chalese had texted, and she was
7 contacting you, and there was a lot going on. And then
8 I didn't know if I should just go ahead, because
9 everything was stalled, if I should go ahead and, like,
10 put the sun block on and put them in the pool and
11 everything. So I didn't get a chance to swim with
12 them, and I ended up just bringing them to Creative
13 Kids to Chalese.

14 Q And what happened when you brought them to
15 Creative Kids?

16 A As she got out of the vehicle -- I was
17 already there with my daughter Courtney, and as she got
18 out of the vehicle, she starts yelling at me. She rips
19 Marie out of my arms. And then she grabs Michael by
20 the wrist and drags him to the car.

21 And then as she pulls away, she rolls down
22 the window, and because I was recording it -- or my
23 daughter was recording it, sorry -- and she yells like,
24 I don't give a F word. And then, I don't know if I can

1 say it, so.

2 And then when she pulled out of the parking
3 lot, she peeled out and sped off.

4 THE COURT: What time was that?

5 THE WITNESS: I don't know the exact time.
6 But I had handed them over before her time, I believe.

7 THE COURT: How much before?

8 THE WITNESS: I'm not sure.

9 THE COURT: Okay. Go ahead.

10 BY MR. SOLINGER:

11 Q At that time, you were working?

12 A Yes.

13 Q And generally speaking, when would you end
14 work for the day?

15 A About 3:30.

16 Q So you wouldn't have picked them up until
17 after you were finished with work?

18 A I believe that day I got off about 30 minutes
19 early.

20 Q So approximately 3:00?

21 A Correct.

22 Q And then you had to drive over to pick up the
23 kids?

24 A Correct.

1 Q And you don't recall what the normal exchange
2 time was?

3 MS. CRAMER: Objection, Your Honor. Leading.
4 Testimony by Counsel.

5 THE COURT: Well, I'm going to allow it. You
6 know, it's --

7 MR. SOLINGER: It's neither of those things.
8 I didn't suggest an answer. I'm asking what her
9 recollection is. And I'm not testifying.

10 THE COURT: And what time period was this? I
11 mean, was it early in the case? Was it, you know, was
12 it while you had joint physical custody? Was it after
13 you had already had primary?

14 MR. SOLINGER: My recollection of it -- and
15 there is a video that's in the exhibits, but I -- with
16 the S and G, I don't know that the Court's interested
17 in watching it, but I recall that it was approximately
18 spring of 2019. I believe we still had joint custody
19 at that time and we were exercising a two-two-three
20 schedule.

21 And then since I'm primary --

22 THE COURT: Two-two-three, or
23 four-three-three-four?

24 MR. SOLINGER: I think technically it was

1 three-two-two, because the goal was that --

2 THE COURT: Okay.

3 MR. SOLINGER: -- the (indiscernible) need to
4 be --

5 THE COURT: Because the order from the March
6 hearing was for a four-three-three-four split.

7 MR. SOLINGER: You -- you are correct.

8 THE COURT: Chalese was having the children
9 Sunday at 6:00 p.m. through Thursday at 6:00 p.m., so.

10 MR. SOLINGER: You -- you are correct, Your
11 Honor. It was -- originally Judge Moss had ordered the
12 three-three-four, four-three-three. Then the parties
13 stipulated to change it. So that is an astute
14 observation.

15 Okay, we went through that.

16 BY MR. SOLINGER:

17 Q In July of 2019, did you help me move out of
18 the former marital residence?

19 A Yes.

20 Q And how many days did we do that?

21 A Oh, my goodness.

22 Well, the first day we attempted -- oh.

23 THE COURT: I do want to see the video.

24 MR. SOLINGER: Oh, yes, I can --

1 THE COURT: And the reason was I want to see
2 the dates and the time stamp that's on it.

3 MR. SOLINGER: The video --

4 THE COURT: The video would have -- should
5 have that.

6 MR. SOLINGER: Just to be clear, Your Honor,
7 the video of?

8 THE COURT: Of the incident at the day care.

9 MR. SOLINGER: At the day care? Yes, I'll
10 have to go through and get that exact exhibit for the
11 Court.

12 THE COURT: Yeah. I mean, I don't -- we
13 don't need to watch it all the way through. I want to
14 see the date and time.

15 MR. SOLINGER: Got it. The Court's
16 indulgence.

17 THE COURT: It's very important.

18 MS. CRAMER: Oh, I have no opposition, Your
19 Honor.

20 MR. SOLINGER: I have the date on my exhibit
21 list, if this is the correct one, as May 31st, 2019.
22 And it should be Exhibits 162 and 163. I don't know
23 that that's right.

24 THE COURT: Okay. May 31st, 2019. What day?

1 I better look that up.

2 MR. SOLINGER: May 31st?

3 THE COURT: Uh-huh. What day of the week was
4 May 31st, 2019?

5 MR. SOLINGER: May 31st, 2019 was a Friday.

6 THE COURT: Okay.

7 MR. SOLINGER: And then I have the video. At
8 the Court's discretion, I guess, I don't know if we
9 want to admit it via stipulation, or if you want me to
10 go through the foundation on it.

11 MS. CRAMER: We've already stipulated to all
12 of the exhibits coming in. I don't care, Your Honor.

13 THE COURT: Yeah. The --

14 MS. CRAMER: Let's get this video. We can
15 see --

16 THE COURT: Okay.

17 MS. CRAMER: -- Dad trying to substitute his
18 girlfriend for Mom.

19 THE COURT: Stop.

20 MR. SOLINGER: It's just the chippy comments.

21 THE COURT: Stop.

22 MS. CRAMER: It's in his testimony, Your
23 Honor.

24 THE COURT: Stop.

1 MS. CRAMER: Will do, Your Honor.

2 MR. SOLINGER: Your Honor, how would you like
3 me to play this video for you? I know that the --

4 THE COURT: I just wanted to see the date and
5 the time.

6 MR. SOLINGER: The -- it's an iPhone video,
7 it's not time stamped.

8 MS. CRAMER: It should be in the properties.

9 MR. SOLINGER: It was sent to me --

10 THE COURT: Yeah, it should be in the
11 properties. That's -- that's all I want to know, is
12 what was the time.

13 MR. SOLINGER: My hard drive has it as April
14 12th, 2021, which is obviously inaccurate.

15 THE COURT: Okay.

16 MR. SOLINGER: So, I don't know why the
17 metadata is not on it. I can move on, I guess, date
18 wise. That's -- that's what I would proffer and
19 testify to.

20 THE COURT: April 12th at what time?

21 MR. SOLINGER: The metadata on it reflects it
22 as April 12th at 1:30 p.m. on 2021. Which is obviously
23 inaccurate, because the children are no longer at the
24 Creative Kids at that time. We had taken them out when

1 the pandemic started in March of 2020. So the metadata
2 was not preserved, for whatever reason, as this video's
3 gone back and forth as time goes on.

4 THE COURT: Okay. I've -- I will not be
5 watching that because we do not have an accurate time.
6 And the person who actually videotaped it is not here
7 to testify.

8 MR. SOLINGER: The person that videotaped it
9 and can lay the foundation would be, I guess, her
10 daughter.

11 THE COURT: But the person that videotaped it
12 was her daughter.

13 MR. SOLINGER: And Your Honor's ruling is
14 that she can't lay the foundation that this is a fair
15 and accurate representation of the events?

16 THE COURT: Yeah.

17 MR. SOLINGER: Is -- is that yes, she --

18 THE COURT: Yeah, I'm not interested in her
19 talking and calling her dirty and, you know, or using
20 the F word.

21 MR. SOLINGER: Okay.

22 THE COURT: That don't bother me. I'm just
23 sitting here saying -- I'm curious at how close it was
24 for Mom to be getting her custody time. And if it was,

1 you know, on Friday, which May 31st, was, it wasn't
2 even Mom's time.

3 So we don't know when it really happened.
4 Even your notes isn't making sense, because Mom had
5 Thursday at 6:00 p.m. -- Sunday at 6:00 p.m. through
6 Thursday at 6:00 p.m., so she didn't have Friday. You
7 had Thursday at 6:00 p.m. through Sunday. Week two,
8 Chalese having children Sunday through Wednesday. So
9 she didn't have a Friday. So none of these dates are
10 making sense to me.

11 MR. SOLINGER: Understood, Your Honor. I
12 will move on.

13 BY MR. SOLINGER:

14 Q In regards to July 2019, we were discussing
15 you helping me move out of the former marital
16 residence. And the pending question was, how many days
17 did that occur over?

18 A We were allowed to go in the house twice.

19 Q And when you say allowed to go into the house
20 twice, was there an attempt to go in more than that?

21 A There was before the -- the one incident.
22 And then she wouldn't allow us to come in.

23 Q When you say the one incident, what do you
24 mean?

1 A The incident where Josh got in your face.

2 Q And can you describe that with more
3 specificity?

4 A He was -- he got angry about some artwork we
5 were taking out of the home, and he approached you, and
6 started yelling at you, and got in your face. And --

7 Q Are you familiar with this smell of
8 marijuana?

9 A I am.

10 Q When we were moving -- when you were helping
11 move things out of the residence, what did you smell?

12 A Marijuana.

13 Q And you said Josh got in my face. Was he
14 holding anything?

15 A He was.

16 Q What was he holding?

17 A I believe it was a marijuana cigarette, since
18 that's what it smelled like, but.

19 Q Anything else?

20 A I think -- I feel like -- oh, I'm not -- I
21 mean, I don't want to mis-say anything.

22 THE COURT: If you don't know, then don't say
23 anything else.

24 THE WITNESS: Okay.

1 BY MR. SOLINGER:

2 Q Always -- if you don't remember, just --

3 THE COURT: Yeah. You did right. You know,
4 you weren't sure, so I appreciate that.

5 BY MR. SOLINGER:

6 Q During that move, did we pick up the kids as
7 part of going over there?

8 A The second time we went over.

9 Q And what was going on then?

10 A There were some people over at the house.
11 Josh was around the garage area with some people. I do
12 not know who they were. And at the end of it, every --
13 they were smoking marijuana, you could smell it. It
14 was really strong. The kids were there at the house,
15 because we were picking up the kids as we got the rest
16 of the stuff out.

17 And, you know, Chalese allowed the kids to go
18 say, like, bye to him, as everybody was out there
19 smoking.

20 Q Turning to December of 2019. Did something
21 happen in December of 2019?

22 A Yes.

23 Q What happened?

24 A We attempted to pick up the kids for some

1 predisclosed vacation time, and Chalese wouldn't hand
2 over the kids. So we ended up calling the police. And
3 then as we were waiting, we pulled off of the road, and
4 we pulled on the main road, which is Marion (ph).

5 Josh comes, and he -- he -- first he ran to
6 the vehicle, and he starts, like, yelling at you,
7 basically wanting to fight. Telling him to open the
8 door, get out of the car. He attempted to open the car
9 door. And then he leaves, and we were still waiting
10 there.

11 Adam was on the -- you were on the phone with
12 the police, and then Josh got his truck and then he
13 drove it the wrong side of the road right towards us,
14 and stopped, like, barely in front of us.

15 MR. SOLINGER: And, Your Honor, have you seen
16 that video?

17 THE COURT: I have.

18 MR. SOLINGER: Both parts of it, I assume?

19 THE COURT: (No audible response).

20 MR. SOLINGER: Moving on, then.

21 THE COURT: I watched it right before one of
22 the hearings that we already had, because I wanted to
23 make sure I knew everything about the case before I
24 started being ornery.

1 BY MR. SOLINGER:

2 Q Turning to January of 2021. Was there
3 another incident involving Josh?

4 A There was.

5 Q And what was that?

6 A So I went to go pick up the kids. Chalese
7 was texting me, letting me know that she was going to
8 be late because she was out to dinner with her mom, and
9 they're coming. I let her know I was there. I brought
10 my daughter with me, just, you know, because I always
11 like to have, like, a witness.

12 THE COURT: Why are you doing all the child
13 exchanges and not Dad?

14 THE WITNESS: At the time -- sorry.

15 MR. SOLINGER: Yeah, go ahead.

16 THE WITNESS: At the time -- I think at that
17 time he had had knee surgery.

18 THE COURT: So you don't want to kick him in
19 the knees, huh?

20 THE WITNESS: So I did -- I believe that's
21 why I did the exchange that time. But I don't do them
22 all.

23 BY MR. SOLINGER:

24 Q Do you recall whether I injured my knee in

1 December of 2020?

2 A If -- if that was the date. I'm not sure of
3 the date, yeah.

4 Q You're not good on dates?

5 A Yeah.

6 Q But would you have participated in a custody
7 exchange unless I was unable to?

8 A No. I wouldn't -- I wouldn't do the exchange
9 myself, unless -- if you were able to, I wouldn't be
10 doing the exchange.

11 Q Do you recall me on bed rest for a month?

12 A Yes.

13 Q And why was that?

14 A Because you were having issues healing your
15 knee.

16 Q And I --

17 THE COURT: Because she kicked you in the
18 knee. I'm just joking.

19 MR. SOLINGER: And, Your Honor, I'd like to
20 play that video of -- well let me, I guess, lay a
21 little bit more foundation.

22 BY MR. SOLINGER:

23 Q When you were there, did you record the
24 custody exchange?

1 A I did.

2 Q Why did you do that?

3 A It came to the point that every custody
4 exchange would be recorded because of the incidents
5 that were occurring.

6 Q And --

7 THE COURT: And you want to know why she
8 feels paranoid? When every step they take she's being
9 recorded in her own property.

10 MR. SOLINGER: Your Honor, just -- there were
11 some things that Judge Moss had said, and I think that
12 might be instructive. But I'd like to -- permission to
13 publish Exhibit 199.

14 THE COURT: Is this the same stuff that
15 everyone's already been testifying to quite often?

16 MS. CRAMER: Yes, it is, Your Honor. Over
17 and over --

18 THE COURT: Then it's so cumulative.

19 MS. CRAMER: -- and over again.

20 THE COURT: It is so cumulative. She's,
21 what, the third person that's talked about it now?

22 MS. CRAMER: I mean, we've already got Josh
23 admitting he said some terrible things to her.

24 BY MR. SOLINGER:

1 Q Where were the children during this exchange?
2 By the children, I mean, Michael and Marie.

3 A They were there for part of the exchange.

4 Q And when he said the things that he said,
5 where were they specifically?

6 A I mean, he was going on the whole time, so
7 they -- originally when he came up and started yelling
8 at me, the kids were in the vehicle with Chalese's mom.
9 And then Chalese went and helped her get the kids out
10 of there. And so Josh was across --

11 THE COURT: Okay. I think what we're trying
12 to do here, you're trying to put Josh's actions and
13 saying it's her fault. It hasn't been just until
14 recently that Mom is being held responsible for what
15 Josh -- what Josh does.

16 MR. SOLINGER: I guess --

17 THE COURT: I'm not going to hold Mom
18 accountable by somebody that she cannot hold down and
19 tape his mouth shut. That would be domestic violence
20 because of the relationship that they're in.

21 MR. SOLINGER: I -- I understand. I guess
22 the concern --

23 THE COURT: I understand your concern. This
24 is a custody battle between the two of you, not the

1 four of you.

2 MR. SOLINGER: Right. So if Josh has these
3 issues, why is she facilitating a custody exchange
4 where he can do this.

5 THE COURT: Why is she parked blocking the
6 driveway?

7 MR. SOLINGER: We can ask.

8 BY MR. SOLINGER:

9 Q Ms. Sellers --

10 THE COURT: Why did you block the driveway
11 when you pulled up?

12 THE WITNESS: So originally -- so at their
13 house, they have a driveway, and then they have like a
14 dirt path where they park the other vehicle. So when I
15 originally pulled up, I had -- I was in front of the
16 dirt path. And -- but I noticed another vehicle in the
17 driveway that was taking up the major of it.

18 So, I was, like -- I -- I went through this
19 whole thing in my head. And I was, like, okay, that
20 car's parked there. Don't want there to be any issues,
21 I'm going to pull back, because I'm assuming they're
22 going to pull into the dirt path, so I backed up a
23 little bit.

24 THE COURT: What does the law say about

1 blocking driveways?

2 THE WITNESS: I'm unsure.

3 THE COURT: You're not allowed to. It's
4 illegal.

5 MR. SOLINGER: And, Your Honor, that --

6 THE COURT: Okay. Go ahead.

7 MR. SOLINGER: -- I believe that's why the
8 video may be instructive to this.

9 THE COURT: Yeah. I -- I understand. He's
10 already admitted. The video is just taking up time.

11 MR. SOLINGER: Understood.

12 BY MR. SOLINGER:

13 Q Ms. Sellers, is -- you've been to that
14 neighborhood where the Defendant lives?

15 A Yes.

16 Q Are there a lot of vehicles there?

17 A There are.

18 Q Is there a lot of parking available there?

19 A There is not.

20 Q Did you do your best to park in a way to help
21 facilitate the exchange given the constraints of the
22 neighborhood?

23 A Absolutely.

24 Q Were you trying to block the driveway on

1 purpose?

2 A I was not.

3 Q Were you trying to be untoward or mean in any
4 way, shape or form?

5 A I was not.

6 Q Do you have any experience with pre-K
7 education?

8 A I do.

9 Q What is that?

10 A I worked at Creative Kids, and I ran a pre-K
11 classroom.

12 Q What training and experience did you have for
13 that?

14 A I -- I don't remember the specific training,
15 but I did have to do different classes, and continue
16 to, you know, do different courses and everything while
17 I was a teacher there.

18 Q Throughout the course of this case, has Marie
19 come home with bruises on her face?

20 A She has.

21 Q Is that concerning to you?

22 A Very.

23 Q Why is that concerning?

24 A Because it was happening continuously as we

1 were getting them back. She had bruises on her face.
2 Specifically one where it appeared that someone had
3 grabbed her face, because she has a -- had a bruise
4 here and here.

5 And so you called CPS, because it was
6 concerning. And after CPS was notified, the bruising
7 stopped.

8 Q Was -- did Marie ever come home with cuts?

9 A She did.

10 Q And what were those?

11 A There was multiple cuts on the inside of her
12 arm. When we asked Chalese about it, she wouldn't --
13 she didn't say anything about it. Marie told us that
14 it was Jesse who lives at the house and that he did it
15 to her.

16 MS. CRAMER: And that's hearsay, obviously.

17 THE COURT: How old is she?

18 MS. CRAMER: And, yeah, we have a three year
19 old who's tattling on another kid?

20 THE COURT: I mean, how old was she at this
21 time?

22 THE WITNESS: She was --

23 THE COURT: Because she was born in 2017,
24 right?

1 MR. SOLINGER: Yeah, she was born in '17.

2 THE WITNESS: This was right around
3 Halloween. And so it wasn't --

4 THE COURT: Just, like, a couple months ago
5 Halloween?

6 THE WITNESS: It wasn't last Halloween, it
7 was the one before that.

8 THE COURT: So she was a year and a half, two
9 years old.

10 THE WITNESS: No. She was, like, three.

11 MR. SOLINGER: I can't -- I'm -- I'm sorry,
12 I --

13 THE WITNESS: Sorry.

14 THE COURT: Well, we're talking about 2020 if
15 it was a year ago this last Halloween. She was born in
16 2017. So it was about three years.

17 Okay. All right.

18 BY MR. SOLINGER:

19 Q Your -- are you typically present when the
20 children come back from their time with the Defendant?

21 A Yes.

22 Q What would you describe their general
23 demeanor to be?

24 A Oh, when they come back, they are extremely

1 dirty. They are just tired, you can see it in their
2 eyes. In fact, Michael slept one time for 18 hours
3 when he came back one time.

4 And they -- Marie comes back with diaper rash
5 every single time. Well, I shouldn't say every single
6 time, because that has stopped now that, you know,
7 Marie is able to take care of herself a little bit
8 better.

9 They stink. Their clothes stink. Their
10 clothes smell like marijuana, cigarettes. They are
11 just filthy.

12 THE COURT: So, how are they supposed to
13 look? Totally clean? Manicured as they've just come
14 out of a spa?

15 THE WITNESS: No, absolutely not.

16 But when -- I guess you have to be there.
17 There's been times where they have come home and they
18 have smelt so bad, it almost makes you gag. And --

19 THE COURT: What time of the year?

20 THE WITNESS: This is all the time.

21 THE COURT: This is all the time? Okay.

22 They're not allowed to play and get sweaty?
23 I mean, is this during the time period --

24 THE WITNESS: Oh --

1 THE COURT: -- where Mom only had two days a
2 week, so she had to really make -- make up her time?

3 THE WITNESS: No. They're absolutely
4 allowed --

5 MS. CRAMER: Well, that would have been it,
6 Your Honor. Because it's been the last two years.

7 THE WITNESS: They are absolutely allowed to
8 play. They play at our house all the time outside.
9 They play in dirt. But -- but kids can play --

10 THE COURT: But you take them and clean them
11 immediately?

12 MS. CRAMER: -- and -- and their clothes --

13 THE COURT: Okay. Kids are going to be kids.
14 Kids are going to be dirty. And when you're -- when
15 someone is limited to such small periods of time,
16 you're going to maximize that period of time.

17 Children will never be perfect. If they
18 were, they would be bored adults.

19 MS. CRAMER: You mean we're not hatching them
20 now, Your Honor?

21 THE COURT: I don't know. Some people may
22 be. But not mine. I had a hard time.

23 Well, no, I didn't. Mine was hatched.
24 Sorry. I had an easy time.

1 BY MR. SOLINGER:

2 Q Did Michael ever have any kind of issues with
3 his eyes?

4 A Yes. He would get a lot of eyelid
5 infections.

6 Q And were you present when he was treated for
7 those?

8 A What do you mean?

9 Q When he went to a doctor for those eyelid
10 infections, were you present?

11 A Some.

12 Q It was frequent enough that there were some
13 medical visits you were a part of and some you weren't?

14 A Correct.

15 Q Do you recall why he had eyelid infections?

16 A The doctor had said these type of eyelid
17 infections are from --

18 MS. CRAMER: Your Honor, I'm going to object
19 to this because this is hearsay.

20 THE COURT: Exactly.

21 THE WITNESS: -- feces and --

22 MS. CRAMER: And also if we want to talk
23 about what a doctor said --

24 THE COURT: Sustained.

1 MS. CRAMER: -- we can get medical records.
2 I mean, they've got to be somewhere in one of these
3 boxes.

4 THE COURT: Yeah, don't ask what a doctor
5 said. Bring the doctor in for the doctor to testify.

6 BY MR. SOLINGER:

7 Q Did Michael recently come home with pierced
8 ears?

9 A He did.

10 Q And can you describe how they were pierced?

11 A Both the ears were pierced with some gold
12 studs.

13 Q If you had to approximate the size of them,
14 how large would you say they were?

15 A Probably --

16 Q Were they bigger than a fingernail, or?

17 A No, they were smaller than a fingernail. It
18 would be, like --

19 Q The tip of a pen, possibly?

20 A Yeah, like -- yeah, probably about -- a
21 little bit smaller than that. I was trying to find
22 something for an example.

23 Q Did I ask you to do anything related to those
24 earrings?

1 A I had asked me to take them out because you
2 didn't want to hurt him, because you weren't sure how
3 to take them out.

4 Q I'd like to draw your attention to August
5 27th of 2019. Does that date stick out to you for any
6 reason?

7 A Yes.

8 Q Why does --

9 THE COURT: Can we get out of stuff that was
10 three years ago? And move -- and let's, you know --

11 MR. SOLINGER: This -- this is one of the
12 most important things, Your Honor. Because, as I
13 proffered --

14 THE COURT: 2019 was three years ago.

15 MR. SOLINGER: Correct. This is the date
16 that I'm alleging she drove 95 miles an hour. Because
17 the PI testified --

18 THE COURT: The PI couldn't even identify
19 her.

20 MR. SOLINGER: Correct. But he was in front
21 of the house. He observed a woman come out of my house
22 with a child.

23 THE COURT: A child. You've got two.

24 MR. SOLINGER: Correct. Ms. Sellers --

1 THE COURT: Why would --

2 MR. SOLINGER: Because I -- Your Honor I'm
3 just trying to lay this record.

4 THE COURT: He could not identify her. She
5 was not the one following. No.

6 MR. SOLINGER: She was the one that brought
7 Marie out to her. I do have two children. I was with
8 Michael at speech therapy. And so Ms. Sellers can
9 testify that she was the one --

10 THE COURT: He did not say that there was
11 another -- no.

12 MR. SOLINGER: He did. He said --

13 THE COURT: Because, if I'm not mistaken,
14 Mr. Doyal talked about a woman came out with a child,
15 got in the vehicle, and drove away. He did not say
16 there was two women.

17 MS. CRAMER: He also testified that he lost
18 sight of the vehicle on the freeway.

19 THE COURT: Yes.

20 MR. SOLINGER: We can review his testimony,
21 but I'd like to be able to make this factual record.
22 If the Court would indulge me, it's two questions.

23 MS. CRAMER: And this is not important.

24 And --

1 THE COURT: Go ahead and make -- make the
2 record.

3 BY MR. SOLINGER:

4 Q Ms. Sellers, what did you do on August 27th
5 of 2019?

6 A I brought Marie outside to Chalese.

7 Q And you -- what did you do then?

8 A I waved bye to Marie, and --

9 Q So you gave Marie to Chalese?

10 A Correct.

11 Q Do you know where Michael was at that time?

12 A Michael was with you at speech therapy.

13 Q So he wasn't with you?

14 A No, he was not.

15 MR. SOLINGER: Thank you, Your Honor, for
16 allowing me to do that.

17 BY MR. SOLINGER:

18 Q I'd like to talk about January of 2019
19 related to speech therapy. Specifically, do you recall
20 being present with me when I received a phone call?

21 A Yes.

22 Q And who was on the other end of that phone
23 call?

24 A Chalese and Michael.

1 MS. CRAMER: I object to this, Your Honor.
2 Where's the foundation? Was it -- like, there's no
3 foundation.

4 THE COURT: Just let's -- let's just move
5 forward. I'm pretty sure you want your time with her.

6 BY MR. SOLINGER:

7 Q Do you recall me receiving that phone call?

8 A I do.

9 Q And how were you able to hear it?

10 A It was on speaker.

11 Q And what was said?

12 A Chalese said that Michael doesn't have to go
13 to speech therapy anymore because he graduated. She
14 was, like, isn't that right, Michael, you graduated.
15 And he's, like, yes.

16 Q Had Michael ever expressed concerns that he
17 needs medication?

18 A Yes.

19 Q And what did he say?

20 A He said he needs his nighttime medicine.

21 Q What did you do then?

22 A I got my phone and I recorded the
23 conversation.

24 MR. SOLINGER: The Court's brief indulgence.

1 (Pause)

2 BY MR. SOLINGER:

3 Q Based on what he said, what did you then do
4 after recording him?

5 A I asked him what he said, and he said that my
6 momma gives me --

7 MS. CRAMER: Objection, Your Honor. Hearsay.

8 THE COURT: Sustained.

9 BY MR. SOLINGER:

10 Q Did you at some point give Michael some
11 elderberry syrup?

12 A We did.

13 Q Why did we do that?

14 A Because Chalese claimed that she was giving
15 the children elderberry syrup at night, so we purchased
16 the same bottle to see if this was what he was getting.
17 And so we -- we gave him the elderberry syrup. And
18 Michael reacted, and he was, like, yuck, that's gross.
19 And we asked him --

20 MS. CRAMER: Objection, Your Honor. Hearsay.

21 THE WITNESS: -- if he ever had it, and he
22 said no.

23 THE COURT: It's sustained.

24 MS. CRAMER: It's just --

1 MR. SOLINGER: It was reaction --

2 THE COURT: No.

3 MR. SOLINGER: -- to the extent that he --

4 THE COURT: But he was saying stuff.

5 MR. SOLINGER: So we can strike what he said.

6 THE COURT: Although, I had say yuck too.

7 I've tasted some of that elder stuff.

8 MR. SOLINGER: It could be an excited
9 utterance, present sense impression. I get to the
10 extent that he's a child, and --

11 THE COURT: Yeah.

12 MS. CRAMER: I'll throw in an irrelevance
13 objection. I mean, like, Lord have mercy.

14 MR. SOLINGER: Well, if --

15 MS. CRAMER: We don't make or break custody
16 cases in Nevada on elderberry syrup.

17 THE COURT: We don't know if it was
18 elderberry syrup. When we get Mom on the stand, we
19 will make a determination of what it was.

20 MR. SOLINGER: Well, there had been a hearing
21 on this previously with Judge Moss.

22 THE COURT: Ask -- yes, but I'm not Judge
23 Moss.

24 MR. SOLINGER: Well --

1 THE COURT: Ask Mom these questions, not
2 somebody who has only listened to one-half of a --
3 well -- well, she was there for both sides of the
4 conversation. If you don't want your girlfriend
5 involved in, you know, in some things, don't put her in
6 the middle.

7 BY MR. SOLINGER:

8 Q Has Michael --

9 THE COURT: And what was girlfriend doing at
10 these appointments and not Mom? You think maybe that
11 may be one of the reasons why Mom don't want to get
12 involved?

13 MR. SOLINGER: I'm in a precarious -- I don't
14 think Your Honor wants a response.

15 THE COURT: Don't answer the question.

16 MR. SOLINGER: Yeah.

17 THE COURT: I'm just saying, you know, you
18 can't manufacture situations and then say Mom is at
19 fault for it. And when I say manufacture, you're
20 taking other people into places where it should be
21 reserved for Mom only. Like doctors' appointments for
22 your children and stuff like that. I haven't even
23 started on Mom yet, so, you know, don't worry about it.

24 BY MR. SOLINGER:

1 Q Has Michael ever said anything to you about
2 baby-sitting?

3 A He has.

4 MS. CRAMER: Objection, Your Honor. Calls
5 for hearsay.

6 MR. SOLINGER: Your Honor, to the extent that
7 he can --

8 THE COURT: What was the question?

9 MR. SOLINGER: Has he ever said anything
10 about baby-sitting.

11 MS. CRAMER: Your Honor, this calls for
12 hearsay. But not only that, we're talking about a --

13 THE COURT: Here's the problem.

14 MS. CRAMER: -- a five-year-old child.

15 THE COURT: We haven't asked what was said
16 yet. Okay?

17 Has he ever said anything, the question is
18 yes. Now, if the follow-up question is what did he
19 say, I'm not going to allow it.

20 MS. CRAMER: Well, not only that, Your Honor,
21 but the -- the other is, is that it -- it does call for
22 hearsay. But we are also in a situation where we have
23 a couple of adults who are purporting to interrogate
24 some very, very, very young children. And I don't have

1 the ability to cross examine --

2 THE COURT: I don't know -- I don't know if
3 they're --

4 MS. CRAMER: -- a five year old.

5 THE COURT: I don't know if they're
6 interrogating. Now you've just giving him the
7 direction of how you're going to be asking questions.

8 MS. CRAMER: Oh, I'm not asking these
9 questions. I -- I have no interest in hearing about
10 how they torment these children.

11 THE COURT: We don't know if they're being
12 tormented. Stop. Stop it.

13 MS. CRAMER: Yes, Your Honor.

14 THE COURT: Thank you.

15 BY MR. SOLINGER:

16 Q Have you ever interrogated a child?

17 A I have not.

18 Q Have you held a wet blanket over their face
19 and poured water on it?

20 A I have not.

21 Q Pulled their fingernails out?

22 A No.

23 Q Threatened to beat them?

24 THE COURT: Have you asked them if they had

1 fun?

2 THE WITNESS: Oh, I ask them if they have fun
3 all the time.

4 THE COURT: Do you ask them what they did?

5 THE WITNESS: Of course, yeah.

6 THE COURT: Do you ask them if they enjoyed
7 their dinner?

8 THE WITNESS: If they come home --

9 THE COURT: Did you ask them what they had to
10 eat?

11 THE WITNESS: Well, we have to, because
12 Chalese won't let us know if they've eaten dinner or
13 not. So yes, we have to ask them if they ate or not.

14 THE COURT: You can't just ask, hey, are you
15 hungry, instead of if you've eaten? Because kids are
16 always hungry. You offer them food and they're going
17 to want to eat.

18 THE WITNESS: Okay.

19 THE COURT: You're in a -- you worked in a
20 day care, you should know that.

21 Go ahead.

22 That's not interrogating, by the way. That's
23 just asking how kids are doing.

24 BY MR. SOLINGER:

1 Q I mean, because you worked in a day care, you
2 asked the kids how their time was with Chalese when you
3 get a chance to?

4 A Absolutely, yeah.

5 Q Why do you do that?

6 A Because I'm interested. It's conversation.
7 I just want to know how their weekend was, or, you
8 know, did you do anything fun.

9 Q And when a child says something concerning to
10 you based on your training and experience, what do
11 you do?

12 MS. CRAMER: Objection, Your Honor. Is this
13 witness being offered as a -- as some kind of expert,
14 or some specialized information here? Or is this a --
15 is this a lay witness?

16 MR. SOLINGER: It's a lay witness who has
17 given a background that makes -- based on her unique
18 circumstances, might have triggered something that it
19 doesn't in a normal person. To the extent that I was
20 permitted without objection to go into her pre-K
21 background, I don't see the harm in asking if something
22 might stick out to her, but it doesn't for a normal
23 person, yeah.

24 MS. CRAMER: Yeah, he didn't -- that was not

1 established, Your Honor.

2 MR. SOLINGER: I'm not done.

3 MS. CRAMER: He didn't even ask how long she
4 worked in a day care. If she worked in a day care for
5 six months, I mean, like, really, wow. And she's not
6 an expert.

7 THE COURT: I can guarantee when you work as
8 an attorney for six months, you are, like, wow. We
9 all did.

10 MS. CRAMER: I was, like, wow about what?

11 THE COURT: The experience. You know, you
12 made a comment as if -- as if only working at a job for
13 six months is kind of degrading, but, you know.

14 MS. CRAMER: No, I didn't mean it that way.

15 THE COURT: Yes, you did.

16 MS. CRAMER: I mean, it doesn't -- no.

17 THE COURT: That's exactly how you meant it.

18 MS. CRAMER: No, I meant it as it does not
19 establish her as any kind of expert.

20 THE COURT: No, it don't. But it -- it
21 does -- it kind of puts her and Mom on equal footing,
22 because Mom's been involved as being a nanny and all
23 this other stuff.

24 MS. CRAMER: Well, if --

1 THE COURT: So, you know.

2 MS. CRAMER: Except that my client has legal
3 rights to these children --

4 THE COURT: And with -- with no -- with no
5 criminal charges --

6 MS. CRAMER: -- and she doesn't.

7 THE COURT: -- or complaints from any of the
8 parents that she's worked for.

9 MS. CRAMER: Your Honor, except that my
10 client has legal rights to these children. Jessica
11 Sellers does not. Nor does this Court have -- have
12 jurisdiction over Jessica.

13 THE COURT: No, Joshua.

14 MS. CRAMER: The Court has --

15 THE COURT: But yet for some reason I've got
16 people who's wanting me to enter orders that controls
17 both of them really.

18 MS. CRAMER: That's true, Your Honor.

19 THE COURT: So if I don't have jurisdiction,
20 how can I enter orders even controlling her?

21 MS. CRAMER: I'm not asking you to. Maybe my
22 predecessor did. Not me.

23 THE COURT: Let's hurry up because it's 3:30.

24 MR. SOLINGER: Understood.

1 BY MR. SOLINGER:

2 Q Did you used to own a house on Radigan?

3 A I did.

4 Q What did you do with that?

5 A I sold it.

6 Q When did you sell it?

7 A In -- wow, I don't know the year.

8 THE COURT: Before or after he moved in
9 with you?

10 THE WITNESS: No, we were already living
11 together.

12 THE COURT: You were already living together?

13 THE WITNESS: Uh-huh.

14 THE COURT: Okay. I mean, this will help
15 give her timeframe on about when.

16 Before or after he filed this case?

17 THE WITNESS: Oh, this was -- when I sold it?
18 It was after. I mean --

19 THE COURT: It was after?

20 MS. CRAMER: -- yeah, after he filed it.

21 THE COURT: After the case started?

22 THE WITNESS: Yeah.

23 THE COURT: Okay.

24 BY MR. SOLINGER:

1 Q Do you -- do you recall when we moved into
2 the current residence?

3 A It would have been -- I can't remember if it
4 was July 2019. I don't know.

5 Q So if we would have done that in July of
6 2019, then you would have sold your house shortly
7 thereafter?

8 A Correct.

9 Q So you were familiar with the housing market
10 in, I guess, our neighborhood?

11 A Correct.

12 MS. CRAMER: Your Honor, I'm going to object
13 again. There's no foundation. And she cannot testify
14 to the housing market in Las Vegas.

15 THE COURT: Okay. Here's -- here's the
16 problem.

17 I pick on Mom and I give her a hard time
18 about moving across town with the children. But
19 everybody recognizes that there is a difference in
20 where -- what insurance is going to cost for vehicles,
21 as well as -- well, that don't work.

22 BY MR. SOLINGER:

23 Q You did some looking around at the housing
24 market before you sold to see what your house would be

1 worth?

2 A I did.

3 MS. CRAMER: Your Honor, I'm going to object
4 again. This -- this --

5 THE COURT: I know where he's going too. I
6 will put the weight on it that it needs. He's -- he's
7 trying to show that she could have bought a house just
8 about anywhere for \$240,000 in about 2019, and she
9 chose to get it across town.

10 With what you're seeing, do you blame her?

11 MS. CRAMER: No, I -- I'm --

12 THE COURT: Sorry, I'm picking on you again.

13 MR. SOLINGER: No, I -- I understand.

14 THE COURT: And you seem to -- I seem to have
15 fun picking on you.

16 MS. CRAMER: I'm just -- I'm going to object.
17 He seems to be trying to shoehorn all kinds of, like,
18 information on the realty market, on day care, on call
19 kinds of stuff through this one witness who is his
20 girlfriend. And she's not qualified to testify to
21 this. There's no foundation here.

22 THE COURT: I know, she's not -- she's not a
23 realtor, so she cannot testify to what the housing
24 market was really in the area. Because, you know, what

1 size was your house that you sold?

2 THE WITNESS: 1600 square feet.

3 THE COURT: 1600 square feet. And what part
4 of town was it in?

5 THE WITNESS: The same area, northwest.

6 THE COURT: In the northwest. All right.

7 And is it an area in which somebody who's
8 earning what Chalese earns, would she have been able to
9 afford houses? Would she have been able to afford to
10 have bought your house?

11 THE WITNESS: Yes.

12 THE COURT: She would have? What did you
13 sell your house for?

14 THE WITNESS: It was it was 200 and, I want
15 say in the 50 something.

16 THE COURT: Okay. Because if she only
17 qualified for 240 maximum, would you have accepted
18 240,000 for your house?

19 THE WITNESS: Probably if she took it as is.

20 THE COURT: Would you have wanted it?

21 THE WITNESS: If she took it as is, I would
22 have.

23 THE COURT: Oh, okay.

24 MR. SOLINGER: And, Your Honor, just to

1 circle back to your question about the time stamp.
2 When I saved the video of the day care and that issue,
3 and I renamed the exhibit, I guess it renamed the
4 thing. And the original file that I found on my laptop
5 while we've been discussing, has a time stamp of
6 Sunday, April 11th at 1:08 p.m.

7 MS. CRAMER: What year?

8 MR. SOLINGER: Of -- well, that's wrong,
9 because that's 2021. It says modified last May 31st,
10 2019 at 5:47 p.m.

11 THE COURT: All right. The problem we have
12 is that there's just too many different modifications
13 and too many different dates that's attached to it.
14 And I don't think --

15 MR. SOLINGER: I understand.

16 THE COURT: -- either one of us is a computer
17 expert to really get to the meat and potatoes of that
18 date.

19 MR. SOLINGER: Understood.

20 THE COURT: Okay. All right.

21 BY MR. SOLINGER:

22 Q Have you ever attended a parent-teacher
23 conference for Michael?

24 A I have.

1 Q Where at?

2 A I've been to two. One at Creative Kids, and
3 then one at Betsey Rhodes.

4 Q Why'd you attend those?

5 A Because it's important to be involved.

6 Q Was Chalese at either of those?

7 A She was not.

8 THE COURT: Why is it important for a
9 possible step mother to be involved?

10 THE WITNESS: I think it's important that,
11 you know, everybody is raising -- we're all a mixed
12 family, you know, so it's important to --

13 THE COURT: But at a time period where
14 there's -- the divorce is still taking place --

15 THE WITNESS: Uh-huh.

16 THE COURT: -- don't you think Mom should
17 have first choice? And if she thinks you're going to
18 be there, why would she want to be there?

19 MS. CRAMER: She did get first choice.

20 THE COURT: I need to talk to both attorneys.
21 You're not the attorney. The one who's sitting there
22 next to you.

23 MS. CRAMER: Do you want us to go in the
24 back, or?

1 THE COURT: Uh-huh.

2 MS. CRAMER: Okay.

3 (COURT RECESSED AT 3:28:36 AND RESUMED AT 3:41:10)

4 THE COURT: We can go back on the record.

5 Okay. We've just had a long sidebar. You
6 know, I've made some disclosures. We're going to call
7 it quits for the day.

8 Can you come back tomorrow morning?

9 THE WITNESS: I mean, I can. It's a lot of
10 work I'm taking off, but I can.

11 THE COURT: Yeah. You know, either in the
12 morning or in the afternoon.

13 What hours do you work?

14 THE WITNESS: I work 7:30 to 3:30. Or 7:00
15 to 3:30, sorry.

16 THE COURT: 7:00 to 3:30?

17 THE WITNESS: Uh-huh (affirmative).

18 THE COURT: Okay. I mean, well, you can come
19 back in the afternoon. We can cut Mom a little short
20 or Dad a little short, if --

21 THE WITNESS: It might be better for the
22 morning, because --

23 THE COURT: -- if we move forward.

24 THE WITNESS: -- the kids will have to be

1 picked up from school tomorrow afternoon.

2 THE COURT: Okay.

3 MR. SOLINGER: Tomorrow is Wednesday, with
4 the normal custody exchange taking place after school.

5 THE COURT: Oh, and you get the kids?

6 MR. SOLINGER: Correct.

7 THE COURT: Okay. All right.

8 THE WITNESS: So if I'm in the morning --

9 THE COURT: Yeah, yeah, I can see that. So
10 morning may be a little -- a little easier.

11 THE WITNESS: Uh-huh (affirmative).

12 THE COURT: Okay. The -- and the reason why
13 is, I want some discussions going on between everybody.

14 MR. SOLINGER: Understood.

15 THE COURT: Some serious discussions.
16 Serious considerations. Please. For both of you.

17 MS. CRAMER: Yes, Your Honor.

18 THE COURT: Okay.

19 MR. SOLINGER: Your Honor, it may be easier,
20 just proffering for Ms. Sellers, with the work
21 schedule, if she could appear via BlueJeans tomorrow
22 morning --

23 THE COURT: She can.

24 MR. SOLINGER: -- so she doesn't have to

1 drive here?

2 THE COURT: She can. I've -- I've observed
3 her. I've seen how you she is. We can let her do
4 BlueJeans. Let's make it a little easier on her.

5 MS. CRAMER: Your Honor, I -- I agreed to do
6 my cross tomorrow of her.

7 THE COURT: You want to do it today?

8 MS. CRAMER: Well, I want to do it in person.

9 THE COURT: Okay. How much time do you have
10 left on what you're wanting to ask her?

11 MR. SOLINGER: If you don't want to hear how
12 great of a parent she thinks I am, I've got, I think --

13 THE COURT: I already know you're a good
14 parent. I don't doubt that.

15 MR. SOLINGER: And that's what I assumed. I
16 have three questions that I think I'd like to ask her.

17 THE COURT: Then why don't we go ahead, we'll
18 continue, we'll let her do a cross examination.

19 BY MR. SOLINGER:

20 Q Ms. Sellers, has Chalese ever sent you text
21 messages?

22 A She has.

23 Q Why did she do that?

24 A The one time was when I had the kids. And

1 then another time was when -- I don't remember all the
2 times, but just the ones that stand out to me -- was
3 when you two were doing an exchange.

4 Q So she's communicated with you?

5 A Yes.

6 Q And there has not been a problem with her
7 communicating with you?

8 A What do you mean?

9 Q It's never been a issue for her to reach out
10 to you? You've always made yourself available?

11 A Yes.

12 Q You've never said don't message me?

13 A No.

14 Q You've never said go away, I don't want to
15 talk to you?

16 A No.

17 Q You've never said anything mean to her?

18 A Not that I can think of, no.

19 MR. SOLINGER: I have no further questions.

20 MR. GOODWIN: And, Your Honor, if I may -- if
21 I could just ask that we take five minutes recess, so I
22 can talk to Mr. Solinger.

23 THE COURT: Okay. That will be good.

24 Because I should have went and taken a quick break

1 while we were off the record.

2 MS. CRAMER: Okay.

3 (COURT RECESSED AT 3:44:12 AND RESUMED AT 4:01:02)

4 THE COURT: Okay. We are back on the record
5 real quick. It has been decided that we are going to
6 break for the day, and then start tomorrow morning,
7 9:00 a.m.

8 MS. CRAMER: Okay.

9 MR. SOLINGER: Great. Thank you.

10 THE COURT: All right. Thank you.

11 (PROCEEDINGS CONCLUDED AT 4:01:19 P.M.)

12 * * * * *

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

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/s/ Franesca St. John
Francesca St. John