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M A S T E R I N D E X

SEPTEMBER 21, 2016

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M A S T E R I N D E X

SEPTEMBER 21, 2016

EXHIBITS

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(EXHIBITS ADMITTED INTO EVIDENCE WERE
DONE VIA STIPULATION OFF THE RECORD.
PLEASE REFER TO CLERK'S TRANSCRIPT.)

1 CASE NUMBER: BC470714
2 CASE NAME: DUVAL V COUNTY OF LOS ANGELES
3 LOS ANGELES, WEDNESDAY, SEPTEMBER 21, 2016
4 CALIFORNIA
5 DEPARTMENT: 89 HON. WILLIAM A. MACLAUGHLIN
6 APPEARANCES: (AS HERETOFORE NOTED.)
7 REPORTER: ELORA DORINI, CSR NO. 13755
8 TIME: 9:32 A.M.

9

10

---OOO---

11

12

(JURY PRESENT)

13

(THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN

14

COURT IN THE PRESENCE OF THE JURY)

15

THE COURT: WE'RE ON THE RECORD. EVERYONE MAY

16

BE SEATED. EVERYONE IS PRESENT. SO TO ALL OF OUR

17

JURORS, GOOD MORNING. AND I DO APOLOGIZE TO ALL OF YOU

18

FOR KEEPING YOU WAITING.

19

SOMETHING CAME UP THIS MORNING OF AN

20

UNEXPECTED NATURE. AND WE TRY TO AVOID THAT HAPPENING,

21

BUT IN THE BUSINESS OF THE COURT, IT DOES HAPPEN FROM

22

TIME TO TIME.

23

WE'RE GOING TO CONTINUE WITH THE VIDEO

24

DEPOSITION OF URBANA DUVAL. AND IT IS -- I DID

25

INSTRUCT MR. MCMILLAN TO START BACK A LITTLE BIT FROM

26

WHERE IT ENDED UP YESTERDAY. AND THE PURPOSE OF THAT

27

IS JUST TO GET THE CONTEXT GOING.

28

BUT IT'S NOT BECAUSE ANY -- THERE'S ANY

1 DIFFERENT IMPORTANCE TO ANYTHING YOU MAY SEE TWICE,
2 COMPARED TO THE EVIDENCE ITSELF. BY THAT, I MEAN, THE
3 FACT WE MAY BE REPLAYING JUST A LITTLE BIT OF IT
4 DOESN'T MEAN THAT'S MORE IMPORTANT TESTIMONY THAN OTHER
5 TESTIMONY.

6 I SEE A QUESTIONING LOOK ON OUR TECHNICAL
7 EXPERT, MR. MCMILLAN'S, FACE, WHICH MEANS --

8 MR. MCMILLAN: THERE'S A LIGHT OUT. WELL,
9 LET'S JUST TRY IT AND SEE WHAT HAPPENS. I FIXED THIS,
10 SO I'M GOING TO LEAVE IT ON. IF IT GETS STATIC, I'LL
11 JUST TURN IT OFF AND FIGURE OUT WHAT THE PROBLEM IS.
12 LET'S JUST TRY IT.

13 (WHEREUPON, AN EXCERPT FROM THE VIDEOTAPED
14 DEPOSITION OF URBANA DUVAL WAS PLAYED)

15 THE COURT: WHY DON'T WE TAKE THE MORNING
16 RECESS AT THIS TIME. APPROXIMATELY TEN MINUTES. ALL
17 JURORS, PLEASE REMEMBER THE ADMONITION.

18 (JURY EXCUSED)

19 THE COURT: AND I KNOW NONE OF YOU NEED A
20 BREAK, DO YOU? ALL RIGHT. LET'S TAKE A FEW MINUTES.
21 LOOKING AT CACI INSTRUCTIONS IN THE CACI VERDICT FORMS.

22 AND I DO THINK WE CAN FIND A WAY, AND I'LL
23 TALK TO YOU ABOUT THAT LATER. RIGHT NOW, I SUSPECT
24 YOU'D ALL LIKE TO HAVE YOUR BREAK, SO TAKE IT NOW, AND
25 WE'LL TALK ABOUT IT WHEN WE GET A CHANCE.

26 (PAUSE IN THE PROCEEDINGS)

27 (JURY PRESENT)

28 THE COURT: ALL RIGHT. WE'RE ON THE RECORD.

1 EVERYONE MAY BE SEATED. EVERYONE IS PRESENT. BEFORE
2 WE CALL THE NEXT WITNESS, LET ME JUST ADVISE THE JURORS
3 THAT TOMORROW WE'RE GOING TO HAVE A SOMEWHAT SHORTER
4 DAY. I'M JUST TELLING YOU THIS SO YOU CAN ANTICIPATE
5 IT.

6 WE'RE GOING TO RECESS ABOUT 2:55 TOMORROW,
7 FIVE MINUTES BEFORE THREE. AND THIS IS TO ACCOMMODATE
8 CERTAIN NEEDS OF SEVERAL OF THE JURORS. SO I JUST WANT
9 TO LET YOU KNOW THAT WE'LL BE IN SESSION TOMORROW UNTIL
10 THE TIME FOR US TO RECESS, TO BE ABLE LET TWO JURORS
11 TAKE CARE OF SOME VERY IMPORTANT MATTERS.

12 SO WITH THAT, MS. CHUNG, DO YOU WANT TO CALL
13 YOUR NEXT WITNESS, PLEASE?

14 MS. CHUNG: YES. NORISSA ENNIS, YOUR HONOR.

15

16

NORISSA ENNIS,

17

WAS CALLED AS A WITNESS AND, HAVING BEEN FIRST DULY

18

SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

19

20

DIRECT EXAMINATION

21

BY MS. CHUNG:

22

Q GOOD MORNING, MS. ENNIS. CAN YOU PLEASE TELL

23

US HOW YOU KNOW RAFAELINA DUVAL?

24

A WE ATTENDED THE SAME CHURCH.

25

Q CAN YOU PULL THAT MIKE JUST A LITTLE BIT

26

CLOSER TO YOU.

27

A CAN YOU REPEAT THE QUESTION? I'M SORRY.

28

Q CAN YOU PLEASE TELL US HOW YOU KNOW

1 MS. RAFAELINA DUVAL?

2 A WE MET TOGETHER SERVING IN THE SAME CHURCH
3 MINISTRY.

4 Q HOW LONG HAVE YOU KNOWN HER?

5 A AT LEAST 15 YEARS.

6 Q AND WHAT CHURCH IS THAT?

7 A WE WERE IN THE WEST LOS ANGELES CHURCH OF
8 CHRIST IN LOS ANGELES.

9 Q DO YOU ALSO KNOW MR. RYAN MILLS?

10 A YES.

11 Q HOW LONG HAVE YOU KNOWN MR. MILLS?

12 A I BELIEVE IT MIGHT BE TEN YEARS. MIGHT BE
13 AROUND TEN YEARS, AROUND THE SAME AMOUNT OF TIME.

14 Q OKAY. CAN YOU TELL US A LITTLE BIT ABOUT
15 YOURSELF?

16 A CALIFORNIA NATIVE, SOUTHERN CALIFORNIA BORN
17 AND RAISED. MARRIED FOR 12 YEARS. GONE TO THE SAME
18 CHURCH MINISTRY FOR 27 YEARS, WORKED AT THE SAME CITY
19 GOVERNMENT JOB FOR 16 YEARS. LOVE SPORTS. LOVE ARTS.

20 Q WHICH SPORT?

21 A BASKETBALL IS MY NUMBER ONE.

22 Q CAN YOU TELL US IF YOU WERE SEEING MS. DUVAL
23 WHEN SHE WAS PREGNANT WITH BABY RYAN?

24 A I THINK WE TALKED ON THE PHONE MOSTLY.

25 Q WHAT WERE SOME OF THE THINGS YOU GUYS
26 DISCUSSED?

27 A JUST ABOUT HER BEING HAPPY, ABOUT BEING
28 PREGNANT, AND YOU KNOW, JUST THE FUTURE, SIMPLE THINGS.

1 Q DURING THAT TIME, DO YOU KNOW IF THE BABY'S
2 FATHER, RYAN MILLS WAS INVOLVED?

3 A I DON'T BELIEVE SO. HIS NAME WAS NEVER REALLY
4 MENTIONED DURING THAT TIME MUCH.

5 Q AT SOME POINT, MS. DUVAL HAS BABY RYAN. DID
6 YOU EVER GET TO SEE BABY RYAN?

7 A I DID.

8 Q WHEN WAS THE FIRST TIME YOU SAW HIM?

9 A I BELIEVE THE FIRST TIME WE WERE COMING OUT OF
10 THE SHRINE AUDITORIUM, AND LINA WAS PUSHING A STROLLER
11 WITH HER MOM, OUT AFTER CHURCH ONE DAY.

12 Q DO YOU REMEMBER HOW OLD HE WAS, MAYBE?

13 A OH, GOSH, THIS HAD TO HAVE BEEN A FEW MONTHS
14 AFTERWARD. HE WAS PRETTY YOUNG.

15 Q HOW DID HE LOOK?

16 A HE LOOKED HAPPY, HE LOOKED VERY CONTENT,
17 HAPPY, SMILING. WE WERE KIND OF IN TRANSIT, SO, BUT HE
18 SEEMED LIKE HE WAS GOOD.

19 Q YOU MENTIONED RAFAELINA'S, MS. DUVAL'S MOTHER?

20 A MM-HMM.

21 Q SHE WAS AT CHURCH?

22 A YES, WE ATTEND THE SAME CHURCH.

23 Q AND MS. URBANA DUVAL. IS THAT CORRECT?

24 A YES, I CALL HER MOM, BUT YES.

25 Q DOES SHE LIVE IN CALIFORNIA?

26 A NOT CURRENTLY, NO.

27 Q OKAY. AT THE TIME THAT YOU SAW HER AT CHURCH
28 WITH MS. DUVAL AND BABY RYAN, WHERE WAS SHE LIVING?

1 A I BELIEVE IT -- WAS IT ALHAMBRA? WHERE LINA
2 USED TO LIVE. UP IN LA. SHE WAS LIVING THERE, WITH
3 HER.

4 Q I WANT TO TALK TO YOU NOW ABOUT THIS CASE.
5 OKAY? CAN YOU TELL US WHAT INTERACTION YOU HAD WITH
6 THE SOCIAL WORKERS REGARDING MS. DUVAL AND HER SON?

7 MS. SWISS: OBJECTION, CALLS FOR A NARRATIVE.

8 THE COURT: SUSTAINED. BE A LITTLE MORE
9 SPECIFIC, IF YOU COULD, PLEASE.

10 BY MS. CHUNG:

11 Q MS. ENNIS, WHAT'S THE FIRST CONTACT YOU HAD
12 WITH THE SOCIAL WORKER REGARDING MS. DUVAL?

13 A I THINK I GOT A PHONE CALL.

14 Q DO YOU KNOW WHO CONTACTED YOU?

15 A SOMEBODY. SORRY. SUSAN. SUSAN PENDER.

16 Q CAN YOU TELL US ABOUT WHAT THAT CONTACT WAS
17 FOR?

18 A WE WERE GOING TO START MONITOR -- I BELIEVE WE
19 WERE GOING TO START DOING MONITORING SESSIONS. AND SO
20 SHE HAD TO MAKE CONTACT WITH ME, I BELIEVE.

21 Q DID YOU ATTEND A TDM, A TEAM DECISION-MAKING
22 MEETING?

23 A YES, I DID.

24 Q DO YOU RECALL ROUGHLY WHEN THAT WAS?

25 A I BELIEVE IT WAS IN THE FALL -- IT WAS IN THE
26 FALL TIME. I THINK IT WAS AROUND NOVEMBER. NOVEMBER
27 TO OCTOBER. NOVEMBER.

28 Q WHO ASKED YOU TO GO TO THAT MEETING?

1 A I BELIEVE IT WAS KIMBERLY ROGERS.

2 Q DID YOU GO TO THAT MEETING?

3 A YES.

4 Q WHO ELSE WAS AT THIS MEETING?

5 A I BELIEVE FOR THE DCFS STAFF -- I DON'T KNOW
6 IF THEY WERE ALL STAFF -- BUT SUSAN PENDER, THE SOCIAL
7 WORKER, KIMBERLY WHO WAS SUPERVISING. I BELIEVE
8 THERE'S A NUTRITIONIST THERE, AND I BELIEVE THERE COULD
9 HAVE BEEN A THERAPIST.

10 AND THEN RYAN MILLS WAS THERE. I BELIEVE
11 CARMEN ALTAVERAS WAS THERE. JANE MILLS. AND WHEATON
12 MILLS. AND THEN MYSELF, LINA, AND HER MOM AND DAD.
13 AND HER DAD WAS HERE BY THEN, I THINK, AND HER DAD WAS
14 THERE.

15 Q AND YOU SAID JANE AND WHEATON MILLS. IS THAT
16 MR. MILLS'S PARENTS?

17 A YES.

18 Q DO YOU KNOW WHAT WAS THE PURPOSE OF THE TEAM
19 DECISION-MAKING MEETING?

20 A KIMBERLY ROGERS EXPLAINED THAT TO ME.

21 Q WHAT WAS YOUR UNDERSTANDING OF WHAT THE TEAM
22 DECISION-MAKING MEETING WAS FOR?

23 A SHE MENTIONED THAT IT WAS LIKE -- IT WAS SOME
24 KIND OF FOLLOW-UP, AND THAT -- THAT I COULD BE THERE
25 JUST TO SUPPORT HER -- BECAUSE WE JUST WERE FOLLOWING
26 UP ON HOW BABY RYAN WAS DOING.

27 Q TELL US WHAT YOU REMEMBER HAPPENING AT THAT
28 MEETING.

1 A AFTER INTRODUCTIONS, THEY JUST STARTED TALKING
2 ABOUT THE CARE FOR BABY RYAN, WHAT'S KIND OF BEEN DONE.
3 AND -- I'M NOT SURE HOW MUCH YOU WANT ME TO GO INTO IT.
4 THERE WAS A LOT OF DIFFERENT PARTS OF IT.

5 Q SO THE BEGINNING OF THE MEETING WAS
6 INTRODUCTIONS AND WHY YOU GUYS WERE THERE?

7 A YES. I THINK AFTER THE INTRODUCTIONS, WE KIND
8 OF JUST WENT INTO IT. I DON'T THINK THERE WAS A
9 FORMAL, THIS IS WHY WE'RE HERE, AND THEN YOU GOT INTO
10 IT.

11 I THINK THEY STARTED WRITING ON THE BOARD AND
12 HAD A COUPLE OF CATEGORIES OF, YOU KNOW, THIS IS WHAT
13 THIS PARENT DID, PATERNAL SIDE, THIS IS WHAT THE
14 MATERNAL SIDE DID. AND, YOU KNOW, IT'S KIND OF LIKE
15 HERE'S THE WEIGHTS AND BALANCES FROM WHAT I WAS -- MY
16 PERSPECTIVE OF WHICH PARENT WAS DOING WHAT.

17 Q SO THERE WAS A WHITEBOARD?

18 A YES.

19 Q AND SOMEONE WAS WRITING ON THE WHITEBOARD?

20 A I BELIEVE SO.

21 Q DID YOU NOTICE ANYTHING ABOUT THE TWO SIDES ON
22 THE WHITEBOARD, THE MOTHER'S SIDE AND THE FATHER'S
23 SIDE?

24 A I MEAN, THAT THEY WERE WRITING THE DIFFERENT
25 RESPONSES. I DON'T THINK AT THAT POINT THEY WERE
26 ASKING QUESTIONS. THEY WERE JUST WRITING WHAT THEY
27 KNEW.

28 AND THE FATHER'S SIDE WAS ON THE LEFT. I KNEW

1 THERE WAS A LOT MORE WRITING ON THE LEFT SIDE THAN ON
2 THE RIGHT SIDE. AND THE PATERNAL SIDE WAS ON THE LEFT,
3 AND THE MATERNAL WAS ON THE RIGHT.

4 Q AND AT SOME POINT, THERE WAS AN OPEN
5 DISCUSSION WITH QUESTIONS?

6 A KIND OF.

7 Q DID YOU PROVIDE ANY INPUT DURING THIS TEAM
8 DECISION-MAKING MEETING?

9 A AS OPINIONATED I CAN BE, I DID TRY TO GIVE
10 SOME KIND OF INPUT, AND I WAS TOLD THAT I WAS THERE TO
11 SUPPORT, SO I TRIED TO GIVE SUPPORTIVE ANSWERS, YES.

12 Q AND AFTER ALL THESE THINGS HAPPENING ON THE
13 WHITEBOARD AND THIS DISCUSSION, WHAT HAPPENS AFTER
14 THAT?

15 A THERE WAS A LOT OF DISCUSSION BACK AND FORTH
16 BETWEEN I THINK THE MATERNAL AND PATERNAL, WHICH MIGHT
17 BE NATURAL.

18 AFTER A BUNCH OF DIFFERENT THINGS WERE WRITTEN
19 ON THE BOARD, THERE WAS TALKING BETWEEN SOME OF THE
20 STAFF, AND THEN EVENTUALLY, CLOSER TO THE END OF THE
21 TDM, A COUPLE OF STAFF -- I DON'T KNOW -- I THINK IT
22 MIGHT HAVE BEEN SUSAN AND KIMBERLY.

23 NOT POSITIVE, I THINK IT WAS THEM -- THEY WENT
24 OUT TO HAVE A DISCUSSION.

25 Q AND WHAT HAPPENS WHEN THEY COME BACK?

26 A THEY CAME BACK IN, AND THEY MADE AN
27 ANNOUNCEMENT THAT BABY RYAN WAS GOING TO GO TO THE
28 PATERNAL SIDE.

1 Q DO YOU NEED A BREAK?

2 A (NO AUDIBLE RESPONSE.)

3 Q AFTER THE TWO COME BACK AND THEY MAKE THIS
4 ANNOUNCEMENT THAT THE BABY'S GOING TO GO WITH HIS
5 FATHER, WHAT ELSE HAPPENS AT THAT TEAM DECISION-MAKING
6 MEETING?

7 A PEOPLE WERE UPSET. I DON'T SPEAK SPANISH, BUT
8 THERE WAS SOME SPANISH WORDS EXCHANGED, I THINK. I WAS
9 SHOCKED. LINA WAS SHOCKED. SHE WAS PRETTY EMOTIONAL.

10 Q WHY? WHY WERE YOU SHOCKED?

11 A KIMBERLY HAD TOLD ME WHY I WAS THERE. AND
12 FROM HER DESCRIPTION OF WHAT WE WERE DOING, FOLLOWING
13 UP WITH WHAT LINA HAD DONE, LIKE, SO -- EXCUSE ME.

14 SO TO BACK UP A LITTLE BIT, LINA WAS GIVEN
15 DIRECTION BY DCFS TO GET EXTRA DIRECTION AND HELP BY
16 GOING TO SEE A THERAPIST, BY RELIEVING STRESS, BY ALL
17 THESE DIFFERENT THINGS.

18 AND TO BE A BETTER PARENT BECAUSE SHE NEEDED
19 TO GROW. LINA WENT WAY BEYOND THAT. I MEAN, SHE WENT
20 BEYOND THAT. AND TO COME INTO THIS -- A TEAM DECISION
21 MEETING THAT I WAS TOLD WAS A FOLLOW-UP.

22 THERE WAS NO DISCUSSION OF FOLLOW-UP, HEY,
23 THIS IS WHAT LINA DID, THIS IS WHAT THE MOM DID, TO NOT
24 JUST SATISFY THE DEMANDS, BUT BECAUSE THIS -- SHE CARED
25 ABOUT BEING A MOM. AND SO SHE WENT BEYOND THAT.

26 AND SO, I WAS -- I DIDN'T KNOW HOW TO RESPOND.
27 AND THAT WAS VERY SHOCKING TO ME. VERY SHOCKING. AND
28 CONFUSING.

1 Q WHY CONFUSING? OR IS IT THE SAME REASON?

2 A I THINK ADDITIONALLY, BECAUSE AT THE BEGINNING
3 OF THE TDM, THERE WASN'T AN OBJECTIVE STATED, SAYING
4 WE'RE GOING TO -- THIS IS GOING TO BE THE RESULT OF
5 THIS MEETING.

6 AND BASED ON WHAT KIMBERLY TOLD ME, THERE WAS
7 NO -- THERE WAS NOTHING DEFINITIVE LIKE THAT, THAT
8 WAS -- THAT WAS EVEN BROUGHT UP. THAT'S NOT EVEN CLOSE
9 TO WHAT WAS TOLD TO ME. AND SO I WAS CONFUSED. AND SO
10 THEN I BECAME LIKE, I WAS A LITTLE BIT MORE SHOCKED,
11 APPALLED, A BUNCH OF WORDS.

12 Q DID YOU SEE THE BABY GET TRANSFERRED TO HIS
13 FATHER?

14 A I DO.

15 Q YOU WERE THERE?

16 A I WAS THERE.

17 Q AFTER THAT HAPPENS, WHAT DO YOU DO?

18 A I FELT A LITTLE PARALYZED AT FIRST. BUT I
19 TRIED TO CONSOLE MY FRIEND. I DIDN'T THINK ANY OF MY
20 WORDS WERE TAKEN IN ACCOUNT FOR.

21 Q WHAT DO YOU MEAN BY THAT?

22 A WELL, IN THE TDM, YOU KNOW, THEY HAD DIFFERENT
23 DISCUSSIONS, AND -- TRYING TO EXPRESS WHAT LINA HAS
24 DONE TO BE BETTER IN WHATEVER AREAS THAT THEY'VE ASKED
25 HER TO GROW IN.

26 AND BECAUSE I THOUGHT IT WAS A TEAM DECISION
27 MAKING. AND I WAS ALREADY AT A POINT WHERE I DIDN'T
28 KNOW REALLY WHAT THE MEETING WAS FOR. I REALLY FELT

1 PARALYZED. LIKE, I CAN'T SAY ANYTHING, I CAN'T DO
2 ANYTHING, AND THIS IS -- I WORK FOR GOVERNMENT.

3 THIS IS GOVERNMENT. WHAT'S SAID KIND OF GOES.
4 AND I HAD TO RESPECT THAT. AND YOU CAN'T FIGHT IT. SO
5 I JUST CONSOLED HER.

6 Q DO YOU KNOW IF THERE WAS ANY TYPE OF WARRANT
7 OR ANYTHING AT THE TEAM DECISION-MAKING MEETING THAT
8 ALLOWED THE SOCIAL WORKERS TO GIVE BABY RYAN OVER TO
9 HIS FATHER?

10 MS. SWISS: OBJECTION: LEADING, LACKS
11 FOUNDATION.

12 THE COURT: OBJECTION IS OVERRULED, BUT I
13 THINK YOU NEED TO ASK THE QUESTION A LITTLE MORE
14 PRECISELY. WHEN YOU ASKED ABOUT A "WARRANT OR
15 ANYTHING" -- WHY DON'T YOU ASK ABOUT A WARRANT?
16 "ANYTHING" IS A LITTLE BROAD.

17 MS. CHUNG: OKAY. WE JUST WON'T EVEN GO
18 THERE. THANK YOU, YOUR HONOR.
19 BY MS. CHUNG:

20 Q MS. ENNIS, AFTER THE TEAM DECISION-MAKING
21 MEETING, ARE YOU STILL INVOLVED IN MS. DUVAL AND BABY
22 RYAN'S CARE?

23 A YES.

24 Q DO YOU -- WERE YOU ASKED TO MONITOR
25 VISITATIONS?

26 A YES.

27 Q AND WHEN WERE YOU ASKED TO DO THAT?

28 A AT THE TEAM DECISION MEETING.

1 Q SO AFTER THE DECISION TO TAKE THE BABY FROM
2 MS. DUVAL TO MR. MILLS, YOU WERE ASKED TO MONITOR?

3 A THAT'S CORRECT.

4 Q AND WHY DID THEY PICK YOU?

5 MS. SWISS: OBJECTION: LACKS FOUNDATION,
6 CALLS FOR SPECULATION.

7 THE COURT: SUSTAINED.

8 BY MS. CHUNG:

9 Q DO YOU KNOW WHY THEY -- WHY YOU WERE CHOSEN AS
10 A MONITOR?

11 A YES.

12 Q WHY WERE YOU CHOSEN?

13 A BOTH THE MATERNAL AND PATERNAL SIDE AGREED
14 THAT I WAS FIT TO MONITOR THE CHILD, AND THEY BOTH, IN
15 THAT MEETING, TRUSTED ME TO DO THAT.

16 Q AND YOU MONITORED VISITATIONS. CORRECT?

17 A I DID.

18 Q HOW MANY WOULD YOU SAY YOU'VE MONITORED?

19 A TEN TO TWELVE, I THINK.

20 Q MS. ENNIS, RIGHT IN FRONT OF YOU, THAT BINDER,
21 CAN YOU TURN TO EXHIBIT 1088. I THINK IT'S THE VERY
22 FIRST ONE.

23 (PLAINTIFF'S EXHIBIT NO. 1088 WAS
24 MARKED FOR IDENTIFICATION BY THE
25 COURT.)

26 THE WITNESS: YEP, IT IS. OKAY. IT WAS
27 ALREADY OPEN THERE.

28

1 BY MS. CHUNG:

2 Q OKAY. STARTING -- CAN YOU TURN TO
3 PAGE 1088.28, PLEASE. AT THE VERY BOTTOM.

4 A 1088.28?

5 Q YES.

6 A OKAY. I'M THERE.

7 (PLAINTIFF'S EXHIBIT NO. 1088.28 WAS
8 MARKED FOR IDENTIFICATION BY THE
9 COURT.)

10 BY MS. CHUNG:

11 Q DO YOU RECOGNIZE THIS DOCUMENT?

12 A YES.

13 Q WHAT IS IT?

14 A MY DOCUMENTATION FOR NOVEMBER 10TH, BEGINNING
15 AT 4:50 P.M. AND IT LOOKS LIKE ONE OF THE DAYS I
16 MONITORED.

17 Q AND DID YOU CREATE THIS NOTE?

18 A YES.

19 Q AND HOW DID YOU COME ABOUT CREATING THIS NOTE?

20 A I TOOK NOTES ON ELECTRONIC DEVICE. OH, IS
21 THAT WHAT YOU MEANT?

22 Q YES. WHEN DID YOU TAKE THIS NOTE?

23 A I TOOK THE NOTE DIRECTLY STARTING AT 4:50 P.M.

24 Q AT THE VISITATION?

25 A AT THE VISITATION.

26 (PLAINTIFF'S EXHIBIT NO. 1088.29 WAS
27 MARKED FOR IDENTIFICATION BY THE
28 COURT.)

1 BY MS. CHUNG:

2 Q OKAY. AND BASED ON YOUR REVIEW OF
3 EXHIBIT 1088.28 AND 1088.29, IS THIS A TRUE AND
4 ACCURATE COPY OF YOUR NOTE FOR NOVEMBER 10TH?

5 A YES.

6 Q DO YOU RECALL IF THIS WAS THE FIRST VISIT THAT
7 YOU MONITORED?

8 A I BELIEVE IT IS. IT'S -- NOVEMBER 10TH -- I
9 BELIEVE IT IS.

10 Q AND DO YOU KNOW HOW LONG MS. DUVAL'S
11 VISITATIONS WERE?

12 MS. SWISS: OBJECTION, VAGUE AS TO TIME.

13 THE COURT: JUST A MOMENT. ALL RIGHT.
14 SUSTAINED. THE OBJECTION IS, THERE ARE MULTIPLE
15 MEETINGS, SO I GUESS THE OBJECTION IS YOU HAVE TO BE
16 SPECIFIC ABOUT A MEETING.

17 BY MS. CHUNG:

18 Q AT THIS TIME OF THIS VISITATION, DO YOU KNOW
19 HOW LONG MS. RAFAELINA DUVAL HAD?

20 A I BELIEVE IT WAS ONE-AND-A-HALF HOURS. ONE TO
21 ONE-AND-A-HALF HOURS.

22 Q AND CAN YOU TELL US A LITTLE BIT ABOUT WHAT
23 HAPPENS DURING THIS VISITATION?

24 A I DO KNOW THAT BABY RYAN ATE A LOT OF FOOD
25 WHILE THERE.

26 Q I'M SORRY. WHO BROUGHT THE FOOD?

27 MS. SWISS: OBJECTION: LACKS FOUNDATION.

28 THE WITNESS: THE MOTHER.

1 MS. SWISS: CALLS FOR SPECULATION.

2 THE COURT: OVERRULED.

3 THE WITNESS: WHAT WAS THE QUESTION AGAIN?

4 BY MS. CHUNG:

5 Q DO YOU KNOW WHO BROUGHT THAT FOOD FOR BABY
6 RYAN?

7 A YES, I DO.

8 Q WHO?

9 A RAFAELINA, THE MOTHER.

10 Q WHAT KINDS OF FOODS DID SHE BRING ON THIS
11 VISIT?

12 A ON THIS VISIT -- SHE BRINGS LOTS OF FOODS.
13 CINNAMON CRISPS, DIFFERENT FRUITS AND SNACKS LIKE
14 CHEERIOS AND RAISINS AND BANANAS, CUCUMBERS. I THINK
15 SHE BROUGHT PIZZA THAT DAY, AND APPLES.

16 Q OTHER THAN FEEDING BABY RYAN, WHAT ELSE DID
17 YOU OBSERVE WITH MS. DUVAL AND HER SON ON THAT DAY?

18 A I KNOW SHE WAS DOING THIS MOTHER GOOSE ON CD
19 JUST TO KIND OF HAVE SOME INTERACTION. AND, LET'S SEE,
20 AND SHE WAS READING BOOKS, AND PLAYING TOYS -- PLAYING
21 WITH DIFFERENT TOYS, ALL OF THAT.

22 Q DO YOU KNOW -- WHO ELSE WAS PRESENT AT THIS
23 VISITATION?

24 A MOM WAS THERE -- GRANDMOTHER, THE MATERNAL
25 GRANDMOTHER.

26 Q AND IF YOU'LL GO AHEAD AND TURN TO THE NEXT
27 PAGE, 1088.30?

28 A OKAY.

1 (PLAINTIFF'S EXHIBIT NO. 1088.30 WAS
2 MARKED FOR IDENTIFICATION BY THE
3 COURT.)

4 BY MS. CHUNG:

5 Q CAN YOU TELL US WHAT THAT IS?

6 A DO YOU MIND IF I JUST TAKE A QUICK -- TO MAKE
7 SURE I'M ON THE RIGHT PAGE?

8 Q SURE.

9 A IT'S ANOTHER VISIT.

10 Q AND IS THIS A DOCUMENT THAT YOU RECOGNIZE?

11 A YES.

12 Q DID YOU CREATE THIS DOCUMENT?

13 A THAT IS CORRECT.

14 Q THE SAME WAY YOU DID THE ONE FOR
15 NOVEMBER 10TH?

16 A THAT IS CORRECT.

17 Q AND DOES THIS LOOK LIKE AN ACCURATE AND TRUE
18 COPY OF YOUR NOTES FROM NOVEMBER 12TH?

19 A YES.

20 Q TELL US ABOUT THIS VISITATION.

21 A I KNOW WE STARTED LATE ON THIS ONE BECAUSE THE
22 TRANSFER WAS LATE BECAUSE OF SOCIAL WORKER. SAME,
23 SIMILAR TO THE LAST MEETING. THEY PLAYED WITH TOYS,
24 EATING THE SAME FOODS, DOING THE MOTHER GOOSE, HAVING
25 FUN. SHE BRINGS MILK THIS TIME. YOU KNOW, SHE'S DOING
26 A LITTLE BIT MORE.

27 SHE'S SINGING. I KNOW SHE -- I THINK
28 LINA'S -- KIND OF BITES OFF THE SKIN SO THAT THE

1 BABY -- THAT BABY RYAN CAN EAT THE APPLE BETTER, YOU
2 KNOW, MAKING SURE THAT HE CAN EAT SUCCESSFULLY, WHICH
3 IS KIND OF GOOD. PLAYS MORE TOYS.

4 I WROTE HERE THAT HE'S RESPONDING MORE TO
5 KINETIC, LIKE MOVEMENT, ASPECTS. AND THEN IT'S TIME TO
6 LEAVE. AND THEY'RE ACTUALLY HAVING A LOT OF FUN,
7 INTERACTING AND LAUGHING.

8 Q CAN YOU PLEASE TURN TO PAGE 1088.3.

9 A OKAY. I'M THERE.

10 (PLAINTIFF'S EXHIBIT NO. 1088.3 WAS
11 MARKED FOR IDENTIFICATION BY THE
12 COURT.)

13 BY MS. CHUNG:

14 Q DO YOU RECOGNIZE THIS DOCUMENT?

15 A YES.

16 Q WHAT IS IT?

17 A IT LOOKS LIKE A DOCUMENTATION THAT I KEPT -- I
18 TOOK NOTES ON BASED -- THERE LOOKS LIKE THERE WAS A
19 TRANSITION FROM POTENTIAL OFFICES BECAUSE I WAS MEETING
20 A DIFFERENT SOCIAL WORKER. AND I FORWARDED THIS
21 DOCUMENT TO AN ATTORNEY.

22 Q OKAY. DID YOU CREATE THE CONTENT OF THE EMAIL
23 ON THIS DOCUMENT?

24 A YES.

25 Q AND IS THIS ALSO ANOTHER NOTE THAT YOU CREATED
26 FROM THE VISITATION?

27 A YES.

28 Q AND DID YOU -- WHEN DID YOU CREATE THAT BODY

1 OF THE NOTE?

2 A I FORWARDED THE NOTE CREATED ON DECEMBER 3RD
3 AT 3:50 P.M. I FORWARDED THAT TO MYSELF FOR RECORD ON
4 DECEMBER 10TH, BUT IT WAS CREATED ON DECEMBER 3RD.

5 Q AND DOES THIS NOTE LOOK LIKE AN ACCURATE AND
6 TRUE COPY OF WHAT YOU -- WHAT NOTES YOU TOOK ON
7 DECEMBER 3RD?

8 A YES, IT DOES.

9 Q AND DURING THIS VISIT, WAS ANYONE ELSE
10 PRESENT?

11 A IT LOOKS LIKE SUSAN PENDER WAS THERE FOR A
12 MOMENT, PUSHING TO GET SOME DOCUMENTS SIGNED. AND
13 ALICIA, WHO I BELIEVE IS THE NEW SOCIAL -- SORRY -- WHO
14 IS THE NEW SOCIAL WORKER, WAS THERE AS WELL.

15 Q DO YOU RECALL -- STRIKE THAT. DURING THIS
16 VISIT, DID MS. DUVAL AGAIN BRING FOOD FOR HER BABY?

17 A YES.

18 Q HOW WAS THE BABY'S MOOD DURING THIS VISIT?

19 A I DO REMEMBER IN THE BEGINNING IT WAS A LITTLE
20 CHALLENGING BECAUSE THERE WAS -- BECAUSE THERE WAS SO
21 MUCH ACTION WITH THE ADULTS AND THE SOCIAL WORKERS
22 TRYING TO DO ALL THIS PAPERWORK DURING THE VISIT, AND
23 THAT WAS NOT GOOD.

24 AND I EVEN -- I BELIEVE I REQUESTED THAT WE
25 NOT DO THAT. BUT THEN -- AND THEN AFTER THAT -- I'M
26 SORRY, YOU WERE ASKING ABOUT THE BABY'S MOOD OR THE
27 VISIT?

28 Q THE BABY'S MOOD.

1 A OKAY. THANK YOU. THAT THE BABY WAS HAVING
2 FUN AND SMILING AND IN A PRETTY GOOD MOOD.

3 Q CAN YOU NOW TURN FOR ME TO PAGE 1088.31?

4 A I'M THERE.

5 (PLAINTIFF'S EXHIBIT NO. 1088.31 WAS
6 MARKED FOR IDENTIFICATION BY THE
7 COURT.)

8 BY MS. CHUNG:

9 Q DO YOU RECOGNIZE THIS DOCUMENT?

10 A YES, I DO. SORRY THAT I'M LAUGHING.

11 Q WHAT IS IT?

12 A BECAUSE THAT WAS A VERY CHALLENGING DAY BEING
13 AT -- MEETING AT THE DCFS OFFICE, WITH WHAT HAPPENED.

14 Q WHY WAS IT CHALLENGING?

15 A BECAUSE MYSELF AND ANOTHER MONITOR THAT WAS
16 SENT THERE THE SAME DAY, WE WERE BOTH SUPPOSED TO
17 MONITOR THIS VISIT, AND THEN THE VISIT DIDN'T HAPPEN.
18 I BELIEVE BECAUSE THEY SAID IT WAS SUPPOSED TO BE IN
19 TORRANCE.

20 AND I APOLOGIZE FOR THE CHUCKLE. IT WAS
21 JUST -- I GUESS I JUST COULD NOT BELIEVE THE
22 MISCOMMUNICATION INVOLVING THIS CHILD.

23 Q SO THERE WAS NO VISIT ON DECEMBER 8TH?

24 A I DO NOT BELIEVE THERE WAS.

25 Q AND THIS NOTE -- YOU CREATED THIS NOTE.
26 CORRECT?

27 A I DID, AND I APOLOGIZE THAT SOME WORDS WERE
28 NOT SPELL CHECKED CORRECTLY.

1 Q OKAY. DID YOU CREATE THIS NOTE ON THAT DAY,
2 DECEMBER 8TH?

3 A I DID.

4 Q AND THIS, AGAIN, LOOKS LIKE A TRUE AND
5 ACCURATE COPY, EVEN WITH THE MISSPELLINGS?

6 A THAT IS CORRECT.

7 Q BECAUSE SHE DIDN'T HAVE THE VISIT ON
8 DECEMBER 8TH, WAS THERE A FOLLOW-UP VISIT?

9 A THERE WASN'T A FOLLOW-UP DATE, BUT AN EXTENDED
10 TIME.

11 Q OKAY. CAN YOU NOW TURN FOR ME TO
12 PAGE 1088.33, PLEASE.

13 (PLAINTIFF'S EXHIBIT NO. 1088.33 WAS
14 MARKED FOR IDENTIFICATION BY THE
15 COURT.)

16 THE WITNESS: I'M THERE.

17 BY MS. CHUNG:

18 Q CAN YOU PLEASE TELL US WHAT THIS IS?

19 A CAN YOU REPEAT YOUR QUESTION, PLEASE?

20 Q WHAT IS THAT DOCUMENT IN FRONT OF YOU?

21 A IT'S A DOCUMENT THAT -- IT'S SOMETHING THAT I
22 DOCUMENTED, OF A LARGE AMOUNT OF CONFUSION AND
23 MISCOMMUNICATION IN TRYING TO WORK THROUGH THE
24 MISCOMMUNICATION WITH DCFS REGARDING MONITORING.

25 Q SO, WE JUST TALKED ABOUT DECEMBER 8TH, A VISIT
26 THAT DIDN'T OCCUR. IS THAT CORRECT?

27 A YES.

28 MS. SWISS: OBJECTION: LEADING.

1 THE COURT: OVERRULED.

2 THE WITNESS: I'M SORRY. CAN YOU REPEAT THAT,
3 PLEASE?

4 BY MS. CHUNG:

5 Q WE JUST TALKED ABOUT DECEMBER 8TH, A
6 VISITATION THAT DID NOT OCCUR?

7 A THAT IS CORRECT.

8 Q NOW, WE'RE ON DECEMBER 10TH. IS THIS A NOTE
9 THAT YOU CREATED?

10 A YES.

11 Q AND DID YOU CREATE THIS AT THE TIME THAT YOU
12 WERE COMMUNICATING WITH THE SOCIAL WORKERS?

13 A YES. THAT SAME DAY.

14 Q AND DOES IT LOOK LIKE AN ACCURATE AND TRUE
15 COPY OF YOUR NOTES?

16 A YES.

17 Q SO NOW WE'RE ON DECEMBER 10TH. AND YOU'RE
18 SPEAKING TO SOCIAL WORKERS. WHAT WAS THE
19 MISCOMMUNICATION ABOUT?

20 A I REMEMBER HAVING A VERY STRONG CONVERSATION
21 WITH KIMBERLY. I SPOKE WITH DIFFERENT PEOPLE THAT DAY.
22 THE STRONGEST CONVERSATION I HAD WAS WITH
23 KIMBERLY ROGERS BECAUSE OF WHAT SHE COMMUNICATED TO ME
24 THAT SHE DID NOT COMMUNICATE TO HER STAFF.

25 AND THAT THAT MISCOMMUNICATION CREATED A LOT
26 MORE INCONVENIENCE AND PROBLEMS FOR HOW WE'RE SUPPOSED
27 TO DO THE MONITORING, AND WHAT SHOULD BE DONE.

28 AND THEN, ME COMMUNICATING WITH THE PATERNAL

1 FATHER, RYAN MILLS, THERE WAS JUST -- THERE -- WE WERE
2 NOT IN THE SAME -- ALL FOUR OF US, BETWEEN KIMBERLY,
3 SUSAN, RYAN MILLS, THE PATERNAL FATHER AND MYSELF, WE
4 WERE JUST NOT ON THE SAME PAGE.

5 AND IT WAS, IN MY OPINION, VERY DISASTROUS OF
6 A SITUATION WHEN IT INVOLVED A CHILD'S, YOU KNOW...

7 Q THIS NOTE DOCUMENTS YOUR INTERACTION AND
8 CONVERSATION WITH THE SOCIAL WORKERS ON THIS DATE.
9 CORRECT?

10 A THAT IS CORRECT.

11 Q DID YOU EVER INFORM SOCIAL WORKERS THAT YOU
12 DIDN'T WANT TO BE A MONITOR?

13 A CAN YOU ASK THAT QUESTION AGAIN?

14 Q DID YOU EVER TELL THE SOCIAL WORKERS THAT YOU
15 DID NOT WANT TO BE A MONITOR FOR RYAN -- BABY RYAN?

16 A NO, I NEVER TOLD THEM THAT.

17 Q AND THIS NOTE ON DECEMBER 10TH -- LET ME BACK
18 UP. WHEN DID YOU FIND OUT THAT THE SOCIAL WORKERS
19 FORMED AN IMPRESSION THAT YOU DIDN'T WANT TO BE A
20 MONITOR?

21 MS. SWISS: OBJECTION: LACKS FOUNDATION.

22 THE COURT: SUSTAINED.

23 BY MS. CHUNG:

24 Q MS. ENNIS?

25 A YES.

26 Q AT SOME POINT, DID YOU COME TO FIND THAT THE
27 SOCIAL WORKERS FORMED AN IMPRESSION THAT YOU DIDN'T
28 WANT TO MONITOR THE VISITS?

1 A YES.

2 Q AND WHEN WAS THAT?

3 A THE ACTUAL DATE?

4 Q YES. IF YOU RECALL, OR...

5 A I APOLOGIZE. IT IS ON THIS DATE,
6 DECEMBER 10TH, WHEN I HAD THE CONVERSATION -- ONE OF
7 THE CONVERSATIONS.

8 Q WHO WAS THAT WITH? MS. ENNIS?

9 A YES.

10 Q IF IT HELPS, IT'S TOWARDS THE BOTTOM.

11 A I'M SEEING THAT RIGHT NOW. I JUST WANT TO
12 MAKE SURE THAT I COMMUNICATE THIS CORRECTLY.

13 KIMBERLY PENDER, I MEAN -- I APOLOGIZE.
14 KIMBERLY ROGERS MADE A COMMENT THAT SUSAN PENDER WROTE
15 DOWN IN A FILE THAT -- THAT I WOULD BE IN CONFLICT OF
16 MONITORING.

17 Q DID YOU EVER SAY THAT TO SUSAN PENDER?

18 A I DID NOT.

19 Q SO IF IT -- A FILE STATED THAT, THAT WOULD BE
20 A LIE?

21 A ABSOLUTELY.

22 MS. SWISS: OBJECTION: ARGUMENTATIVE. ALL
23 BASED ON HEARSAY.

24 THE COURT: SUSTAINED.

25 BY MS. CHUNG:

26 Q DID YOU HAVE ANY CONFLICTS BEING A MONITOR FOR
27 BABY RYAN?

28 A NO. NO. I DID NOT.

1 Q DID YOU CONTINUE TO MONITOR VISITS WITH BABY
2 RYAN AFTER DECEMBER 10TH?

3 A YES.

4 Q AND IF YOU'LL TURN FOR ME TO PAGE 1088.35.
5 (PLAINTIFF'S EXHIBIT NO. 1088.35 WAS
6 MARKED FOR IDENTIFICATION BY THE
7 COURT.)

8 THE WITNESS: I'M THERE.

9 BY MS. CHUNG:

10 Q CAN YOU TELL US IF THIS IS THE NEXT VISIT THAT
11 YOU MONITORED?

12 A YES.

13 Q AGAIN, IS THIS A DOCUMENT THAT -- DO YOU
14 RECOGNIZE THIS DOCUMENT?

15 A YES.

16 Q DID YOU CREATE IT?

17 A YES, I DID.

18 Q AND WHAT IS THIS?

19 A IT WAS ONE OF THE VISITS THAT I MONITORED
20 BETWEEN BABY RYAN AND THE MATERNAL -- MOTHER -- THE
21 MOTHER.

22 Q DID YOU CREATE THIS DOCUMENT AT THE TIME OF
23 THE VISIT?

24 A I DID.

25 Q AND DOES IT LOOK LIKE AN ACCURATE AND TRUE
26 COPY OF YOUR NOTE FOR DECEMBER 11TH?

27 A YES, IT DOES.

28 Q WAS THE BABY LAUGHING AND SMILING AT THIS

1 VISIT?

2 A YES.

3 Q DID MS. DUVAL BRING FOOD?

4 A YES, SHE DID.

5 Q CAN YOU TURN FOR ME TO PAGE 1088.36.

6 (PLAINTIFF'S EXHIBIT NO. 1088.36 WAS

7 MARKED FOR IDENTIFICATION BY THE

8 COURT.)

9 THE WITNESS: I'M THERE.

10 BY MS. CHUNG:

11 Q DO YOU RECOGNIZE THIS DOCUMENT?

12 A YES, I DO.

13 Q AND WHAT IS IT?

14 A THESE ARE MY NOTES FOR THE VISIT THAT I

15 MONITORED ON DECEMBER 15TH AT 3:33 P.M.

16 Q IS THIS THE NOTE THAT YOU CREATED?

17 A YES, IT IS.

18 Q DID YOU -- WHEN DID YOU CREATE THIS NOTE?

19 A AT THE TIME OF THE VISIT THAT I MONITORED.

20 Q AND DOES IT LOOK LIKE AN ACCURATE AND TRUE

21 COPY OF YOUR NOTE FOR DECEMBER 15TH?

22 A YES, IT DOES.

23 Q TELL US A LITTLE BIT ABOUT HOW YOU DOCUMENT

24 THESE NOTES DURING YOUR MONITORING VISITATIONS.

25 A WELL, MY FIRST CHOICE TO USE AN ELECTRONIC
26 DEVICE IS THAT I DIDN'T HAVE TO RE-TRANSCRIBE MY NOTES,
27 AND I COULD HAVE THEM RIGHT THERE SAVED ON A DEVICE.

28 AS FAR AS I HOW I CHOSE TO -- THE WORDS I USED

1 TO TAKE MY NOTES, I TRIED TO BE AS CLEAR AND OBJECTIVE
2 AS POSSIBLE. I TRIED TO BE AS ACCURATE OF THE ACTION
3 IN THE ACTUAL VISIT.

4 AND I TRIED TO DO IT AS OBJECTIVELY AS
5 POSSIBLE, NOT SAYING, YOU KNOW, USING THE PROPER WORDS
6 AS MUCH AS POSSIBLE AND TAKING INTO ACCOUNT ANY KIND OF
7 TRANSITION.

8 NOTE, "THE BABY MOVED HERE," JUST BEING VERY
9 SPECIFIC, KNOWING THAT IT'S IMPORTANT TO NOTE HOW
10 EVERYONE THAT'S IN THAT VISIT INTERACTS AND WHAT THEY
11 DO. JUST TAKING ALL THAT INTO ACCOUNT, BECAUSE IT'S
12 IMPORTANT.

13 Q AND WAS THAT SOMETHING THAT YOU LEARNED FROM
14 THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES?

15 A NO, IT'S NOT.

16 Q DID -- WHEN THEY ASKED YOU TO -- WHEN THE
17 FAMILIES ASKED YOU TO MONITOR THE VISITS, WERE YOU
18 GIVEN ANY INFORMATION ON HOW TO MONITOR A VISIT?

19 A NO, I WAS NOT. WELL --

20 Q GO AHEAD.

21 A LATER, DURING MY VISITS, I BELIEVE I WAS GIVEN
22 A DOCUMENT BY SUSAN PENDER, LATER, KIND OF LATER IN THE
23 GAME, THAT THERE WERE A COUPLE OF DIFFERENT RULES OF
24 ENGAGEMENT THAT I NEED TO WATCH OUT FOR.

25 BUT NOT NECESSARILY TAKE NOTES. AND THOSE
26 ACTIONS COULD BE IN MY NOTES, BUT MORE RULES OF
27 ENGAGEMENT.

28 Q ON HOW TO --

1 A TO MONITOR.

2 Q OKAY. THANK YOU.

3 THE COURT: MS. CHUNG, WE'RE GOING TO TAKE THE
4 NOON RECESS AT THIS TIME. WE'LL RESUME AT 1:30. ALL
5 JURORS PLEASE REMEMBER THE ADMONITION. HAVE NO
6 COMMUNICATION WITH ANYONE ABOUT ANY SUBJECT OR ISSUE OR
7 PERSON INVOLVED IN THIS CASE. AND DO NOT FORM NOR
8 EXPRESS ANY OPINION ON ANY SUBJECT. WE'RE IN RECESS.

9 (LUNCH WAS TAKEN FROM 12:00 P.M. TO 1:32 P.M.)

10 THE COURT: LET'S GET EVERYBODY IN.

11 (JURY PRESENT)

12 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
13 COURT IN THE PRESENCE OF THE JURY)

14 THE COURT: WE'RE ON THE RECORD. EVERYONE MAY
15 BE SEATED. EVERYONE IS PRESENT. MS. CHUNG, YOU MAY
16 CONTINUE.

17 MS. CHUNG: THANK YOU, YOUR HONOR.

18 BY MS. CHUNG:

19 Q MS. ENNIS, BEFORE LUNCH, WE WERE DISCUSSING
20 SOME OF YOUR VISITATION NOTES. I THINK WE WERE ON
21 DECEMBER 15TH.

22 A YES.

23 Q PAGE NUMBER 1088.36. CORRECT?

24 A YES.

25 Q THIS PROCESS OF YOU TAKING NOTES WAS THE
26 QUESTION. HOW DO YOU GO ABOUT TAKING THE NOTES IF
27 YOU'RE SUPPOSED TO BE MONITORING THE VISIT?

28 A THE WAY I DID THAT IS, THERE'S A COUPLE

1 DIFFERENT THINGS FOR ME. HOW I DID THAT IS, WHEN I SAW
2 AN ACTION, I WOULD TRY TO IMMEDIATELY DO THAT.

3 IF THERE WAS WORDS OR RESPONSES THAT I HEARD,
4 THE AUDITORY, I WOULD THEN KEY IN THAT -- AND I FELT
5 LIKE I HAD A GOOD ENOUGH JUDGMENT IF IT WAS THE BABY
6 LAUGHING, OR IF IT WAS A MALE, FEMALE VOICE LAUGHING, I
7 WOULD NOTATE THAT.

8 SO I WOULD TRY TO DO THAT TO MY BEST ABILITY,
9 TO TRACK THE VISUAL ALONG WITH THE AUDITORY AND NOTES.

10 Q AND YOU DID THAT ON YOUR PHONE. IS THAT
11 RIGHT?

12 A I DID IT ON MY BLACKBERRY, YES.

13 Q TAKING A LOOK AT THE EXHIBIT IN FRONT OF YOU,
14 1088.36, CAN YOU TELL ME THE MOOD OF THIS PARTICULAR
15 VISIT WITH THE -- MS. DUVAL AND HER SON?

16 A ALTHOUGH BABY RYAN WAS SNEEZING, IT SEEMED IN
17 MY -- WHAT I WAS EXPERIENCING IS THAT IT WAS A GOOD
18 MOOD. THERE WAS -- THEY WERE STILL PLAYING AND
19 LAUGHING AND SINGING. THERE WAS DEFINITELY THE MOOD OF
20 GIGGLING.

21 Q THANK YOU. CAN YOU PLEASE TURN TO PAGE
22 1088.37, PLEASE.

23 A I'M THERE.

24 (PLAINTIFF'S EXHIBIT NO. 1088.37 WAS
25 MARKED FOR IDENTIFICATION BY THE
26 COURT.)

27 BY MS. CHUNG:

28 Q CAN YOU TELL US WHO WAS PRESENT AT THIS

1 MEETING?

2 A SO BEFORE THE VISIT, THERE WAS INTERACTION
3 WITH THE PATERNAL GRANDFATHER.

4 Q AND THAT'S WHEATON MILLS?

5 A THE PATERNAL GRANDFATHER IS WHEATON MILLS.
6 AND THEN I DID MEET ANOTHER SOCIAL WORKER NAMED
7 CANDIS NELSON AS WELL, THAT DAY.

8 Q IN -- ACTUALLY, DO YOU REMEMBER WHAT
9 CANDIS NELSON LOOKS LIKE?

10 A NOT DEFINITELY.

11 Q THIS WAS THE FIRST TIME YOU MET MS. NELSON?

12 A YES.

13 Q THIS DOCUMENT, 1088.37 TO 1088.38, DID YOU
14 CREATE THIS DOCUMENT -- OR, THE NOTE?

15 A YES, I DID.

16 Q AND UNDER WHAT CIRCUMSTANCES DID YOU CREATE
17 THE NOTE? WHY?

18 A WITH THE UNDERSTANDING THAT I WAS MONITORING A
19 VISIT FOR DCFS.

20 (PLAINTIFF'S EXHIBIT NO. 1088.38 WAS
21 MARKED FOR IDENTIFICATION BY THE
22 COURT.)

23 BY MS. CHUNG:

24 Q AND DID YOU -- DID YOU -- SORRY. DID YOU
25 PREPARE THIS NOTE AT OR AROUND THE TIME OF THE VISIT?

26 A BEFORE THE VISIT AND DURING THE VISIT.

27 Q DOES IT ACCURATELY REFLECT YOUR NOTES FROM THE
28 DECEMBER 22ND VISIT?

1 A YES, IT DOES.

2 MR. MCMILLAN: SHE'S HERE, YOUR HONOR.

3 THE COURT: DO YOU WANT TO INTERRUPT?

4 MR. MCMILLAN: IF WE MIGHT.

5 THE COURT: MS. ENNIS, WE HAVE ANOTHER WITNESS
6 WE'RE GOING TO PUT ON THE STAND RIGHT NOW. SO DON'T GO
7 AWAY.

8 THE WITNESS: OKAY. I'LL TRY NOT TO.

9 THE COURT: THANK YOU VERY MUCH.

10 THE WITNESS: ABSOLUTELY.

11 THE COURT: WE'RE GOING TO HAVE YOU WAIT
12 OUTSIDE IN THE HALLWAY, IF YOU WILL.

13 THE WITNESS: ABSOLUTELY.

14 THE COURT: THANK YOU.

15 MR. MCMILLAN: WE'D LIKE TO CALL DR. GILL,
16 DR. JASMEET GILL.

17 THE COURT: ALL RIGHT.

18

19 JASMEET GILL, M.D.,

20 WAS CALLED AS A WITNESS AND, HAVING BEEN FIRST DULY
21 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

22

23 THE COURT: AND THANK YOU VERY MUCH. AND GO
24 AHEAD, MR. MCMILLAN.

25 MR. MCMILLAN: THANK YOU, YOUR HONOR.

26

27

28

1 DIRECT EXAMINATION

2 BY MR. MCMILLAN:

3 Q DR. GILL, FIRST, THANK YOU FOR COMING DOWN
4 THIS AFTERNOON. I KNOW YOU HAVE A BUSY PRACTICE SO
5 WE'LL TRY TO BE AS EFFICIENT AS WE CAN TO GET YOU
6 MOVING ON OUT OF HERE.7 WHY DON'T WE START BY ASKING YOU WHAT YOU DO
8 AS A PROFESSION.9 A I'M A PEDIATRICIAN PRACTICING HERE IN PASADENA
10 AREA.11 Q OKAY. AND AT SOME POINT IN TIME, YOU SHARED A
12 PRACTICE, OR HAD SOME SORT OF JOINT OFFICE WITH
13 DR. YIM?

14 A YES, I DID.

15 Q OKAY. DO YOU RECALL ROUGHLY WHEN THAT WAS?

16 A WE PRACTICED THERE IN THAT OFFICE -- I WAS
17 THERE SINCE 2007 ONWARDS. SO I WAS WITH HER A COUPLE
18 OF YEARS.

19 Q OKAY. WERE YOU WITH HER IN NOVEMBER OF 2009?

20 A YES, I WAS.

21 Q WE'RE HERE TO TALK TODAY ABOUT YOUR
22 INTERACTIONS, IF ANY, WITH MS. RAFAELINA DUVAL. OKAY?

23 A OKAY.

24 Q DO YOU RECOGNIZE MS. DUVAL?

25 A NO.

26 Q YOU AND I HAVE HAD A FEW CONVERSATIONS ON THE
27 TELEPHONE?

28 A YES.

1 Q DO YOU REMEMBER WHAT WE TALKED ABOUT?

2 A YES. YOU -- YOU WERE ASKING ME ABOUT THIS
3 CASE. AND YOU WANTED ME TO COME TO THE COURT AND TELL
4 THE TRUTH ABOUT MY PATIENT ENCOUNTER WITH THIS
5 PARTICULAR PATIENT.

6 Q OKAY. AND DO YOU REMEMBER DURING THAT
7 TELEPHONE CONVERSATION THAT WE HAD, I ASKED YOU SOME
8 PRETTY SPECIFIC QUESTIONS.

9 A YES.

10 Q DO YOU REMEMBER WHETHER OR NOT I ASKED YOU IF
11 YOU HAD EVER SPOKEN WITH A SOCIAL WORKER BY THE NAME OF
12 SUSAN PENDER?

13 A I HAVE NOT SPOKEN TO A SOCIAL WORKER, NOT THAT
14 DO I RECALL, BUT IF I DID, I WOULDN'T BE ABLE TO GIVE
15 ANY INFORMATION TO THE SOCIAL WORKER BECAUSE THIS WAS
16 NOT MY PATIENT.

17 Q WAS THE BABY RYAN EVER YOUR PATIENT?

18 A THEY MADE AN APPOINTMENT. THE PARENTS DID
19 MAKE AN APPOINTMENT WITH MY NURSE. AND WHEN THEY CAME
20 IN AND THE NURSE HANDED ME THE CHART, I SAW DR. YIM'S
21 NAME ON THE CHART AS A PHYSICIAN FOR THAT CHILD.

22 SO I WENT INSIDE THE ROOM, AND I ASKED THE
23 MOTHER AND THE PARENTS, WITH THE FAMILY, THAT, WHY ARE
24 YOU NOT SEEING DR. YIM? BECAUSE DR. YIM PRACTICED IN
25 THE SAME OFFICE ON THE RIGHT SIDE, AND I'M ON THE LEFT
26 SIDE.

27 AND THEY SAID DR. YIM WAS NOT ABLE TO PROVIDE
28 SERVICES FOR OUR CHILD ANYMORE. SO I TOLD HER THAT I

1 SHARED THE CALL WITH HER. WE ARE IN THE SAME PRACTICE.

2 WE SHARE THE CALL EVERY DAY, SO IF DR. YIM
3 CANNOT TAKE YOU ON AS A PATIENT OR CANNOT PROVIDE ANY
4 CARE, THEN I WILL NOT BE ABLE TO TAKE YOU AS MY PATIENT
5 BECAUSE IT WILL BE CONFLICT OF INTEREST.

6 BECAUSE THAT DAY DR. YIM WAS ON CALL AT
7 5:00 P.M., AFTER HOURS, FOR ALL THE PATIENTS IN THE
8 PRACTICE.

9 SO WE ARE FIVE DOCTORS IN THE PRACTICE, AND IF
10 ONE DOCTOR CANNOT SEE A PATIENT DUE TO ANY REASON, ALL
11 OF US WOULD NOT BE ABLE TO HELP THAT FAMILY OR TAKE THE
12 PATIENT. SO THEY HAVE TO GO TO ANOTHER MEDICAL
13 PRACTICE.

14 Q BEFORE THAT DAY, WHEN THEY CAME IN WITH BABY
15 RYAN TO SEE YOU, HAD YOU EVER SEEN BABY RYAN BEFORE?

16 A NO.

17 Q HAD YOU EVER GIVEN MS. DUVAL ANY SPECIFIC
18 INSTRUCTIONS ABOUT WHAT TO FEED, OR HOW TO CARE FOR THE
19 BABY, EVER?

20 A NO. AS I SAID, THIS WAS NOT MY PATIENT. SO I
21 WOULD NOT BE ABLE TO GIVE ANY INSTRUCTIONS TO THIS
22 PATIENT.

23 Q WELL, IF SUSAN PENDER --

24 A MM-HMM.

25 Q -- THE SOCIAL WORKER, HAD SAID THAT SHE CALLED
26 YOU ON THE PHONE, AND SHE SAID THAT YOU TOLD HER IN
27 THAT TELEPHONE CONVERSATION THAT THE FAMILY HAD BEEN
28 DISMISSED FROM YOUR PRACTICE.

1 AND THE MAIN REASON FOR THAT WAS THAT THE
2 MOTHER -- THE MOTHER -- HAD BEEN GIVEN SPECIFIC
3 DIRECTIONS IN TERMS OF FEEDING THE CHILD.

4 AND IT WAS EVIDENT TO YOU THAT YOUR DIRECTIVES
5 WERE NOT BEING FOLLOWED BY THE MOTHER, TO HELP THE
6 CHILD MAINTAIN AND ATTAIN HEALTHY GROWTH PATTERNS.

7 IS THAT SOMETHING YOU'D REMEMBER?

8 A NO.

9 MR. GUTERRES: OBJECTION: SPECULATION.

10 THE WITNESS: I --

11 THE COURT: JUST A MOMENT.

12 THE WITNESS: I DO NOT --

13 THE COURT: JUST A MOMENT.

14 THE WITNESS: I DO NOT --

15 THE COURT: JUST A MOMENT, PLEASE. THE
16 OBJECTION IS OVERRULED.

17 BY MR. MCMILLAN:

18 Q LET ME ASK THAT A LITTLE BIT DIFFERENTLY
19 ANYWAY. YOU'D SAID THAT YOU NEVER TREATED THIS CHILD?

20 A NO, I DID NOT.

21 Q YOU NEVER GAVE MOTHER ANY INSTRUCTIONS?

22 A NO.

23 Q SO IF SOMEBODY COMES IN AND SAYS THAT YOU TOLD
24 THEM THAT YOU DID, AND THAT THE REASON THAT YOU
25 DISMISSED THEM FROM YOUR PRACTICE WAS BECAUSE MOTHER
26 REFUSED TO FOLLOW YOUR INSTRUCTIONS AND IT WAS EVIDENT
27 TO YOU, YOU WOULD DENY THAT CONVERSATION HAPPENED?

28 A YES.

1 MR. GUTERRES: OBJECTION: SPECULATION,
2 INCOMPLETE HYPOTHETICAL, LACKS FOUNDATION.

3 THE COURT: OVERRULED.

4 MR. MCMILLAN: THANK YOU, DR. YIM. I HAVE NO
5 FURTHER QUESTIONS.

6 THE COURT: DO YOU HAVE QUESTIONS OF DR. GILL?

7 MR. MCMILLAN: DR. GILL, I AM SO SORRY.

8 THE COURT: MR. GUTERRES.

9 MR. GUTERRES: THANK YOU, YOUR HONOR.

10

11

CROSS-EXAMINATION

12

BY MR. GUTERRES:

13

Q GOOD AFTERNOON, DR. GILL.

14

A GOOD AFTERNOON.

15

Q WHEN DID YOU HAVE THIS CONVERSATION WITH

16

MR. MCMILLAN?

17

A REGARDING THE PATIENT?

18

Q YES. THIS CONVERSATION YOU WERE JUST

19

TESTIFYING ABOUT.

20

A I HAD TALKED TO MR. MCMILLAN ABOUT TWO, THREE

21

TIMES ON THE PHONE SO FAR. ONE WAS YESTERDAY EVENING

22

WHEN HE WANTED TO CONFIRM THAT I WILL BE ABLE TO COME

23

TO THE COURT FOR SURE. AND I DID CONFIRM WITH HIM

24

THAT.

25

AND THEN HE ASKED ME TO TELL THE TRUTH,

26

WHATEVER I HAD WITH THE PATIENT, THE INTERACTION, AND I

27

SAID I WOULD. AND ALSO, WHEN I WAS SUBPOENAED, I HAD

28

CALLED THEIR OFFICE TO ASK THE REASON, AS THIS WAS NOT

1 MY PATIENT.

2 SO THEY HAD EXPLAINED TO ME THAT SINCE THE
3 PATIENT HAD MADE AN APPOINTMENT WITH YOU, SO THEY --
4 YOU WILL HAVE TO COME AND TESTIFY. AND I AGREED TO
5 THAT.

6 Q SO, SO FAR YOU'VE IDENTIFIED TWO SEPARATE
7 CONVERSATIONS THAT YOU HAD A CONVERSATION WITH
8 MR. MCMILLAN. CORRECT?

9 A AND MAYBE ONE TIME MORE BECAUSE THIS WAS
10 POSTPONED. SO, YOU KNOW, WE HAD THIS CASE SET UP
11 EARLIER FOR THE TESTIMONY, EARLIER, AND THEN THEY HAD
12 TO MOVE, SO HE HAD CALLED ME THEN ALSO.

13 Q AND ALL THREE OCCASIONS, THOSE WERE ALL
14 TELEPHONIC?

15 A YES, TELEPHONIC.

16 Q AND WITH MR. MCMILLAN?

17 A YES.

18 Q HAVE YOU HAD ANY CONVERSATIONS WITH ANY OTHER
19 ATTORNEYS?

20 A NO. MAYBE HIS ASSISTANTS WHO PICKED UP THE
21 PHONE ONE OR TWO TIMES WHEN I'D CONTACT HIM, BUT MAINLY
22 DISCUSSIONS WAS WITH HIM ONLY.

23 Q ANY FACE-TO-FACE MEETINGS WITH MR. MCMILLAN
24 BEFORE TODAY?

25 A NO.

26 Q NOW, YOU INDICATED, DR. GILL, THAT AT SOME
27 POINT IN TIME, BACK IN 2009, YOU WERE SHARING AN OFFICE
28 SUITE WITH DR. YIM. IS THAT CORRECT?

1 A YES, IT WAS THE OFFICE. FIVE DOCTORS WERE
2 THERE IN AN OFFICE. WE SHARED THE OFFICE SPACE, BUT WE
3 WERE OUR OWN PRACTICES.

4 Q BUT ON OCCASION, IF I UNDERSTAND YOU
5 CORRECTLY, DR. YIM MIGHT BE ON CALL FOR YOU. IS THAT
6 CORRECT?

7 A YES. YES. WE SHARED CALL FOR OUR PATIENTS
8 AFTER HOURS, AND ON THE WEEKENDS.

9 Q AND COULD YOU EXPLAIN TO ME WHAT THAT MEANS?

10 A THAT MEANS THAT AFTER 5:00 P.M. WHEN THE
11 OFFICE ENDED, ONE OF THE DOCTORS IN THE PRACTICE WILL
12 TAKE THE CALLS FOR ALL THE PATIENTS.

13 WHOEVER PARENTS CALL FOR ANY REASON, IF THEIR
14 CHILD WAS SICK, AND THEN YOU HAVE TO GIVE ADVICE OR ASK
15 THEM TO GO TO THE URGENT CARE, ER, OR TAKE THE MEDICINE
16 IF NEEDED, OR COME FOR FOLLOW-UP TOMORROW MORNING WITH
17 THEIR DOCTOR.

18 SO IT'S LIKE TO GUIDE -- THE GUIDANCE
19 REGARDING THE PATIENT'S CARE.

20 Q SO FOR EXAMPLE, IF I UNDERSTAND YOUR ANSWER
21 CORRECTLY, ONE OF DR. YIM'S PATIENTS --

22 A MM-HMM.

23 Q -- CALLS, AND IT'S AFTER HOURS, AND IT'S YOUR
24 TURN TO BE ON CALL, YOU MIGHT ANSWER THAT PHONE CALL
25 AND ANSWER ANY QUESTIONS AND GIVE ADVICE?

26 A YES.

27 Q ALTHOUGH THAT'S NOT YOUR PATIENT. TRUE?

28 A YES.

1 Q AND THAT WOULD HAPPEN ON OCCASION. IS THAT
2 CORRECT?

3 A YES.

4 Q BUT AS FAR AS YOU ARE AWARE, YOU NEVER DID ANY
5 OF THAT WITH REGARD TO BABY RYAN?

6 A NO. NOT THIS PATIENT.

7 Q AND HOW DO YOU KNOW THAT?

8 A BECAUSE WHENEVER -- WE DOCUMENT EACH CALL, AND
9 NEXT DAY WE KIND OF GIVE THE SIGN-OUT TO THE DOCTOR
10 CONCERNED.

11 SO I WOULD HAVE TO GO TO DR. YIM, AND TELL HER
12 THAT BABY RYAN'S MOM CALLED ME AND THIS AND THIS TIME,
13 AND THIS WAS THE CONCERN, AND THIS IS THE ADVICE GIVEN,
14 AND I WANT YOU TO FOLLOW UP ON THIS PATIENT TODAY.

15 SO WE, WE DO A COMPLETE SIGN-OUT, AND ALSO IT
16 HAS TO BE DOCUMENTED IN THE CHART. SO IF ANYBODY
17 REVIEWED THE CHART SIX MONTHS LATER, SO THEY HAD LIKE A
18 COMPLETE LIST OF THINGS THAT WERE REVIEWED ON THE PHONE
19 OR WHAT ADVICE WAS GIVEN.

20 OR, YOU KNOW, ANY TREATMENT, ADVICE, OR ANY
21 FOLLOW-UP SUGGESTED. SO EVERYTHING IS KIND OF VERY
22 DETAILED WITH US REGARDING THE PATIENTS. SO I DO NOT
23 REMEMBER GOING TO DR. YIM REGARDING BABY RYAN.

24 Q SO ARE YOU GOING STRICTLY BY MEMORY, OR DID
25 YOU ACTUALLY REVIEW THE CHART?

26 A NO, NO, IT'S EVERYTHING LIKE I TOLD YOU. WE
27 HAVE TO WRITE A NOTE AND PUT IT IN THE CHART. IF WE
28 TAKE A CALL, WE HAVE TO WRITE A LITTLE NOTE AND WE HAVE

1 TO STICK IT IN THE CHART. AND ALSO, GO AND PERSONALLY
2 GIVE A SIGN-OUT TO THE PHYSICIAN.

3 Q DR. GILL --

4 A SO I WILL REMEMBER IF I DID IT WITH DR. YIM
5 REGARDING THIS PATIENT.

6 Q SO IS YOUR ANSWER DUE TO YOUR MEMORY OF NOT
7 HAVING DONE THAT, OR DID YOU REVIEW THE CHART?

8 A I, FROM THE MEMORY, IF I SEE A PATIENT, I TALK
9 TO, I WILL REMEMBER. YES. FROM THE MEMORY, I DO
10 REMEMBER THAT I DID NOT TALK TO DR. YIM REGARDING THIS
11 PATIENT.

12 Q SO YOU HAVE NOT REVIEWED BABY RYAN'S CHART.
13 CORRECT?

14 A NOT RECENTLY. BACK THEN, I DID. WHEN THEY
15 HAD COME TO SEE ME, I HAD REVIEWED THE CHART ON THAT
16 DATE. BUT AFTERWARDS, NO.

17 Q IS THAT THE ONLY TIME YOU EVER REVIEWED BABY
18 RYAN'S CHART?

19 A YES, SIR.

20 Q AND IT WAS ON THE ONE OCCASION WHEN -- WAS IT
21 BOTH MS. DUVAL AND MR. MILLS THAT CAME?

22 A YES.

23 Q AND THIS WAS SOME KIND OF A MEETING AT THE
24 OFFICE. CORRECT?

25 A YES.

26 Q AND WAS THE BABY THERE?

27 A YES.

28 Q ANYONE ELSE PRESENT?

1 A I DO NOT RECALL.

2 Q AND WAS THAT MEETING DOCUMENTED IN THE CHART?

3 A YES. YES. I DID MAKE NOTES.

4 Q AND WHEN IS THE LAST TIME YOU SAW THAT
5 DOCUMENTATION?

6 A WELL, LIKE I SAID, BECAUSE THIS WAS DR. YIM'S
7 PATIENT, SO THE CHART WAS WITH HER. AND MY NURSE HAD
8 JUST GOTTEN THE CHART THAT DAY FROM THEM. WE KNEW
9 DR. YIM'S PATIENT, SHE CAME TO -- THE MOTHER TOLD US.

10 SO WE RETURNED THE CHART BECAUSE THE MEDICAL
11 RECORDS BELONG TO THE DOCTOR WHO TAKES CARE OF THE
12 PATIENT. SO I AM NOT IN PHYSICAL CUSTODY OF THE CART.

13 Q THANK YOU FOR THAT EXPLANATION. BUT MY
14 QUESTION WAS, WHEN WAS THE LAST TIME YOU SAW THAT NOTE?

15 A BACK IN OCTOBER 2009 WHEN I SAW THE PATIENT.
16 OH, I MEAN, I HAD THE MEETING WITH THE PARENTS, I
17 SHOULD SAY.

18 Q DO YOU REMEMBER BEING ASKED TO WRITE ANY KIND
19 OF A DOCUMENT REGARDING YOUR INTERACTIONS WITH
20 MS. DUVAL AND BABY RYAN?

21 A WELL, I HAVE TO DOCUMENT EVERYTHING, SO I HAD
22 TO WRITE THAT THE PATIENT DID MAKE AN APPOINTMENT, AND
23 I WAS NOT ABLE TO SEE THEM AS A PATIENT, AND NOT TO
24 TAKE THEM ON IN MY PRACTICE.

25 YES, I DID I TELL THAT PHYSICALLY TO DR. YIM
26 ALSO, SO SHE KNOWS. AND THEN, YES, I DID WRITE THAT IN
27 THE CHART TOO.

28 Q AND THAT WAS -- MY QUESTION WAS UNCLEAR, AND I

1 APOLOGIZE FOR THAT. DO YOU REMEMBER BE BEING ASKED BY
2 MR. MCMILLAN OR ANYONE FROM HIS OFFICE TO PREPARE ANY
3 KIND OF A STATEMENT UNDER OATH, IN WHICH YOU SIGNED?

4 A NO.

5 Q THAT NEVER HAPPENED?

6 MR. MCMILLAN: OBJECTION: ARGUMENTATIVE,
7 MISSTATES HER TESTIMONY.

8 THE COURT: OVERRULED.

9 THE WITNESS: I WAS GOING TO COME HERE AND
10 TESTIFY HERE.

11 BY MR. GUTERRES:

12 Q SO AT NO POINT, AS YOU SIT HERE TODAY, DO YOU
13 EVER REMEMBER SIGNING ANY KIND OF A DOCUMENT THAT WAS
14 PRESENTED BY MR. MCMILLAN'S OFFICE?

15 A THERE WAS ONCE A DECLARATION THAT WAS SUPPOSED
16 TO BE DONE. AND I KNOW I HAD LOOKED AT IT, BUT I DON'T
17 REMEMBER -- WE DIDN'T GO THROUGH WITH IT, I THINK.

18 BUT I DO REMEMBER SOME WRITTEN DOCUMENT
19 REGARDING THIS. BUT IT WAS THE SAME THING THAT I JUST
20 TOLD YOU TODAY. THAT WAS THE SAME THING ON THE PAPER.

21 Q AND THAT WAS A DECLARATION? DO YOU REMEMBER?

22 A BECAUSE THIS TIME WHEN I ASKED HIM THAT CAN
23 I -- BECAUSE I AM AN INDEPENDENT PRACTICE SO I WAS
24 WORRIED ABOUT MY PATIENTS WHO WERE SCHEDULED THIS
25 AFTERNOON.

26 SO I ASKED HIM, CAN I WRITE LIKE A WRITTEN
27 THING. HE SAID, NO, THIS TIME I HAVE TO TESTIFY. SO I
28 HAVE TO COME HERE. SO WE DID NOT DO IT FOR THIS TIME.

1 I KNOW THAT.

2 Q I UNDERSTAND. DR. GILL, AGAIN, I APOLOGIZE.
3 I MUST NOT BE ABLE TO ASK A CLEAR QUESTION TODAY. IT
4 WAS A DECLARATION THAT YOU SIGNED UNDER PENALTY OF
5 PERJURY ON BEHALF OF MR. MCMILLAN. CORRECT?

6 A I DO NOT --

7 Q A TWO-PAGE DOCUMENT?

8 A I REMEMBER SOMETHING LIKE THAT, THAT WE DID
9 ONE TIME, BUT I DON'T KNOW IT WAS PRESENTED OR NOT. OR
10 IT WAS JUST, YOU KNOW, IN THE PROCESS OF -- FOR NOT TO
11 BE ABLE TO TESTIFY.

12 BECAUSE I WAS ALWAYS WORRIED WHO WILL I GET
13 TO -- I HAVE TO HAVE A DOCTOR COVER MY PRACTICE WHEN
14 I'M HERE. AND I TAKE THE ER CALLS, SO I WAS VERY
15 WORRIED, LIKE, WHO WILL COVER MY PRACTICE.

16 SO I ASKED THEM IF I CAN DO SOMETHING WRITTEN,
17 AND WE CAN DO THAT IN -- IN PLACE OF. SO I DO REMEMBER
18 DOING SOMETHING LIKE THAT, BUT I DIDN'T KNOW WE WENT
19 THROUGH WITH IT OR NOT. THAT I DON'T REMEMBER.

20 Q JULY 22ND OF 2014, DOES THAT REFRESH YOUR
21 RECOLLECTION THAT MAYBE YOU SIGNED A DOCUMENT?

22 A YES. YEAH.

23 Q SO NOW THAT REFRESHES YOUR RECOLLECTION?

24 A YES. YES.

25 Q OKAY. AND YOU NOW REMEMBER THAT IT WAS A
26 TWO-PAGE DOCUMENT?

27 A YES.

28 Q AND IT ASKED YOU -- IT RECITED CERTAIN THINGS

1 ABOUT WHAT YOU -- WHAT YOU BELIEVE YOU'VE JUST
2 BASICALLY INDICATED HERE AS YOU SIT HERE TODAY?

3 A YES.

4 Q AND WAS THAT SOMETHING YOU TYPED UP?

5 A YES. I WENT THROUGH IT, AND I WRITE IT UP.
6 AND THEN I SIGNED IT.

7 Q YOU TYPED THE DOCUMENT UP?

8 A YES.

9 Q YOURSELF?

10 A MM-HMM.

11 Q YES?

12 A YES.

13 Q OKAY. AND IS IT MY UNDERSTANDING -- YOU HAVE
14 NO RECOLLECTION OF HAVING ANY CONTACT WITH ANYONE FROM
15 THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES. IS
16 THAT TRUE?

17 A YES. I DON'T RECALL.

18 Q SO IT'S POSSIBLE, BUT YOU JUST DON'T REMEMBER?

19 MR. MCMILLAN: OBJECTION: ARGUMENTATIVE.

20 THE WITNESS: I DO NOT REMEMBER TALKING TO
21 ANYBODY FROM SOCIAL WORKER. NO. REGARDING THIS CASE
22 BECAUSE, SINCE IT WAS NOT MY PATIENT, I WOULD NOT BE
23 ABLE TO GIVE ANY INFORMATION REGARDING A PATIENT WHO I
24 HAD NOT PROVIDED ANY CARE IN THE PAST.

25 SO I WOULD NOT BE ABLE TO GIVE ANY INFORMATION
26 TO ANYBODY SINCE IT WAS LIKE I'M TELLING YOU, THEY WERE
27 NOT MY PATIENT. THEY WERE DR. YIM'S PATIENT.

28 AND WHEN THEY CAME IN, I ASKED THEM WHO WAS

1 YOUR PREVIOUS DOCTOR, BECAUSE THE BABY WAS A LITTLE
2 OLDER. SO I ASKED SINCE BIRTH, WHO WAS TAKING CARE OF
3 THE BABY, AND THEY SAID DR. YIM WAS THEIR PHYSICIAN.

4 AND DR. YIM WAS VERY MUCH THERE AT THE OFFICE,
5 PHYSICALLY ON HER TEAM ON THAT MORNING. SO I JUST
6 ASKED THEM NICELY, THAT DR. YIM IS RIGHT HERE. WHY
7 WOULDN'T YOU LIKE TO SEE HER? AND THEY TOLD ME THAT
8 THEY WERE NOT ABLE TO SEE HER, SO THAT'S WHY THEY MADE
9 AN APPOINTMENT.

10 BUT MY NURSE DID NOT KNOW THAT, SO SHE GAVE AN
11 APPOINTMENT TO THE PATIENT, LIKE WE GIVE AN APPOINTMENT
12 TO ANYBODY WHO CALLS AND SAYS THEIR CHILD IS SICK, THEY
13 WANT TO BE SEEN. SO -- BUT THEN WHEN THEY TOLD US,
14 THEN MY NURSE GOT THE CHART, AND WE TALKED TO THE
15 PARENTS.

16 AND THE PARENTS WERE VERY NICE. THEY CALMLY
17 ACCEPTED THAT IT WAS FINE, AND THEY LEFT THE OFFICE
18 AFTER THAT.

19 BY MR. GUTERRES:

20 Q DR. GILL, YOU REVIEWED BABY RYAN'S CHART ON
21 THAT DATE. CORRECT?

22 A I MEAN, I HAD TO WRITE MY NOTE.

23 Q DID YOU REVIEW THE CHART ON THE DAY THAT
24 MS. DUVAL AND MR. MILLS CAME TO YOUR OFFICE TO SEE YOU?

25 A YES, I DID.

26 Q OKAY. YOU HAD ACCESS TO THE INFORMATION IN
27 THE CHART, CORRECT, BECAUSE YOU REVIEWED IT?

28 A YEAH.

1 Q OKAY. AND SO IF SOMEONE HAD CALLED YOU AND
2 ASKED YOU ABOUT WHAT'S IN THE CHART, YOU WOULD HAVE
3 SOME INFORMATION, BASED ON YOUR REVIEW OF THAT CHART.
4 CORRECT?

5 A NO. I WOULD NOT PROVIDE ANY INFORMATION
6 BECAUSE THAT WAS -- I GOT THE CHART JUST TO DOCUMENT MY
7 VISIT, MY NOTES. I DID NOT GO TO THE DETAILS OF
8 PATIENT CARE OR WHAT DR. YIM HAD DONE. I DID NOT GO
9 INTO THAT.

10 Q I'M ASKING IF -- YOU DID REVIEW THE CHART.
11 YES?

12 A I HAD THE CHART WITH ME, YES.

13 Q OKAY. AND IN REVIEWING THE CHART, YOU WOULD
14 HAVE -- YOU DETERMINED THAT IT WAS DR. YIM'S PATIENT.
15 CORRECT?

16 A YES.

17 Q AND YOU WERE ALSO ABLE TO MAKE A DETERMINATION
18 THAT HE HAD BEEN TREATED ON SEVERAL OCCASIONS BY
19 DR. YIM OR YOUR OFFICE. CORRECT?

20 A YES.

21 Q SO YOU HAD CERTAIN INFORMATION ABOUT BABY RYAN
22 AT THE TIME, AS A RESULT OF HAVING REVIEWED THAT CHART.
23 YES?

24 A LIKE I SAID, IF I DO NOT TREAT A PATIENT, AND
25 I DO NOT TAKE CARE OF THEM, I WOULD NOT ABLE TO SAY
26 BASED ON THE CHART NOTES TO ANYBODY ELSE.

27 BECAUSE IF THEY HAD TO CONTACT, THEY WOULD
28 HAVE TO CONTACT DR. YIM. AND I WOULD HAVE TOLD THE

1 SOCIAL WORKER THAT DR. YIM IS THE DOCTOR TAKING CARE OF
2 THIS CHILD, SO IF YOU HAVE ANY QUESTIONS, YOU WILL
3 PLEASE CALL HER.

4 AND SHE WAS THERE IN THE OFFICE PHYSICALLY
5 PRESENT. SO NO, I WOULD NOT GIVE ANY INFORMATION
6 REGARDING THIS CHILD.

7 Q YOU HAD -- MY QUESTION IS, DR. GILL, BASED ON
8 YOUR REVIEW OF THE CHART, YOU HAD INFORMATION. I'M NOT
9 ASKING YOU WHETHER YOU WOULD HAVE GIVEN THAT
10 INFORMATION OUT.

11 YOU HAD CERTAIN INFORMATION, HAVING REVIEWED
12 THE CHART. YES?

13 A YES.

14 Q OKAY.

15 A I MEAN, I HAD TO SEE THE CHART TO WRITE MY
16 NOTES.

17 Q THANK YOU. AND I UNDERSTAND THAT, BECAUSE
18 BABY RYAN WAS NOT YOUR PATIENT, IT WOULD HAVE BEEN YOUR
19 PRACTICE NOT TO GIVE OUT INFORMATION. CORRECT?

20 A YES.

21 Q OKAY. AND THE REASON FOR THAT IS BECAUSE OF
22 HIPAA CONCERNS. CORRECT?

23 A YES. AND ALSO ETHICALLY. THAT I DID NOT TAKE
24 CARE OF THE PATIENT, I DID NOT PROVIDE ANY INSTRUCTIONS
25 TO THE PATIENT'S PARENTS.

26 I DID NOT PHYSICALLY EXAMINE THE PATIENT. I
27 DID NOT WRITE ANY PRESCRIPTIONS FOR THE PATIENT. I
28 WOULD NOT BE ABLE TO SAY ANYTHING ABOUT THAT PATIENT.

1 Q LET ME READ YOU SOMETHING, SEE IF THIS
2 REFRESHES YOUR RECOLLECTION.

3 "I DO NOT RECALL RECEIVING ANY TELEPHONE CALL
4 FROM LOS ANGELES COUNTY SOCIAL WORKER OR PUBLIC HEALTH
5 NURSE.

6 "HOWEVER, IF I HAD RECEIVED SUCH A TELEPHONE
7 CALL, IT WOULD HAVE BEEN IN MY COMMON PRACTICE TO
8 REFRAIN FROM PROVIDING INFORMATION TO THE CALLER
9 WITHOUT FIRST OBTAINING A HIPAA WAIVER OR SIMILAR
10 RELEASE FROM THE CLIENT."

11 DOES THAT REFRESH YOUR RECOLLECTION? IS THAT
12 SOMETHING YOU -- APPEARS TO BE ACCURATE?

13 A YES.

14 Q AND IS IT -- HAVE YOU HAD ANY PREVIOUS CONTACT
15 WITH ANYONE FROM THE DEPARTMENT OF CHILDREN AND FAMILY
16 SERVICES?

17 A NO.

18 MR. MCMILLAN: OBJECTION, VAGUE. IN THIS CASE
19 OR OTHERS?

20 MR. GUTERRES: WELL, SHE -- APPARENTLY --

21 THE COURT: OKAY. RATHER THAN HAVE A
22 DISCUSSION -- I'LL DEEM THAT TO BE AN OBJECTION AS
23 BEING VAGUE, AND I'LL SUSTAIN THE OBJECTION. SO YOU
24 CAN ASK ABOUT THIS CASE.

25 MR. GUTERRES: THANK YOU, YOUR HONOR.

26 BY MR. GUTERRES:

27 Q DR. GILL, HAVE YOU HAD, EVER, ANY CONTACT WITH
28 ANYONE FROM THE DEPARTMENT OF CHILDREN AND FAMILY

1 SERVICES?

2 A YES. REGARDING OTHER PATIENTS, NOT BABY RYAN.

3 Q AND HAVE YOU EVER CALLED THE HOTLINE?

4 A NO.

5 Q AND YOU UNDERSTAND WHAT I MEAN BY THE HOTLINE.

6 YES?

7 A YES.

8 Q THE CHILD ABUSE HOTLINE?

9 A YES.

10 Q AND ARE YOU FAMILIAR WITH CIVIL CODE

11 SECTION 56.103?

12 A NO.

13 Q ARE YOU FAMILIAR WITH ANY LAWS THAT SAY THAT A

14 MEDICAL PROVIDER MAY DISCLOSE MEDICAL INFORMATION OR

15 MENTAL HEALTH INFORMATION TO CHILD PROTECTIVE SERVICES

16 WITHOUT THE CHILD OR THE PARENT OR LEGAL GUARDIAN

17 AUTHORIZATION, FOR THE PURPOSE OF COORDINATING

18 HEALTHCARE SERVICES AND MEDICAL TREATMENT?

19 MR. MCMILLAN: OBJECTION, YOUR HONOR,

20 INCOMPLETE HYPOTHETICAL AND STATEMENT OF THE LAW.

21 THE COURT: OVERRULED. GO AHEAD AND ANSWER.

22 THE WITNESS: YES.

23 BY MR. GUTERRES:

24 Q SO IT'S YOUR UNDERSTANDING THAT IF DCFS WERE

25 TO CALL YOU TO ASK FOR INFORMATION ON A PATIENT, THAT

26 YOU COULD -- YOU, AS A MEDICAL PROVIDER, COULD GIVE

27 THAT INFORMATION WITHOUT A HIPAA WAIVER OR CONSENT FROM

28 THE PARENT?

1 MR. MCMILLAN: OBJECTION, YOUR HONOR, LACKS
2 FOUNDATION.

3 THE WITNESS: YES.

4 MR. MCMILLAN: ALSO INCOMPLETE HYPOTHETICAL
5 AND MISSTATEMENT OF LAW.

6 THE COURT: OVERRULED.
7 BY MR. GUTERRES:

8 Q DO YOU RECALL HAVING A DISCUSSION WITH ME? I
9 WON'T BE OFFENDED.

10 A YOU KNOW, IT'S HARD TO REMEMBER ALL THE THINGS
11 I AM NOT ABLE TO SAY. MAY I HAVE YOUR FULL NAME?

12 Q MY NAME'S TOM GUTERRES. MY MOTHER CALLS ME
13 TOMAS.

14 A I MAY HAVE, BUT I DON'T REMEMBER.

15 Q AND IF -- THOSE DISCUSSIONS YOU DID HAVE WITH
16 MR. MCMILLAN, DID YOU WRITE THOSE DOWN?

17 A YEAH. I DID. BECAUSE THEY WERE ASKING ME TO
18 SET MY SCHEDULE TO, YOU KNOW, SO I HAD TO WRITE IT DOWN
19 TO MAKE SURE THAT I MAKE CHANGES IN MY SCHEDULE TO BE
20 ABLE TO BE AVAILABLE.

21 Q BUT OTHER THAN JUST SCHEDULING, DID YOU
22 ACTUALLY MEMORIALIZE THE DISCUSSIONS YOU HAD WITH
23 MR. MCMILLAN?

24 A I MEAN, I HAVE SOME OF MY -- SOME NOTES
25 REGARDING THAT.

26 Q SO YOU DID?

27 A MM-HMM.

28 Q YES?

1 A YES.

2 Q I'M SORRY. THE COURT REPORTER HAS TO TAKE
3 DOWN A VERBAL RESPONSE.

4 AND AS FAR AS DISCUSSIONS WITH ANY OTHER
5 LAWYERS, INCLUDING MAYBE ME, DO YOU RECALL WRITING DOWN
6 ANY NOTES REGARDING THAT?

7 A I DO REMEMBER ONE OTHER LAWYER CALLED ME
8 AND -- BUT THE DISCUSSION WAS THE SAME THAT -- ASKING
9 THE SAME THING THAT WE JUST DISCUSSED.

10 I MEAN, I HAVE TO LOOK AT IN MY EMAILS AND MY
11 NOTES TO BE HONEST, TO TELL YOU THE TRUTH, EVERYTHING.
12 I DO NOT REMEMBER EVERYTHING.

13 Q OKAY. DO YOU RECALL TELLING ME THAT YOU HAD
14 NOT, IN FACT, WRITTEN OR SIGNED ANY KIND OF A
15 DECLARATION?

16 A NO, I TOLD YOU WE DID PREPARE A DOCUMENT, AND
17 I DID TELL YOU THAT WE HAD DONE THAT.

18 Q SO NOW YOU DO REMEMBER HAVING A DISCUSSION
19 WITH ME?

20 MR. MCMILLAN: OBJECTION, ARGUMENT.

21 THE WITNESS: NO, NOT WITH YOU EXACTLY. I
22 SAID BACK THEN THERE WAS SOME DECLARATION. I DID NOT
23 REMEMBER THE NAME OF THE LAWYER.

24 THE COURT: OVERRULED.

25 MR. MCMILLAN: THANK YOU, YOUR HONOR.

26 MR. GUTERRES: ONE MINUTE.

27 THANK YOU, DR. GILL.

28 THE COURT: MR. MCMILLAN.

1 MR. MCMILLAN: YES, YOUR HONOR.

2 THANK YOU, DR. GILL. I APOLOGIZE. IT'S JUST
3 GOING TO TAKE A FEW MORE MINUTES, JUST BECAUSE OF SOME
4 OF THE THINGS THAT CAME UP.

5

6 REDIRECT EXAMINATION

7 BY MR. MCMILLAN:

8 Q I'D LIKE TO START WITH SOME OF THE NOTES THAT
9 YOU MIGHT HAVE, OR MIGHT NOT, OF OUR CONVERSATIONS.
10 LET ME ASK YOU FIRST, DO YOU REMEMBER AFTER WE SPOKE ON
11 THE PHONE, WE HAD SOME EMAIL COMMUNICATION?

12 A YES, WE DO.

13 Q WHAT DO YOU REMEMBER ABOUT THAT EMAIL
14 COMMUNICATION?

15 A YOU WERE ASKING ME ABOUT THIS PATIENT, WHETHER
16 I HAVE SEEN THIS PATIENT AND WHAT ENCOUNTER DID I HAVE.
17 AND I TOLD THE SAME THING THAT I -- THEY MADE AN
18 APPOINTMENT, BUT I DID NOT PHYSICALLY EXAMINE THE
19 CHILD.

20 I WAS NOT ABLE TO TAKE ON THIS CHILD IN MY
21 MEDICAL PRACTICE DUE TO CONFLICTS WITH DR. YIM BEING
22 THERE AS A DOCTOR IN THE SAME GROUP.

23 MR. MCMILLAN: YOUR HONOR, MAY I APPROACH?

24 THE COURT: YES.

25 MR. GUTERRES: YOUR HONOR, MAY WE SEE
26 BEFORE --

27 THE COURT: YES.

28 MR. MCMILLAN: I'VE GOT ONE FOR EVERYBODY.

1 BY MR. MCMILLAN:

2 Q TAKE A MOMENT AND LOOK OVER THAT E-MAIL,
3 DR. YIM.

4 THE COURT: MR. MCMILLAN.

5 MR. MCMILLAN: DID I SAY DR. YIM? I'M SORRY.

6 THE COURT: THAT'S ALL RIGHT, I WASN'T GOING
7 TO CALL YOU ON THAT. DOES THIS HAVE AN EXHIBIT NUMBER
8 OR JUST NEXT IN ORDER?

9 MR. MCMILLAN: NEXT IN ORDER, YOUR HONOR.

10 THE COURT: THAT WOULD BE...

11 THE CLERK: SIX -- EXCUSE ME, 765.

12 (PLAINTIFF'S EXHIBIT NO. 765 WAS MARKED
13 FOR IDENTIFICATION BY THE COURT.)

14 MR. MCMILLAN: I'M SORRY. WAS THAT 765?

15 THE COURT: YES.

16 BY MR. MCMILLAN:

17 Q AND DR. GILL, I APOLOGIZE TREMENDOUSLY FOR
18 CONTINUING TO CALL YOU DR. YIM.

19 DOCTOR, DO YOU RECOGNIZE THAT EXHIBIT
20 NUMBER 765, PARTICULARLY AT THE BOTTOM OF PAGE ONE AND
21 THE TOP OF PAGE TWO?

22 A YES.

23 Q AND IS YOUR EMAIL ADDRESS TOTSMD@GMAIL.COM?

24 A YES.

25 Q AND AT THE TOP OF -- OR THE MIDDLE OF THE
26 PAGE, ON PAGE ONE OF EXHIBIT 765, THAT'S ME WRITING TO
27 YOU. CORRECT?

28 A YES.

1 Q CAN YOU EXPLAIN TO US WHY I WAS WRITING THIS
2 TO YOU?

3 A BECAUSE I THINK I GOT A NOTIFICATION FOR THIS
4 CASE, AND I HAD CALLED YOUR OFFICE, AND THEN -- TO ASK
5 WHAT THIS IS ALL ABOUT. SO YOU HAD EXPLAINED IT TO ME,
6 AND THEN WE DISCUSSED THIS.

7 Q IN THAT DISCUSSION, YOU TOLD ME PRETTY MUCH
8 THE SIMILAR INFORMATION THAT YOU SHARED WITH ALL OF US
9 HERE TODAY IN COURT. RIGHT?

10 A YES.

11 Q AND IN READING THE INFORMATION CONTAINED IN
12 THE PORTION OF THE EMAIL -- WELL, LET ME ASK YOU THIS
13 FIRST. THE PORTION OF THE EXHIBIT 765 THAT'S AT THE
14 BOTTOM OF PAGE ONE AND TOP OF PAGE TWO, WAS THAT THE
15 PORTION THAT YOU WROTE TO ME?

16 A YES.

17 Q AND IS THIS DOCUMENT, AS YOU RECALL THE EMAIL,
18 A TRUE, ACCURATE, AND COMPLETE DEPICTION OF THIS
19 PARTICULAR EMAIL EXCHANGE BETWEEN US ON JULY 15, 2014,
20 AT 2:49 P.M.?

21 A YES.

22 MR. MCMILLAN: YOUR HONOR, I HAVE ONE MORE I'D
23 LIKE TO MARK AS EXHIBIT NUMBER 766.

24 (PLAINTIFF'S EXHIBIT NO. 766 WAS MARKED
25 FOR IDENTIFICATION BY THE COURT.)

26 BY MR. MCMILLAN:

27 Q AND IF YOU CAN TAKE A MOMENT, DR. GILL, THE
28 TEXT OF THE CONVERSATION BEGINS AT THE BOTTOM OF THE

1 PAGE ON PAGE ONE, AND THEN THE EMAIL STRING CONTINUES
2 ON PAGE TWO.

3 DR. GILL, BEFORE WE GET INTO THE SUBSTANCE OF
4 THIS, IN REVIEWING THIS EMAIL STRING, FIRST OF ALL, IS
5 THIS A -- FIRST OF ALL, LET ME ASK YOU, THE BOTTOM OF
6 THE PAGE, PAGE TWO, IS THAT AN EMAIL THAT YOU WROTE TO
7 ME?

8 A YES.

9 Q AND THEN I RESPONDED TO YOU. THAT'S AT THE
10 TOP OF PAGE TWO. CORRECT?

11 A YES.

12 Q I TOLD YOU: "THANK YOU FOR THE QUICK
13 TURN-AROUND ON THE RESPONSE. I APPRECIATE YOUR EFFORTS
14 HERE IN ORDER TO OBIVIATE THE NEED FOR A DEPOSITION BY
15 THE PLAINTIFF.

16 "I NEED TO KNOW WHAT, IF ANYTHING, YOU CAN
17 TELL US ABOUT CONVERSATIONS OR THE LACK THEREOF WITH
18 LOS ANGELES COUNTY SOCIAL WORKERS. I HAVE TRIED TO
19 SUMMARIZE MY UNDERSTANDING OF THE CIRCUMSTANCES WE
20 DISCUSSED ON THE PHONE TODAY.

21 "IF YOU CAN TAKE A MOMENT TO REVIEW AND
22 EDIT --" MY TYPO, "-- THE STATEMENT BELOW, IT WOULD BE
23 MUCH APPRECIATED. IT WOULD CERTAINLY SAVE US THE TIME
24 AND EXPENSE OF A FORMAL DEPOSITION. PLEASE ADVISE."

25 FIRST, DID I READ THAT CORRECTLY?

26 A YES.

27 Q AND YOU RESPONDED TO THAT REQUEST BY ME.
28 CORRECT?

1 A YES.

2 Q AND YOUR RESPONSE IS CONTAINED AT THE BOTTOM
3 OF PAGE ONE OF EXHIBIT 765?

4 A YES.

5 Q OKAY. AND THERE, YOU TELL ME: "I DON'T
6 RECALL RECEIVING ANY TELEPHONE CALL FROM LOS ANGELES
7 COUNTY SOCIAL WORKER OR PUBLIC HEALTH NURSE.

8 "HOWEVER, IF I HAD RECEIVED SUCH A CALL, SUCH
9 A TELEPHONE CALL, IT WOULD HAVE BEEN MY COMMON PRACTICE
10 TO REFRAIN FROM PROVIDING INFORMATION TO THE CALLER
11 WITHOUT FIRST OBTAINING A HIPAA WAIVER OR SIMILAR
12 RELEASE FROM THE CLIENT.

13 "IN ANY EVENT, RYAN DUVAL WAS NEVER MY
14 PATIENT. I HAD NO KNOWLEDGE OF HIS TREATMENT WITH
15 DR. YIM OR OF HIS CONDITION IN NOVEMBER 2009.

16 "ASIDE FROM THE PARENTS TELLING ME THAT
17 DR. YIM HAD DECLINED TO CONTINUE TO PROVIDE HEALTHCARE
18 TO THE FAMILY, I HAVE NO KNOWLEDGE AS TO THE
19 DISCONTINUANCE AS PATIENTS OF THE PRACTICE, OR THE
20 REASONS FOR THAT DISCONTINUANCE.

21 "I HAD NO KNOWLEDGE OF THEIR DEALINGS WITH
22 DR. YIM."

23 DID I READ THAT CORRECTLY?

24 A YES.

25 Q AND THOSE WERE YOUR WORDS, MA'AM?

26 A YES.

27 Q THAT'S NOT SOMETHING I TOLD YOU TO SAY?

28 A NO.

1 Q YEAH, LET'S TALK FOR A MOMENT ABOUT THAT HIPAA
2 ISSUE IN THAT CIVIL CODE SECTION 56.103. SPECIFICALLY
3 SUBPARAGRAPH A. DO YOU RECALL THAT, WHEN MR. GUTERRES
4 WAS ASKING YOU ABOUT IT?

5 A YES.

6 Q OKAY. JUST LOOK AT WHAT IT SAYS. "A PROVIDER
7 OF HEALTHCARE MAY DISCLOSE MEDICAL INFORMATION TO A
8 COUNTY SOCIAL WORKER." THAT'S INTERESTING. "MAY."

9 IS IT YOUR UNDERSTANDING, BASED ON WHAT YOU
10 KNOW ABOUT THE LAW THROUGH YOUR CONTINUING EDUCATION,
11 THAT "MAY" MEANS IT'S UP TO YOU? YOU'RE NOT REQUIRED
12 IF SOMEBODY CALLS YOU TO TELL THEM ANYTHING. IS THAT
13 RIGHT?

14 A RIGHT.

15 Q YOU MAY ELECT TO TELL THEM SOMETHING, WITHOUT
16 FACING ANY CIVIL LIABILITY FROM A PARENT OR SOMEBODY
17 INTERESTED IN THE MEDICAL INFORMATION, THAT HAS A
18 PRIVACY INTEREST. RIGHT?

19 A YES.

20 Q THAT'S WHAT THE STATUTE'S FOR. RIGHT?

21 A YES.

22 Q AND YOUR UNDERSTANDING OF THAT IS BASED ON
23 YOUR CONTINUING EDUCATION THAT YOU RECEIVE AS A DOCTOR?

24 A YES.

25 Q I THINK YOU TOLD US, BUT CORRECT ME IF I'M
26 WRONG, BUT WHAT YOU TOLD MR. GUTERRES WAS THAT IT WAS
27 YOUR PRACTICE TO NOT DISCLOSE THAT SORT OF INFORMATION
28 WITHOUT A WAIVER. IS THAT RIGHT?

1 A YES.

2 Q NOT ONLY WAS IT YOUR PRACTICE, BUT ONE OF THE
3 REASONS FOR THAT PRACTICE WAS THAT YOU HAVE ETHICAL
4 CONSIDERATIONS AND CONCERNS FOR THE PEOPLE THAT YOU
5 TREAT?

6 A YES.

7 Q AND CORRECT ME IF -- WELL, ACTUALLY, TELL ME,
8 IN YOUR MIND AS A DOCTOR, THAT RELATIONSHIP THAT YOU
9 HAVE WITH THE PARENT OR THE CHILD, THAT'S AN IMPORTANT
10 RELATIONSHIP?

11 A VERY IMPORTANT.

12 Q IS THAT ONE OF THE REASONS, SO THAT YOU CAN
13 MAINTAIN THE TRUST OF YOUR PATIENTS?

14 A YES.

15 Q IS THAT ONE OF THE REASONS?

16 A YES.

17 Q THAT YOU JUST WILL NOT DISCLOSE UNLESS THERE'S
18 A RELEASE, OR MAYBE A COURT ORDER?

19 A YES.

20 Q AND THAT'S IMPORTANT TO YOU?

21 A VERY IMPORTANT.

22 Q CAN YOU EXPLAIN TO US WHY?

23 A WELL, PATIENT CONFIDENTIALITY, THE TRUST THAT
24 PARENTS PUT IN ME FOR TAKING CARE OF THEIR CHILD, OR
25 ANY OLDER KID, PATIENT COMES AND PUTS IN ME IS VERY
26 IMPORTANT TO ME.

27 SO I DO NOT EVER WANT TO BETRAY ANY TRUST
28 BETWEEN ME AND THE PATIENT. THAT IS OF UTMOST

1 IMPORTANCE AS A DOCTOR, TO BE ABLE TO PROVIDE CARE FOR
2 THAT PATIENT.

3 Q BECAUSE YOU CAN'T PROVIDE THEM EVEN ADEQUATE
4 CARE IF THEY DON'T TRUST YOU ENOUGH TO TELL YOU WHAT'S
5 GOING ON IN THEIR LIFE OR WITH THEIR BODY?

6 A RIGHT.

7 Q SO THAT RELATIONSHIP IS CRITICAL?

8 A IT IS, BECAUSE SO MANY TIMES THEY HAVE TO TELL
9 THE DOCTOR VERY PRIVATE INFORMATION ABOUT THEIR HEALTH.
10 SO I KEEP THAT AS A -- I MEAN, AS A VERY TRUSTED
11 CONVERSATION BETWEEN THE PATIENT AND THE DOCTOR.

12 AND IT IS -- IT IS VERY VERY IMPORTANT TO ME
13 NOT TO EVER BREAK THAT TRUST. COULD BE ANY
14 PATIENT-DOCTOR RELATIONSHIP.

15 Q AND ONE OTHER THING THAT MR. GUTERRES TALKED
16 TO YOU ABOUT WAS THIS -- I DON'T KNOW IF HE USED THE
17 WORD MANDATED REPORTER OR NOT, BUT YOU'RE AWARE OF WHAT
18 A MANDATED REPORTER IS. RIGHT?

19 A YES.

20 Q AND YOU ARE A MANDATED REPORTER?

21 A YES.

22 Q SO IN SOME INSTANCES IF YOU SEE A CHILD, AS A
23 PEDIATRICIAN, AND IT APPEARS TO YOU, IT REASONABLY
24 APPEARS TO YOU THAT THERE'S SOMETHING GOING ON AT HOME
25 OR SOMEWHERE WITH THAT CHILD, YOU HAVE THIS REASONABLE
26 SUSPICION THE CHILD'S BEING ABUSED, IS THERE SOMETHING
27 THAT YOU'RE REQUIRED BY LAW, THEN, TO DO?

28 A YES. THEN I WILL CALL THE PROPER AUTHORITIES

1 AND I WILL TAKE ACTION TO HELP THAT CHILD NOT TO GO
2 THROUGH THAT SITUATION.

3 Q RIGHT. NOW, I UNDERSTAND YOU DIDN'T -- YOU
4 DIDN'T TREAT WITH MS. DUVAL OR BABY RYAN THAT DAY WHEN
5 THEY CAME TO YOU SEE IN OCTOBER 2009. BUT SHE HAD THE
6 BABY WITH HER, DIDN'T SHE?

7 A SHE WHAT?

8 Q MS. DUVAL, SHE HAD THE BABY WITH HER?

9 A YES.

10 Q AND DID YOU HAVE A CHANCE, AT LEAST, JUST TO
11 SEE THE BABY?

12 A YEAH. THE BABY WAS THERE IN THE ROOM.

13 Q OKAY. DID IT LOOK TO YOU, THAT DAY, AS IF
14 THAT BABY WAS IN IMMEDIATE NEED OF MEDICAL ATTENTION?

15 A NO. THE BABY --

16 Q AND THAT THE -- SORRY.

17 A NO, THE BABY WAS STABLE, EVERYTHING WAS FINE
18 REGARDING THE BABY. NO, I DID NOT SEE ANY IMMEDIATE
19 NEED TO DO ANYTHING.

20 Q AND RECOGNIZING THAT YOU'RE A -- LET ME ASK
21 YOU THIS FIRST. AS A MANDATED REPORTER, IS IT YOUR
22 UNDERSTANDING, FROM YOUR CONTINUING EDUCATION, THAT
23 IT'S A CRIME.

24 IF YOU SEE A CHILD THAT YOU REASONABLY BELIEVE
25 IS BEING ABUSED, IT'S A MISDEMEANOR IF YOU DON'T REPORT
26 IT?

27 A YES.

28 Q AND THAT YOU'RE SUBJECT TO CRIMINAL PENALTIES

1 IF YOU DON'T REPORT IT?

2 A YES.

3 Q SO GOING BACK TO BABY RYAN FOR A MOMENT, THAT
4 DAY IN OCTOBER 2009, DID YOU FEEL THE NEED TO REPORT
5 IT? TO REPORT TO A SOCIAL WORKER THAT, MY GOD, THIS
6 BABY'S IN DANGER, HE MAY DIE?

7 A LIKE I SAID, I DID NOT.

8 Q HE LOOKED FINE?

9 A (NO AUDIBLE RESPONSE.)

10 Q YES?

11 A YES.

12 Q OKAY. THERE'S A DECLARATION, I THINK,
13 MR. GUTERRES TALKED ABOUT. IF YOU COULD -- BEHIND YOU,
14 THERE'S A BINDER. I'LL GET IT FOR YOU, IT'S KIND OF
15 HEAVY. WE'LL TURN TO EXHIBIT NUMBER -- IT'S EXHIBIT
16 NUMBER 183.

17 (PLAINTIFF'S EXHIBIT NO. 183 WAS MARKED

18 FOR IDENTIFICATION BY THE COURT.)

19 BY MR. MCMILLAN:

20 Q IT'S A THREE-PAGE DOCUMENT. I'M GOING TO ASK
21 YOU JUST FOR A MOMENT TO TAKE A LOOK AT THAT. JUST IN
22 THE BINDER RIGHT THERE. THANK YOU, DOCTOR.

23 DO YOU RECOGNIZE THAT DOCUMENT?

24 A YES.

25 Q DO YOU RECOGNIZE IT AS A DOCUMENT THAT YOU
26 SIGNED ON THE 22ND OF JULY, 2014?

27 A YES.

28 Q AND WHAT YOU SEE THERE IN FRONT OF YOU, IS

1 THAT A TRUE AND ACCURATE DEPICTION OF THE DOCUMENT AS
2 YOU SIGNED IT ON JULY 22ND, 2014?

3 A YES.

4 Q AND WHEN YOU SIGNED IT, YOU FAXED IT TO MY
5 OFFICE, ONCE YOU'D SIGNED IT. RIGHT?

6 A MM-HMM.

7 Q AND THAT'S SORT OF WHY THERE'S THAT STRIPE
8 DOWN THE MIDDLE THAT'S MISSING INK?

9 A MM-HMM.

10 Q YES?

11 A YES.

12 Q NOW, BEFORE YOU SIGNED THAT DECLARATION,
13 THOUGH, I HAD SENT IT UP TO YOU IN DRAFT FORM. DO YOU
14 REMEMBER THAT?

15 A YES.

16 Q AND I ASKED YOU TO REVIEW IT SPECIFICALLY TO
17 ENSURE THAT IT WAS ACCURATE AND CORRECT. DO YOU
18 REMEMBER THAT?

19 A YES.

20 Q I'M GOING TO SHOW YOU ANOTHER EMAIL. MARK
21 THAT NEXT IN ORDER, NUMBER...

22 THE CLERK: 767.

23 MR. MCMILLAN: 767.

24 (PLAINTIFF'S EXHIBIT NO. 767 WAS MARKED
25 FOR IDENTIFICATION BY THE COURT.)

26 BY MR. MCMILLAN:

27 Q AND IF YOU CAN JUST TAKE A MOMENT TO LOOK THAT
28 OVER AND LET ME KNOW WHEN YOU'RE DONE.

1 DOCTOR, MY QUESTION ON THIS ONE IS GOING TO BE
2 FAIRLY LIMITED. IF I CAN JUST DRAW YOUR ATTENTION TO
3 THE BOTTOM OF THE PAGE, ON PAGE ONE?

4 A MM-HMM.

5 Q YOU SEE THAT THERE WHERE IT SAYS, "I HAVE
6 EDITED IT"?

7 A MM-HMM.

8 Q YES?

9 A YES.

10 Q AND THAT'S YOU TELLING ME THAT YOU RECEIVED
11 THE DRAFT, AND THAT YOU MADE CHANGES. CORRECT?

12 A YES.

13 Q AND THEN ONCE YOU MADE THOSE CHANGES, YOU
14 SIGNED THE DECLARATION THAT WE'VE MARKED AS
15 EXHIBIT NUMBER 183, AND FAXED IT BACK TO MY OFFICE. IS
16 THAT YOUR RECOLLECTION?

17 A YES.

18 Q AM I CORRECT -- OR TELL ME -- TELL ME,
19 EVERYTHING THAT YOU SAID HERE IN THIS FINAL, REVIEWED,
20 EDITED VERSION OF YOUR DECLARATION, THE DECLARATION
21 THAT YOU YOURSELF WERE ABLE TO TAKE SOME TIME AND LOOK
22 THROUGH AND EDIT IF YOU NEEDED TO. IN FACT, YOU DID
23 EDIT.

24 IS EVERYTHING IN HERE TRUE AND ACCURATE, TO
25 THE BEST OF YOUR KNOWLEDGE?

26 A YES.

27 Q AND THAT'S WHY YOU SIGNED IT UNDER PENALTY OF
28 PERJURY?

1 A YES.

2 Q ON JULY 22ND, 2014?

3 A YES.

4 MR. MCMILLAN: THANK YOU, DOCTOR. I HAVE NO
5 FURTHER QUESTIONS.

6 THE COURT: MR. GUTERRES?

7 HOLD ON, DOCTOR. NOT SO FAST.

8 MR. GUTERRES: I HAVE A FEW QUESTIONS.

9

10 RE-CROSS-EXAMINATION

11 BY MR. GUTERRES:

12 Q TURN TO THAT EXHIBIT, 183, PLEASE, THE
13 DECLARATION. DO YOU HAVE THAT IN FRONT OF YOU?

14 A YES.

15 Q SO IT WAS ACTUALLY MR. MCMILLAN WHO PREPARED
16 THAT. CORRECT?

17 A YES.

18 Q AND FORWARDED IT TO YOU?

19 A MM-HMM.

20 Q YES?

21 A YES.

22 Q OKAY. AND AGAIN, I DON'T MEAN TO KEEP GOING
23 OVER THIS, BUT YOU DID REVIEW THE CHART AND DID HAVE,
24 IN FACT, SOME INFORMATION REGARDING BABY RYAN.

25 DID YOU NOT?

26 MR. MCMILLAN: OBJECTION, YOUR HONOR, EXCEEDS
27 THE SCOPE OF REDIRECT.

28 MR. GUTERRES: IT'S FOUNDATIONAL.

1 THE COURT: OBJECTION'S OVERRULED.

2 THE WITNESS: WHEN I SAW THE BABY, WHEN THEY
3 CAME FOR THE MEETING IN MY OFFICE, I HAD THE CHART THAT
4 DATE. AFTER THAT, CHART WAS IN PHYSICAL CUSTODY OF
5 DR. YIM.

6 BY MR. GUTERRES:

7 Q SO YOU DID HAVE SOME INFORMATION REGARDING THE
8 TREATMENT WITH DR. YIM. CORRECT?

9 MR. MCMILLAN: VAGUE, OVERBROAD.

10 THE COURT: OVERRULED.

11 THE WITNESS: MY ONLY ENCOUNTER WAS THAT DAY.
12 I DID NOT EXAMINE THE PATIENT PHYSICALLY OR DID
13 ANYTHING, SO I ONLY MADE NOTES FOR THAT DAY WHEN THE
14 FAMILY CAME TO SEE ME.

15 BY MR. GUTERRES:

16 Q BUT YOU HAVE SOME INFORMATION AND SOME
17 KNOWLEDGE OF THE TREATMENT WITH DR. YIM, AS A RESULT OF
18 HAVING REVIEWED THE CHART WHEN THEY CAME IN. CORRECT?

19 A I SAW THAT -- I SAW THE CHART. YES.

20 Q YES. AND YOU HAD SOME INFORMATION, THEREFORE,
21 REGARDING THE TREATMENT WITH DR. YIM. TRUE?

22 A LIKE I SAID, THIS WAS NEVER MY PATIENT. SO I
23 DID NOT HAD TO GO THROUGH THE WHOLE CHART. I MADE MY
24 NOTES FOR THAT DAY ONLY WHEN THEY CAME TO SEE ME.

25 Q YOU HAD SOME INFORMATION? YES?

26 MR. MCMILLAN: ASKED AND ANSWERED, YOUR HONOR.

27 THE COURT: THAT HASN'T BEEN ANSWERED. GO
28 AHEAD.

1 BY MR. GUTERRES:

2 Q DO YOU NEED THE QUESTION READ BACK, DOCTOR?

3 A LIKE I TOLD YOU, I ONLY HAD THE CHART FOR A
4 LIMITED TIME. I ONLY MADE NOTES THAT DAY.

5 Q AND AS A RESULT OF THAT CHART AND THE NOTES,
6 YOU HAD SOME INFORMATION REGARDING THE TREATMENT WITH
7 DR. YIM. YES OR NO?

8 A I MEAN, YES, I SAW THE CHART THAT DAY.

9 MR. GUTERRES: THANK YOU.

10 THE COURT: ANYTHING FURTHER, MR. MCMILLAN?

11 MR. MCMILLAN: REALLY QUICK.

12 THE COURT: THIS IS THE LAST GO-ROUND.

13 MR. MCMILLAN: I GET IT.

14

15 FURTHER REDIRECT EXAMINATION

16 BY MR. MCMILLAN:

17 Q YOU HAD THE CHART BECAUSE THAT WAS YOUR NEXT
18 PATIENT?

19 A YES.

20 Q SO YOU KIND OF HAVE TO PICK UP THE CHART AND
21 TAKE IT INTO THE ROOM WITH THE PATIENT. RIGHT?

22 A NO. WE HAD TO GET THE CHART FROM DR. YIM'S
23 OFFICE. REMEMBER, WHEN THEY MADE THE APPOINTMENT, WE
24 HAD NO IDEA THIS WAS A BRAND-NEW PATIENT OR NOT. SO
25 WHEN THEY CAME IN, AND MY NURSE ASKED THEM, ONLY THEN
26 WE HAD TO GET THE CHART.

27 Q OH, SO YOU DIDN'T -- YOUR NURSE DIDN'T EVEN
28 PULL UP THE CHART UNTIL THE PATIENT WAS ACTUALLY THERE

1 IN YOUR OFFICE?

2 A BECAUSE, LIKE I TOLD YOU, THIS WAS A BRAND --
3 THE CALL WAS LIKE A BRAND-NEW PATIENT. SO SHE DID NOT
4 KNOW. BUT THEN THEY CAME, AND I ASKED THEM WHO WAS
5 YOUR PREVIOUS DOCTOR. THEN ONLY WE GOT THE CHART.

6 Q OKAY. SO IT WAS THE -- LET ME MAKE SURE I'VE
7 GOT THIS RIGHT. BECAUSE THIS IS STARTING TO MAKE SENSE
8 TO ME. YOU COME INTO THE ROOM.

9 YOU MEET THE PATIENTS AND YOU ASKED THEM
10 BECAUSE YOU THOUGHT THEY WERE A NEW PATIENT, YOU ASKED
11 THEM, WHAT'S GOING ON, AND THEY TELL YOU DR. YIM IS
12 THEIR DOCTOR. CORRECT?

13 A YEAH. WHEN I ASKED THEM, WHO WAS THE
14 PHYSICIAN TAKING CARE OF THE PATIENT SO FAR, OR WHO WAS
15 THE PREVIOUS PHYSICIAN YOU SAW BEFORE ME.

16 Q AND THAT'S WHEN THEY SAID DR. YIM?

17 A RIGHT.

18 Q THEN AFTER THEY SAID THAT, DID YOU GO OUT OF
19 THE ROOM TO ASK YOUR NURSE TO GO GET THE CHART?

20 A YES. YES.

21 Q AND SHE BROUGHT YOU THE CHART?

22 A YEAH. SHE HAD TO GO PHYSICALLY, WALK OVER TO
23 DR. YIM'S OFFICE TO ASK THEIR NURSES TO GIVE THE CHART
24 TO US BECAUSE THE PATIENT WAS THERE.

25 Q OKAY. AND THE PARENTS ARE IN THE ROOM WITH
26 THE BABY?

27 A MM-HMM.

28 Q YOU ASK YOUR NURSE TO GO GET YOU THE CHART

1 FROM DR. YIM'S OFFICE.

2 A MM-HMM.

3 Q AND SHE DID THAT FOR YOU?

4 A RIGHT.

5 Q DID YOU THEN SIT DOWN IN YOUR OFFICE AND
6 TAKE -- I DON'T KNOW -- 15, 20, 30 MINUTES, AN HOUR,
7 SIT THERE AND LOOK THROUGH ALL 62 PAGES OR WHATEVER IT
8 IS OF THE CHART?

9 A NO, I DON'T -- I MADE MY NOTES FOR THAT DAY,
10 PUT IT IN THE CHART AND -- FOR THAT VISIT, AND I HANDED
11 THE CHART BECAUSE THIS WAS NOT -- I WAS NOT GOING TO
12 TAKE -- ACCEPT THIS PATIENT INTO MY PRACTICE.

13 SO I MADE MY NOTES FOR THAT DAY IN THE CHART,
14 BECAUSE OTHERWISE WE WOULD HAVE TO DO A BRAND-NEW CHART
15 AND ADD THE NOTES THERE. SO SINCE THE PATIENT ALREADY
16 HAD AN ESTABLISHED CHART, WE PUT IT IN THERE AND
17 RETURNED THE CHART BACK TO DR. YIM.

18 Q OKAY. SO -- MAKE SURE I'M UNDERSTANDING
19 CORRECTLY, EVEN THOUGH YOU HAD THE CHART IN YOUR HANDS,
20 AND YEAH, THERE'S A LOT OF INFORMATION IN THERE.
21 RIGHT?

22 A YEAH.

23 Q EVEN THOUGH YOU HAD ALL THAT INFORMATION IN
24 YOUR HAND, YOU DIDN'T GO THROUGH IT AND LOOK AT IT THAT
25 DAY, BECAUSE YOU ALREADY FIGURED OUT THAT YOU COULDN'T
26 BE THEIR PATIENT (SIC)?

27 A RIGHT. AND I HAVE OTHER PATIENTS SCHEDULED
28 AFTER THAT. I MEAN, I HAVE A FULL SCHEDULE THE WHOLE

1 AFTERNOON.

2 Q DID YOU EVER, AFTER THEY LEFT, DID YOU SIT
3 DOWN AND PORE OVER THOSE 60 OR SO PAGES OF CHART TO SEE
4 WHAT WAS GOING ON THIS WITH BABY?

5 A I JUST SAW IT BRIEFLY, AND RETURNED THE CHART
6 AND HANDED OVER THE PATIENT CARE TO DR. YIM. AND
7 DR. YIM SAID THEY HAVE TO SEE ANOTHER DOCTOR IN MEDICAL
8 PRACTICE. I THINK THEY SEND THEM A WRITTEN LETTER.
9 AND THEN THAT'S ALL OF IT.

10 Q PART OF THE REASON YOU DIDN'T SPEND A LOT OF
11 TIME GOING THROUGH THAT CHART, EVEN AFTER THEY LEFT, IS
12 BECAUSE YOU HAD OTHER PATIENTS STACKED UP BEHIND THEM?

13 A RIGHT.

14 MR. GUTERRES: LEADING, OBJECTION.

15 THE COURT: LET'S CUT THE LEADING QUESTIONS.

16 MR. MCMILLAN: YOUR HONOR, I'M FINISHED. THAT
17 WAS THE LAST ONE.

18 THE COURT: ALL RIGHT. ANYTHING FURTHER?

19 MR. GUTERRES: I'M DONE, YOUR HONOR.

20 THE COURT: THANKS VERY MUCH. YOU'RE EXCUSED.

21 ALL RIGHT. MS. ENNIS IS BACK ON THE STAND.

22 ARE YOU READY TO PROCEED, MS. CHUNG?

23 MS. CHUNG: YES.

24

25 DIRECT EXAMINATION (RESUMED)

26 BY MS. CHUNG:

27 Q MS. ENNIS, IS THIS A DOCUMENT THAT YOU
28 CREATED? EXHIBIT NUMBER --

1 THE COURT: WHY DON'T YOU IDENTIFY THE
2 DOCUMENT?

3 MS. CHUNG: I'M SORRY?

4 THE COURT: LET'S IDENTIFY THE DOCUMENT.

5 MS. CHUNG: YES, YOUR HONOR. EXHIBIT NUMBER
6 1088.37 AND 38.

7 THE WITNESS: YES, IT IS.

8 BY MS. CHUNG:

9 Q AND YOU PREPARED THIS AT OR AROUND THE TIME OF
10 THE VISITATION. CORRECT?

11 A YES. THIS IS DECEMBER 22ND, YES.

12 Q DOES IT APPEAR TO BE AN ACCURATE AND TRUE COPY
13 OF YOUR NOTES?

14 A YES, IT DOES.

15 Q TELL ME, DURING THESE VISITS THAT YOU
16 MONITORED WITH MS. DUVAL AND HER SON, SHE'S FEEDING THE
17 BABY. RIGHT?

18 A YES.

19 Q DOES THE BABY EAT EVERYTHING SHE FEEDS HIM?

20 MS. SWISS: OBJECTION: VAGUE AS TO TIME.

21 THE COURT: OVERRULED -- WELL, ARE YOU TALKING
22 ABOUT THE VISIT THAT IS THE SUBJECT OF THIS EXHIBIT YOU
23 JUST IDENTIFIED?

24 MS. CHUNG: YES.

25 THE COURT: I THINK THAT WAS PRETTY CLEAR, SO
26 IT'S OVERRULED. GO AHEAD.

27 MS. CHUNG: WELL, I'LL RE-ASK IT, YOUR HONOR.

28 THE COURT: NO, YOU DON'T NEED TO.

1 THE WITNESS: YES TO THE MOTHER WAS FEEDING
2 THE BABY, AND YES TO THE LATTER QUESTION, BABY RYAN WAS
3 EATING THE FOOD THAT WAS GIVEN HIM.

4 BY MS. CHUNG:

5 Q WERE THERE ANY INSTANCES ON THE DECEMBER 22ND
6 VISIT WHERE HE DIDN'T WANT ANY FOOD?

7 A IT SEEMS THAT SHE FEEDS HIM SEVERAL TIMES.
8 AND THE FIRST COUPLE OF TIMES, SHE GIVES HIM DIFFERENT
9 FOOD OPTIONS. HE DEFINITELY EATS IT, AND THEN HE
10 STOPS.

11 AND THEN, THERE'S ONLY ONE TIME THAT I RECALL
12 HERE THAT HE DOESN'T REALLY WANT THAT FOOD. BUT THEN
13 HE CONTINUES TO EAT OTHER ITEMS.

14 Q SO SHE'S TRYING TO GIVE HER BABY FOOD, AND HE
15 TRIES IT AND THEN DOESN'T LIKE IT AND SHE MOVES ON?

16 A SHE GIVES HIM THE FOOD, AND HE DEFINITELY
17 TRIES IT, AND IF HE DOESN'T LIKE IT, I DON'T KNOW WHAT
18 THE REASONING, BUT, YEAH, HE TRIES OTHER THINGS.

19 Q DO YOU SEE DURING THIS VISIT IF MS. DUVAL IS
20 AFFECTIONATE WITH HER SON?

21 A YES.

22 Q CAN YOU TURN TO PAGE 1088.38. AND IT'S --
23 YOUR NOTE STATES BABY RYAN STARTS EXPRESSING WITH
24 BABY -- CONTINUAL BABY WORDS AND MOTHER SPEAKS BACK TO
25 HIM INTERACTIVELY. TELL US WHAT YOU MEAN BY THAT.

26 A OKAY. SO I APOLOGIZE. I USE THE WORD BABY A
27 LOT. SO I USED THE WORD INTERACTIVELY BECAUSE THEY
28 WERE VERBALLY MAKING SOME KIND OF SOUND OR CONNECTION.

1 AND SO WHEN I USE THE WORD "BABY WORDS," I
2 DON'T KNOW WHAT THOSE WORDS EXPRESS, BUT THERE'S SOME
3 KIND OF EXPRESSION, AND WHEN THEY INTERACT, HE'S
4 RESPONDING.

5 HE'S MAKING SOME KIND OF A RESPONSE, IN THAT I
6 DON'T KNOW WHAT THOSE WORDS MEAN, BUT HE'S MAKING A
7 RESPONSE.

8 Q DO YOU KNOW IF -- DO YOU RECALL IF MS. DUVAL
9 WAS SAYING WORDS, YOU KNOW, COGNITIVE WORDS THAT YOU
10 COULD UNDERSTAND, BACK TO BABY RYAN AT THIS POINT?

11 A WELL, I KNOW SHE WAS SINGING TO HIM. I CAN'T
12 REMEMBER THE WORDS TO THE SONGS. BUT SHE USUALLY SINGS
13 LIKE, MOTHER GOOSE SONGS, AND JUST CHILDREN'S SONGS TO
14 HELP BRING POSITIVE AND HAPPY SPIRIT TO THE, TO THE
15 VISIT.

16 Q OKAY. CAN YOU PLEASE TURN TO PAGE 1088.39,
17 PLEASE.

18 (PLAINTIFF'S EXHIBIT NO. 1088.39 WAS
19 MARKED FOR IDENTIFICATION BY THE
20 COURT.)

21 BY MS. CHUNG:

22 Q DO YOU RECOGNIZE THIS DOCUMENT?

23 A CAN YOU REPEAT YOUR QUESTION?

24 Q DO YOU RECOGNIZE THE DOCUMENT?

25 A YES, I DO. I'M SORRY.

26 Q IS THIS ANOTHER NOTE THAT YOU CREATED DURING
27 ONE OF YOUR MONITORED VISITS?

28 A YES.

1 Q AND DID YOU CREATE IT AT OR AROUND THE TIME OF
2 DECEMBER 24TH?

3 A YES, DECEMBER 24TH.

4 Q CHRISTMAS EVE. RIGHT?

5 A THAT'S CORRECT.

6 Q AND DOES THIS APPEAR TO BE A TRUE AND ACCURATE
7 COPY OF YOUR NOTE?

8 A YES, IT IS.

9 Q AND SO MS. DUVAL'S GOT HER VISIT ON CHRISTMAS
10 EVE WITH HER SON. CORRECT?

11 A YES.

12 Q YOU WERE THERE TO MONITOR?

13 A YES.

14 Q CAN YOU DESCRIBE FOR US A LITTLE BIT ABOUT
15 WHAT THE SPACE LOOKS LIKE, WHERE SHE'S MEETING WITH HER
16 SON FOR CHRISTMAS?

17 A THE SPACE IS -- I BELIEVE THIS ONE WAS IN
18 LAKEWOOD. THE ROOM LIGHT-COLORED, ONE SIDE HAS A
19 COUPLE OF WINDOWS. I BELIEVE THERE'S -- I THINK THIS
20 ROOM HAS A TABLE IN THE MIDDLE, AND --

21 I CAN'T REMEMBER IF THERE'S A TABLE. I CAN'T
22 REMEMBER IF THERE'S A TABLE, I'M TRYING TO REMEMBER.
23 BUT IT'S PRETTY MUCH A SMALL, SQUARE ROOM THAT YOU SIT
24 IN. AND MYSELF AND THE OTHER MONITOR JUST KIND OF SAT
25 ALONG THE WALL AND JUST WATCH THEM INTERACT.

26 IT'S SOMEWHAT OF A PLAIN ROOM, AND THEY GET TO
27 SIT THERE AND DO THE BEST THEY CAN VISITING.

28 Q ON THIS VISIT, THE ONE WE'RE TALKING ABOUT ON

1 DECEMBER 24TH, THERE WAS ANY OTHER PERSON PRESENT?

2 A YES, THERE WAS.

3 Q WHO?

4 A KAREN.

5 Q AND WHO IS KAREN?

6 A I BELIEVE -- I BELIEVE SHE IS A SOCIAL WORKER.
7 SHE'S IN LAKEWOOD. AND I BELIEVE THIS IS THE FIRST
8 VISIT IN LAKEWOOD, WHERE WE KIND OF TRANSFER
9 EVERYTHING.

10 Q WHAT WAS YOUR INTERACTION WITH KAREN, IF ANY?

11 A DURING -- DO YOU WANT EVERYTHING -- DURING AND
12 AFTER?

13 Q DURING THE VISIT.

14 A OKAY. SO DURING THE VISIT, WE WERE BOTH
15 THERE. WE WERE BOTH TAKING NOTES, MADE EYE CONTACT.
16 SHE MADE SOME COMMENTS ABOUT, YOU KNOW, THE PROCESS,
17 THE PROTOCOL. SHE MADE COMMENTS ABOUT THE FAILURE TO
18 THRIVE.

19 I DID MY BEST NOT TO ENGAGE IN ANY
20 CONVERSATION THAT WOULD INSINUATE THAT I WAS MAKING
21 SOME KIND OF DEFINITIVE STATEMENT ABOUT THE HEALTH OF
22 THE CHILD IN QUESTION, INSTEAD OF MONITORING, BECAUSE
23 IT WASN'T MY PLACE. SO I JUST LISTENED. AND I KIND OF
24 NODDED.

25 AND SHE, YOU KNOW, SHE SEEMED LIKE A NICE
26 PERSON. SHE LOOKED AT ME. SHE CHALLENGED ME ONCE ON
27 -- SHE SAID I COULDN'T TEXT DURING THE -- AS I
28 MONITORED. AND I TOLD HER THAT I APOLOGIZED IF THAT'S

1 HOW THAT WAS COMING ACROSS.

2 IT WAS BEFORE PEOPLE WERE REALLY USING
3 TECHNOLOGY. AND SO I HER LET KNOW THAT I TRIED TO TAKE
4 SCRUPULOUS NOTES ON MY MOBILE DEVICE, SO I THAT CAN
5 CATCH AS MUCH AS POSSIBLE.

6 AND SHE REALLY APPRECIATED THAT. AND SHE MADE
7 COMMENTS ABOUT, YOU KNOW, THE CHILD AND HER OPINIONS.
8 AND SO I NOTED EVERYTHING.

9 Q YOU WEREN'T TEXTING, WERE YOU?

10 A I WAS NOT TEXTING AT ALL.

11 Q WHAT WERE SOME OF THE OPINIONS ON THE BABY?

12 A SURE. ONE THING SHE MENTIONED IS THAT --
13 MS. SWISS: I'M GOING TO OBJECT, YOUR HONOR.
14 HEARSAY.

15 THE COURT: IT'S UNCLEAR. I'M NOT SURE WHOSE
16 OPINIONS YOU'RE ASKING FOR. SO BEFORE I CAN RULE ON
17 IT, I NEED TO HAVE A CLARIFICATION OF THE QUESTION.
18 WHY DON'T YOU ASK HER --

19 MS. CHUNG: IT WOULD HAVE BEEN THE OPINION
20 MS. KAREN GAVE TO MS. ENNIS.

21 THE COURT: SUSTAINED.

22 BY MS. CHUNG:

23 Q MS. ENNIS?

24 A YES.

25 Q YOU STATED EARLIER THAT KAREN, YOU BELIEVE, IS
26 A COUNTY SOCIAL WORKER. IS THAT CORRECT?

27 A YES.

28 Q AND MS. KAREN, WHEN SHE SPOKE TO YOU ABOUT HER

1 OPINIONS OF BABY RYAN, SHE GAVE THOSE OPINIONS TO YOU.
2 CORRECT?

3 A SHE -- SHE DID, AND I NOTATED THEM.

4 Q AND SHE WAS ON DUTY WORKING AT THE TIME.
5 BECAUSE SHE WAS TAKING NOTES TOO?

6 A THAT IS CORRECT.

7 Q SO, WHAT DID MS. KAREN VANCE INFORM YOU ABOUT,
8 WITH REGARDS TO BABY RYAN?

9 MS. SWISS: OBJECTION: HEARSAY.

10 THE COURT: SUSTAINED.

11 MS. CHUNG: YOUR HONOR, MAY WE HAVE A SIDEBAR?

12 THE COURT: I DON'T NEED ONE AT THIS TIME.

13 THANK YOU.

14 BY MS. CHUNG:

15 Q AFTER SPEAKING WITH KAREN DURING THE
16 VISITATION ON CHRISTMAS EVE, DID YOU LEAVE THAT VISIT
17 WITH ANY TYPE OF IMPRESSION ON MAYBE WHAT WAS WRONG
18 WITH BABY RYAN?

19 A YES, I WROTE DOWN IN MY NOTES THAT, BASED ON
20 THE DISCUSSIONS WITHIN THE -- THAT IT WAS UNUSUAL FOR
21 THEM TO HAVE FAILURE TO THRIVE WITH A CHILD THAT'S THAT
22 HAPPY. AND SO I NOTATED THE -- THE DISCUSSIONS ABOUT
23 THAT.

24 I MEAN, DID IT LEAVE AN IMPRESSION? BUT IT
25 WAS JUST NOTATED THAT THE SOCIAL WORKER WHO WAS
26 PRESIDING OVER THAT MADE COMMENTS ABOUT IT. AND KAREN
27 AND I SPOKE AFTERWARDS, A LITTLE BIT.

28 MS. SWISS: OBJECTION: MOVE TO STRIKE AS

1 HEARSAY, NONRESPONSIVE.

2 THE COURT: IF YOUR MOTION IS TO STRIKE SOME
3 PORTION OF THE ANSWER, THE MOTION TO STRIKE IS DENIED.

4 IF IT'S ADDRESSED TO SOMETHING ELSE, I CAN'T
5 TELL WHAT YOU'RE OBJECTING TO. WAS IT SOME PART OF THE
6 ANSWER?

7 MS. SWISS: THE PART OF THE ANSWER REGARDING
8 THE DISCUSSION WITH KAREN.

9 THE COURT: ALL RIGHT. THE OBJECTION IS
10 OVERRULED. IT DID NOT --

11 MS. CHUNG: MS. ENNIS --

12 THE COURT: THE MOTION TO STRIKE IS GRANTED.
13 THAT PART OF THE ANSWER, THAT IT WAS UNUSUAL FOR THEM
14 TO HAVE FAILURE TO THRIVE WITH A CHILD THAT'S THAT
15 HAPPY, IS GRANTED.

16 THAT PORTION OF THE ANSWER BE STRICKEN. THE
17 JURY DISREGARD IT. THE REMAINDER OF THE ANSWER MAY BE
18 CONSIDERED.

19 BY MS. CHUNG:

20 Q MS. ENNIS, THESE NOTES THAT WE'VE BEEN GOING
21 OVER, WERE YOU REQUIRED TO TURN THESE NOTES OVER TO THE
22 SOCIAL WORKERS?

23 A I'M NOT SURE WHAT THE PROTOCOL WAS, BUT I
24 BELIEVE THAT THEY WERE IF I DID TAKE ANY NOTES. SO I'M
25 NOT SURE.

26 Q OKAY. I UNDERSTAND YOU DON'T KNOW PROTOCOL.
27 MY QUESTION IS, FIRST, THESE NOTES YOU TOOK, DID YOU AT
28 SOME POINT TURN THEM OVER?

1 A YES.

2 Q TO THE SOCIAL WORKERS?

3 A THAT IS CORRECT.

4 Q AND WE'LL GO AHEAD AND GO TO THE LAST VISIT,
5 EXHIBIT NUMBER 1088.40.

6 (PLAINTIFF'S EXHIBIT NO. 1088.40 WAS
7 MARKED FOR IDENTIFICATION BY THE
8 COURT.)

9 BY MS. CHUNG:

10 Q DO YOU RECOGNIZE THAT DOCUMENT?

11 A YES.

12 Q WHAT IS IT?

13 A I'M SORRY?

14 Q WHAT IS IT?

15 A NOTES ON DECEMBER 28TH FOR A VISIT.

16 Q AND DID YOU CREATE THIS DOCUMENT?

17 A YES.

18 Q AND WHY DID YOU CREATE THIS DOCUMENT?

19 A TO DOCUMENT THE VISITATION OF MOTHER AND
20 CHILD.

21 Q DOES IT APPEAR TO BE A TRUE AND ACCURATE COPY
22 OF YOUR NOTES?

23 A YES.

24 Q AND WHEN DID THIS VISITATION OCCUR?

25 A DECEMBER 28TH.

26 Q CAN YOU TELL ME WHO WAS PRESENT ASIDE FROM
27 MS. DUVAL AND HER SON?

28 A THE MATERNAL GRANDMOTHER WAS THERE. VICTORIA

1 WAS THERE FOR A LITTLE BIT. YES, I BELIEVE THAT'S IT.

2 Q IS IT TRUE DURING THIS VISIT THAT BABY RYAN IS
3 HAPPY AND SMILING?

4 A YES.

5 Q TELL US SOME OF THE INTERACTION THAT YOU
6 RECALL FROM THIS PARTICULAR VISIT BETWEEN RAFAELINA --
7 MS. DUVAL AND HER SON.

8 A THEY'RE PLAYING -- IT IS RIGHT AFTER
9 CHRISTMAS. SO THEY'RE OPENING GIFTS, HAVING A LOT OF
10 FUN. JUST SMILING, EATING, HAVING MORE FUN.

11 HE'S EATING A LOT. HE'S COUGHING. I HAVE A
12 LOT OF NOTES OF HIM EATING AND HIM BEING SEEMINGLY IN A
13 POSITIVE MOOD, HAPPY.

14 Q YOU'RE TURNING TO PAGE 1088.41?

15 A SORRY. I AM. I'M SORRY.

16 (PLAINTIFF'S EXHIBIT NO. 1088.41 WAS

17 MARKED FOR IDENTIFICATION BY THE

18 COURT.)

19 BY MS. CHUNG:

20 Q I JUST WANTED TO IDENTIFY IT. SO MS. DUVAL'S
21 THERE WITH HER SON, AND SHE'S BRINGING HIM CHRISTMAS
22 GIFTS THIS DAY?

23 A YES.

24 Q HOW IS HIS Demeanor WHEN HE'S PRESENTED WITH
25 THESE GIFTS?

26 A HE SEEMS POSITIVE AND HAPPY.

27 Q IS THERE ANYTHING ELSE ABOUT THIS VISIT THAT
28 WE SHOULD TALK ABOUT?

1 MS. SWISS: OBJECTION: VAGUE, OVERBROAD,
2 CALLS FOR A NARRATIVE.

3 THE COURT: SUSTAINED. I THINK WE'LL TAKE THE
4 AFTERNOON RECESS AT THIS TIME. BE APPROXIMATELY TEN
5 MINUTES. ALL JURORS PLEASE REMEMBER THE ADMONITION.

6 (JURY EXCUSED)

7 (PAUSE IN THE PROCEEDINGS)

8 (JURY PRESENT)

9 THE COURT: WE'RE ON THE RECORD. EVERYONE MAY
10 BE SEATED. EVERYONE IS PRESENT. GO AHEAD, MS. CHUNG.
11 BY MS. CHUNG:

12 Q MS. ENNIS, BEFORE MONITORING MS. DUVAL'S
13 VISIT, HAD YOU EVER BEEN A MONITOR BEFORE?

14 A NO.

15 Q DO YOU KNOW -- DID YOU GET PAID FOR BEING
16 MS. DUVAL'S MONITOR?

17 A NO.

18 Q AND DID THE DEPARTMENT OF CHILDREN AND FAMILY
19 SERVICES, DID THEY EVER PROVIDE YOU ANY ACTUAL TRAINING
20 ON HOW TO BE A MONITOR?

21 A NO.

22 Q BUT YOU DISCUSSED EARLIER THAT YOU WERE GIVEN
23 SOME KIND OF HANDOUT ON PROCEDURAL THINGS. IS THAT
24 CORRECT?

25 A THE DOS AND DON'TS, YES.

26 Q SO THE VISIT, DOES THE EXCHANGE OF THE BABY --
27 TELL ME HOW THAT OCCURS AT THE BEGINNING OF THE VISIT.

28 A WHAT I RECALL IS, THE BABY ARRIVES WITH THE

1 PATERNAL FAMILY. GENERALLY, IT'S THE GRANDFATHER AND
2 GRANDMOTHER. AND THEY BRING THE BABY.

3 AND THEN BEFORE THE VISIT OCCURS, THE MATERNAL
4 SIDE GETS SET UP IN THIS, YOU KNOW, ROOM. AND THE
5 SOCIAL WORKER THEN COMES AND REMOVES THE BABY FROM THE
6 PATERNAL SIDE, AND THEN BRINGS THE CHILD IN TO BE WITH
7 MOM, THE MATERNAL SIDE.

8 Q SO THE SOCIAL WORKER --

9 A THE SOCIAL WORKER DOES THE TRANSFERRING.

10 Q OTHER THAN FOOD, WHAT ELSE DO YOU RECALL
11 MS. DUVAL BRINGING TO HER VISITS?

12 A SHE WOULD BRING HER LAPTOP, MOTHER GOOSE CDS,
13 SOME TOYS, SOME DRINKS, SOMETIMES MILK. I THINK THAT'S
14 IT.

15 Q SO SHE WOULD BE IN THE VISITATION ROOM, WITH
16 YOU, INTERACTING WITH HER SON. AND YOU'RE THERE
17 WATCHING HER, AND SOMETIMES ANOTHER SOCIAL WORKER?

18 A YES.

19 MS. SWISS: OBJECTION: LEADING, VAGUE AS TO
20 TIME.

21 THE COURT: OVERRULED.

22 BY MS. CHUNG:

23 Q MS. ENNIS, HAD YOU EVER TOLD ANYONE THAT YOU
24 DID NOT WANT TO MONITOR THESE VISITS OUT OF YOUR
25 CONCERN FOR CONFLICT OF INTEREST SLASH POSSIBLE BIAS?

26 A I NEVER MADE THAT COMMENT.

27 Q I WANT TO TALK TO YOU AGAIN ABOUT THE TDM.
28 OKAY?

1 A MM-HMM.

2 Q YOU STATED EARLIER THAT YOU WERE THERE FOR THE
3 TRANSFER OF THE -- BABY RYAN, FROM MS. DUVAL TO
4 MR. MILLS?

5 A YES.

6 Q AND DID THAT HAPPEN IN THE BIG CONFERENCE ROOM
7 YOU GUYS WERE IN?

8 A I DO NOT BELIEVE SO, NO.

9 Q DO YOU RECALL WHERE THAT EXCHANGE HAPPENED?

10 A IT WAS OUTSIDE OF THE ROOM, EITHER IN FRONT OF
11 THE ROOMS WHERE WE DID THE LIVE SCANS FOR THE
12 FINGERPRINTING, I BELIEVE, IN THAT AREA. BUT IT WAS
13 DEFINITELY OUTSIDE THE ROOMS IN ONE OF THE HALLS. IT
14 WAS KIND OF OUT IN THE OPEN.

15 Q TELL US WHAT IT IS YOU'RE OBSERVING WHEN THIS
16 EXCHANGE HAPPENS.

17 A THE CLEAREST THING I CAN THINK OF IS JUST --
18 THERE WAS ALREADY -- I SAW A LOT OF EMOTION, WHETHER IT
19 WAS BEING UPSET FROM THE MATERNAL GRANDPARENTS, TO
20 LINA, TO LINA TRYING TO TALK TO BABY RYAN, LET HIM KNOW
21 WHAT'S GOING ON, FOR THE AGE HE'S AT.

22 AND IT WAS VERY UNCOMFORTABLE BECAUSE WE'RE IN
23 THE MIDDLE OF A RANDOM HALLWAY. AND ONE OF THE SOCIAL
24 WORKERS, I'M NOT SURE IF IT WAS SUSAN OR KIMBERLY, BUT
25 IT WAS ONE OF THEM, AND THEY REMOVED THE BABY.

26 IT WAS AS EXCRUCIATING AS A SITUATION YOU'D
27 WATCH, SEEING, YOU KNOW, A CHILD NOT UNDERSTANDING
28 BECAUSE HE'S SO YOUNG. AND THEN, YOU KNOW, KIND OF

1 JUST HANDING HIM OVER. AND IT WAS A VERY UNPLEASANT
2 SITUATION TO WATCH.

3 Q DID ANYTHING ELSE HAPPEN AFTER THE EXCHANGE?

4 A WELL, LOTS OF THINGS HAPPENED. DO YOU MEAN
5 LIKE DIRECTLY AFTER? I'M SORRY.

6 Q DID YOU HAVE ANY OTHER INTERACTION WITH ANY
7 SOCIAL WORKERS AFTER THE EXCHANGE?

8 A YES. I DID. KIMBERLY ROGERS AND I SPOKE.

9 Q AND WHAT WAS THE CONTEXT OF YOUR CONVERSATION?

10 A AFTER WE GOT OUT OF THE ELEVATORS, WHEN I WAS
11 LEAVING, SHE PULLED ME ASIDE AND ASKED ME AN
12 OFF-THE-RECORD QUESTION, AND I BELIEVE SHE USED THOSE
13 WORDS.

14 AND ASKED ME, IN YOUR OPINION -- SHE ASKED ME,
15 IN YOUR OPINION, WHO IS GOING TO TAKE CARE OF BABY
16 RYAN?

17 Q DID YOU RESPOND?

18 A I DID.

19 Q WHO DID YOU THINK WAS GOING TO BE TAKING CARE
20 OF BABY RYAN AFTER MS. DUVAL?

21 A MY RESPONSE WAS THE GRANDPARENTS.

22 Q DO YOU SEE MS. PENDER OR MS. ROGERS HERE IN
23 COURT TODAY?

24 A NO.

25 Q CONFIDENTIALITY, WAS THAT EVER DISCUSSED WITH
26 YOU, REGARDING THIS PARTICULAR CASE?

27 A YES.

28 Q AND DID YOU HAVE DISCUSSIONS WITH OTHER PEOPLE

1 REGARDSING CONFIDENTIALITY ABOUT THIS CASE?

2 A NOT OUTSIDE THE PEOPLE WHO WERE PRESENT IN THE
3 CONFIDENTIALITY -- GROUP OF PEOPLE INVOLVED IN THE
4 CASE.

5 Q DID YOU HAVE A CONVERSATION WITH MS. PENDER?

6 A YES.

7 Q AND TELL US WHAT WAS THAT CONVERSATION ABOUT.

8 A I, I GUESS I CAN USE THE WORD CONFRONTED,
9 SUSAN PENDER, ABOUT HER COMMUNICATING TO EVERYONE
10 INVOLVED, OR KIMBERLY OR HER REQUEST, AND LEGALLY
11 HAVING CONFIDENTIALITY IN THE CASE, ESPECIALLY IN THE
12 TDM, WHICH WAS A BIG DEAL.

13 AND I ASKED HER ABOUT THAT BECAUSE I GOT A
14 PHONE CALL FROM AN ELDER OF THE CHURCH I ATTENDED, IN A
15 WHOLE DIFFERENT LOCATION, ASKING ME --

16 MS. SWISS: OBJECTION, YOUR HONOR.

17 THE WITNESS: -- SPECIFICS ABOUT THE CASE.

18 MS. SWISS: THIS RESPONSE IS GOING TO BE
19 HEARSAY.

20 THE COURT: NOT SO FAR. THE OBJECTION IS
21 OVERRULED. AND PLEASE DON'T INTERRUPT A WITNESS
22 THAT'S -- TESTIMONY OR A LAWYER'S QUESTION. ATTORNEYS
23 DON'T HAVE THE AUTHORITY TO DO THAT. ONLY THE COURT
24 DOES.

25 MS. SWISS: I APOLOGIZE.

26 THE COURT: YOU MAY FINISH THE ANSWER, BUT
27 ANSWER ONLY THE QUESTION YOU WERE ASKED.

28 THE WITNESS: WOULD YOU MIND ASKING THE

1 QUESTION AGAIN?

2 BY MS. CHUNG:

3 Q WE KNOW YOU RECEIVED A PHONE CALL FROM
4 SOMEONE. RIGHT?

5 A YES.

6 Q AND WE WERE JUST TALKING ABOUT CONFIDENTIALITY
7 IN THIS CASE.

8 A OKAY.

9 Q SO...

10 A MY --

11 Q IS IT YOUR UNDERSTANDING THAT SOMEONE BROKE
12 THAT CONFIDENTIALITY?

13 A YES, IT WAS.

14 Q OKAY. AND YOU KNOW THAT HOW?

15 A BECAUSE SOMEONE WHO WAS NOT INVOLVED IN ANY OF
16 THE CASE, CALLED ME AND ASKED ME SOME SPECIFICS ABOUT
17 THE CASE. AND IT MADE ME QUESTION. THAT'S WHY I
18 CONFRONTED SUSAN PENDER. BECAUSE THAT IS VERY -- VERY
19 CONCERNING, FOR MULTIPLE REASONS.

20 Q AND WHO WAS THE PERSON THAT CONTACTED YOU?

21 A ONE OF THE ELDERS OF THE CHURCH.

22 Q DO YOU REMEMBER HIS NAME?

23 A IT COULD HAVE BEEN BRIAN PINELA.

24 Q YOU STATED EARLIER THAT MS. DUVAL SINGS TO HER
25 SON DURING HER VISITS.

26 A MM-HMM. YES.

27 Q AND DO YOU HAVE AN UNDERSTANDING WHETHER OR
28 NOT MS. DUVAL CAN SPEAK SPANISH?

1 A I UNDERSTAND THAT SHE CAN SPEAK SPANISH, YES.

2 Q DO YOU KNOW IF MS. DUVAL WAS PERMITTED TO
3 SPEAK SPANISH OR SING SPANISH TO HER SON DURING VISITS?

4 A PART OF THE PROTOCOL IN THAT PAPER SAID THAT
5 THEY WEREN'T -- THAT THERE WAS NO SPANISH TO BE SPOKEN
6 IN THERE. I THINK I MEANT PROCEDURES, NOT PROTOCOL.
7 SORRY. I DON'T KNOW IF IT'S THE SAME.

8 Q MS. ENNIS, AT SOME POINT, YOU STOPPED
9 MONITORING MS. DUVAL'S VISITS. RIGHT?

10 A THAT'S CORRECT.

11 Q WHY? WHY DID YOU STOP?

12 A I WAS TOLD BY ONE OF THE SOCIAL WORKERS IN
13 LAKEWOOD THEY DIDN'T NEED ME TO MONITOR ANYMORE.

14 Q DID THEY GIVE YOU A REASON WHY?

15 A THEY MENTIONED THAT THERE WAS SOME KIND OF
16 CONFLICT THERE, AND BECAUSE OF THAT, THEY JUST WANTED
17 SOMEONE FROM THE DEPARTMENT TO DO THE MONITORING, I
18 BELIEVE.

19 Q I MEAN, IF YOU WERE ASKED TODAY TO CONTINUE
20 MONITORING MS. DUVAL'S VISITS, WOULD YOU?

21 A YES.

22 Q YOU'VE KNOWN MS. DUVAL FOR ABOUT -- YOU SAID
23 OVER 15 YEARS?

24 A I BELIEVE SO, YEAH.

25 Q DO YOU STILL MAINTAIN CONTACT WITH MS. DUVAL
26 CURRENTLY?

27 A YES.

28 Q SO YOU'VE SEEN HER AND SPENT TIME WITH HER

1 SINCE THE -- BABY RYAN WAS TAKEN ON NOVEMBER 3RD, 2009?

2 A OH, YES.

3 Q TELL ME A LITTLE BIT ABOUT WHAT YOU'VE SEEN
4 HAPPEN WITH MS. DUVAL SINCE.

5 MS. SWISS: OBJECTION: CALLS FOR A NARRATIVE.

6 THE COURT: THAT OBJECTION IS OVERRULED. BUT
7 THE QUESTION IS TOO GENERAL. WHY DON'T YOU LET HER
8 KNOW WHAT IT IS YOU'D LIKE TO ASK HER TO RESPOND TO.

9 MS. CHUNG: OKAY.

10 BY MS. CHUNG:

11 Q CAN YOU GIVE ME SOME EXAMPLES OF ANY CHANGES
12 YOU'VE SEEN WITH MS. DUVAL, FROM WHEN SHE STILL HAD HER
13 BABY, TO AFTER?

14 A SEVERAL OCCASIONS. SHE WAS DEFINITELY MUCH
15 MORE DOWN, DEPRESSED AND SAD. HER GOING TO COUNSELING
16 AND THERAPY DEFINITELY HELPED. I THINK SHE WAS MORE
17 STRESSED THAN I NORMALLY RECOGNIZED HER.

18 SHE DEFINITELY TOOK IT UPON HERSELF TO, YOU
19 KNOW, DO YOGA, GO SALSA DANCING, TRY TO MAINTAIN A
20 NORMAL LIFE AS MUCH AS POSSIBLE. BUT SHE DEFINITELY
21 WAS DISTRAUGHT.

22 SHE -- AND ONE LAST EXAMPLE. I THINK THAT
23 BECAUSE OF ALL THE ATTORNEY FEES AND A LOT -- JUST A
24 LOT OF THINGS THAT SHE HAD TO START PAYING FOR, I THINK
25 SHE BEGAN PAYING FOR MONITORING ONCE I EVEN STOPPED
26 DOING THE MONITORING, SHE HAD TO PAY FOR SESSIONS.

27 SO SHE WAS TRYING TO WORK MORE. SHE SOLD HER
28 HOUSE SO SHE CAN PAY FOR THINGS. THERE WAS A LOT THAT

1 SHE WENT THROUGH. AND HER DAD HAD HEALTH ISSUES, SHE
2 WAS ALSO TAKING CARE OF HER MOTHER AND FATHER.

3 AND I THINK -- FROM WHAT I SAW, AND SHE
4 MAINTAINED, BUT I DEFINITELY SAW A LOT OF CHANGES AND
5 DIFFERENCES. I WOULD PRAY WITH HER, I WOULD DO
6 WHATEVER I COULD TO THINK OF TO JUST REALLY LOVE HER.

7 AND THEN SHE WOULD STILL COME BY AND BRING ME
8 THINGS TO MY HOUSE TO SAY THANK YOU. SO I KNOW THERE
9 WAS SOMETHING IN THERE, THAT SHE WAS TRYING TO BE
10 POSITIVE, BUT THERE'S DEFINITELY A CHANGE IN HER
11 DEMEANOR AND HER SPIRIT THAT SHE WAS FIGHTING THROUGH.

12 Q YOU STATED THAT SHE HAD A -- IS IT YOUR
13 UNDERSTANDING THAT SHE HAD TO START PAYING FOR SOMEONE
14 TO MONITOR HER VISITS?

15 A THAT IS CORRECT.

16 Q AFTER THE TDM, AT THE END WHEN THERE WAS THE
17 EXCHANGE OF BABY RYAN, WAS -- DID YOU SEE MS. DUVAL
18 TRYING TO FEED HER BABY?

19 A I AM NOT POSITIVE SHE WAS TRYING TO FEED HER
20 BABY. I KNOW SHE WAS TRYING TO GIVE DIFFERENT ITEMS IN
21 THE BABY BAG OVER TO -- OVER IN THE TRANSITION, TRYING
22 TO KIND OF HELP AND ASSIST AND BE A PART OF THE
23 TRANSITION.

24 SO THERE MIGHT HAVE BEEN LIKE BABY BOTTLES, I
25 THINK, TO TRY TO BE GIVEN OVER. STUFF LIKE THAT.

26 MS. CHUNG: THANK YOU.

27 THE COURT: ALL RIGHT. THANK YOU. MS. SWISS?

28 MS. SWISS: THANK YOU, YOUR HONOR.

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CROSS-EXAMINATION

BY MS. SWISS:

Q GOOD AFTERNOON, MS. ENNIS.

A GOOD AFTERNOON.

Q THANK YOU FOR BEING HERE ALL DAY. I WILL TRY TO KEEP THIS AS BRIEF AS I CAN.

A TAKE YOUR TIME.

Q YOU DISCUSSED IT IN A LOT OF DETAIL THIS AFTERNOON, THE VISITS THAT YOU MONITORED WITH MS. DUVAL AND THE BABY. CORRECT?

A YES. THAT'S CORRECT.

Q AND WE DISCUSSED ALL OF THESE PAGES OF NOTES THAT YOU TOOK. CORRECT?

A YES.

Q AND I THINK YOU DESCRIBED YOUR NOTES AS BEING SCRUPULOUS. DO YOU REMEMBER THAT?

A I DO.

Q AND THAT WAS BECAUSE YOU WANTED TO TAKE DOWN AS ACCURATE OF A RECORD AS YOU COULD OF WHAT HAPPENED IN THE VISIT. CORRECT?

A AS BEST AS POSSIBLE.

Q AND I THINK YOU ALSO SAID YOU WANTED TO BE AS OBJECTIVE AS POSSIBLE. IS THAT RIGHT?

A I TRIED TO BE AS OBJECTIVE AS POSSIBLE.

Q AND YOU TRIED TO USE, I THINK YOU SAID -- THE PROPER WORDS USED IN THE VISIT, AS MUCH AS POSSIBLE?

A FOR NOT HAVING THE TRAINING, I TRIED TO USE THE MOST PROPER WORDS THAT I FELT -- WAS USED. JUST

1 LIKE A DOCTOR ASKS, AND THEY SHOW YOU PICTURES OF
2 SMILING FACES, YOU KNOW, ARE YOU HAPPY, KIND OF HAPPY,
3 OR SAD. YOU KNOW, YOU TRY TO GIVE YOUR BEST RESPONSE.
4 I DID MY BEST.

5 Q AND YOU WERE TRYING TO BE FAIR TO MS. DUVAL
6 AND THE BABY AND EVERYBODY IN THE VISIT. CORRECT?

7 A YES.

8 Q AND THAT WAS IMPORTANT TO YOU?

9 A YES.

10 Q NOW, YOU HAD BEEN FRIENDS WITH MS. DUVAL, I
11 THINK YOU SAID FOR ABOUT 15 YEARS?

12 A ABOUT 15 -- YEAH, PROBABLY 15.

13 Q AND YOU'VE BEEN TO HER HOUSE?

14 A HER -- I'VE BEEN TO HER HOMES AND RESIDENCES.

15 Q WHEN WAS THE LAST TIME YOU WERE THERE?

16 A FOR HER BIRTHDAY, THE MOST RECENT ONE, I THINK
17 SHE HAD SOME FRIENDS OVER FOR HER BIRTHDAY.

18 Q AND YOU WERE ALSO FRIENDS WITH MR. MILLS FOR
19 SOME PERIOD. CORRECT?

20 A YEAH.

21 Q AND WHEN WAS THE LAST TIME YOU INTERACTED WITH
22 MR. MILLS?

23 A I BELIEVE IT WAS AT THIS COURTHOUSE. WE HAD A
24 CONVERSATION. AND I DON'T KNOW HOW LONG AGO THAT WAS,
25 IT WAS PROBABLY WHEN THE CASE FIRST STARTED, IN THE
26 VERY BEGINNING. WE SPOKE HERE.

27 Q SO BACK IN -- WELL, WAS THIS IN CHILDREN'S
28 COURT, BACK IN 2010, OR ANOTHER COURT? THIS BUILDING?

1 A I'M NOT QUITE -- WHEN I WALKED IN, IT FELT
2 FAMILIAR. SO IT COULD HAVE BEEN THIS COURT.

3 Q WAS THAT A FAMILY COURT HEARING IN THIS
4 BUILDING?

5 A I AM UNSURE.

6 Q BUT SOCIALLY, WHEN WAS THE LAST TIME YOU SAW
7 MR. MILLS?

8 A WE WERE BOTH IN A WEDDING.

9 Q WHEN WAS THAT?

10 A I DON'T KNOW THE DATE. PROBABLY A DECADE AGO.

11 Q SO BEFORE THE WHOLE INCIDENT WITH BABY RYAN?

12 A THAT MIGHT BE TRUE.

13 Q OKAY. NOW, BACK TO MONITORING THESE VISITS.
14 YOU TESTIFIED IT WAS IMPORTANT FOR YOU TO ACCURATELY
15 RECORD WHAT WAS SAID IN THE VISITS. CORRECT?

16 A AS I STATED EARLIER, YES.

17 Q AND IF YOU HAD HEARD MS. DUVAL REQUEST AN
18 ACCOMMODATION FROM ONE OF THE SOCIAL WORKERS, YOU WOULD
19 HAVE WRITTEN THAT DOWN, WOULDN'T YOU?

20 A IF I WASN'T SNEEZING, I PROBABLY WOULD SAY I
21 DID MY BEST TO DO THAT.

22 Q AND IF SHE REQUESTED SOME KIND OF SERVICE FROM
23 THE SOCIAL WORKERS, YOU WOULD HAVE ASKED FOR THAT --
24 YOU WOULD HAVE WRITTEN THAT DOWN IN YOUR NOTES.
25 WOULDN'T YOU?

26 A IF IT WAS DURING THE MONITORING, BECAUSE
27 THERE'S CONVERSATIONS THROUGHOUT THE TIME, SO I --
28 YOU'D HAVE TO BE SPECIFIC WITH THAT SO I CAN ANSWER IT

1 CORRECTLY, I THINK.

2 Q BUT YOU WOULD DO YOUR BEST. IF MS. DUVAL
3 ASKED THE SOCIAL WORKER, CAN I HAVE X OR Y, YOU WOULD
4 HAVE DONE YOUR BEST TO WRITE THAT DOWN. CORRECT?

5 A I WOULD HAVE DONE MY BEST, YES.

6 Q AND THAT WOULD HAVE BEEN IMPORTANT TO YOU, TO
7 ACCURATELY REFLECT WHAT HAPPENED?

8 A I WOULD HAVE DONE MY BEST.

9 Q ARE YOU AWARE, MS. ENNIS, OF ANY DISABILITIES
10 THAT MS. DUVAL HAS?

11 A YES.

12 Q AND WHAT ARE THOSE DISABILITIES?

13 A I KNOW THAT SHE HAS HAND TREMORS.

14 Q HAVE YOU SEEN MS. DUVAL'S HAND TREMORS IN THE
15 PAST?

16 A YES.

17 Q AND IF YOU HAD SEEN MS. DUVAL'S HAND TREMORS,
18 WOULD YOU HAVE DOCUMENTED THAT IN YOUR NOTES,
19 MONITORING THE VISITS?

20 A I MAY NOT HAVE.

21 Q THAT WOULDN'T BE IMPORTANT TO YOU AS SOMETHING
22 THAT HAPPENED DURING THE VISIT?

23 A I DON'T THINK IT WOULD HAVE BEEN.

24 Q AT THE TEAM DECISION-MAKING MEETING, YOU
25 TESTIFIED EARLIER THAT YOU WEREN'T SURE OF THE PURPOSE
26 OF THE MEETING. IS THAT CORRECT?

27 A THAT'S NOT WHAT I SAID. NO.

28 Q AND WHAT WAS -- I APOLOGIZE FOR THAT. YOU

1 TESTIFIED MS. ROGERS EXPLAINED TO YOU THE PURPOSE OF
2 THE MEETING?

3 A THAT IS CORRECT.

4 Q AND IT WAS YOUR UNDERSTANDING THAT THE MEETING
5 WAS TO FIND A SOLUTION FOR THE PROBLEMS WITH THE BABY.
6 IS THAT CORRECT?

7 A THAT'S NOT WHAT SHE -- THAT'S NOT HOW SHE
8 EXPLAINED IT. NO.

9 Q WHAT DID SHE EXPLAIN TO YOU? I APOLOGIZE FOR
10 MY BAD NOTE-TAKING.

11 A APOLOGY ACCEPTED. WHAT SHE COMMUNICATED WAS
12 THAT THEY WERE HAVING A MEETING CALLED TEAM DECISION,
13 TO FOLLOW UP WITH HOW THINGS WERE GOING WITH THE
14 WELFARE OF BABY RYAN.

15 AND THAT IT WOULD BE NICE TO HAVE SOME
16 SUPPORT, SINCE YOU'VE BEEN THERE, YOU'VE BEEN THERE FOR
17 HER. AND MY NAME CAME UP. AND SHE ASKED ME IF I COULD
18 BE THERE TO SUPPORT HER.

19 Q WERE YOU UNDER THE IMPRESSION THAT THE PURPOSE
20 OF THE TEAM DECISION-MAKING MEETING WAS TO SEE WHETHER
21 THE PARENTS WERE FOLLOWING THE RECOMMENDATIONS OF THE
22 NUTRITIONIST AS TO WHAT TO FEED THIS BABY, SO THAT HE
23 GOT THE PROPER NOURISHMENT?

24 A I WAS UNDER THE UNDERSTANDING, NOT THE
25 IMPRESSION BECAUSE KIMBERLY WAS VERY CLEAR, THAT IT WAS
26 A FOLLOW-UP TO SEE HOW -- WHAT THE DIRECTION THAT WAS
27 GIVEN IN WHATEVER AREAS, HOW THE DIRECTION WAS DOING,
28 AND HOW THE WELFARE OF THE CHILD WAS DOING THROUGH THE

1 DIRECTION THAT WAS TAKEN, SO THEY WERE FOLLOWING UP.

2 Q AND THAT WAS ABOUT FEEDING THE BABY, BECAUSE
3 THAT WAS THE PROBLEM, RIGHT, THE BABY WASN'T BEING FED
4 THE RIGHT FOODS?

5 A THE FOLLOW-UP HAD TO DO WITH MANY DIFFERENT
6 COMPONENTS. IT WASN'T JUST ABOUT FAILURE TO THRIVE, IF
7 THAT'S WHAT YOU'RE ASKING ABOUT.

8 Q NO. I'M ONLY ASKING IF ONE OF THE REASONS WAS
9 TO FIGURE OUT IF THE BABY WAS NOW BEING FED THE PROPER
10 FOODS AS RECOMMENDED BY THE NUTRITIONIST.

11 A OH, I'M SORRY. SO ONE OF THE REASONS -- THAT
12 WASN'T DISCLOSED TO ME PRIOR TO IT, BUT WAS -- THAT
13 PART OF THE DISCUSSION. I THINK IT WAS A PART OF THE
14 DISCUSSION, BUT THAT -- IT WASN'T THE SOLE DISCUSSION
15 OF THE WHOLE MEETING. IT WAS BROUGHT UP.

16 Q AND YOU SPOKE UP DURING THE MEETING, RIGHT,
17 YOU VOICED YOUR OPINION?

18 A I DID.

19 Q NOW, AT THE TDM, DID YOU GET THE IMPRESSION
20 THAT ANY OF THE SOCIAL WORKERS, MS. ROGERS OR
21 MS. PENDER, WERE BIASED OR NOT BEING FAIR TO MS. DUVAL?

22 A THERE WAS DEFINITELY AN IMPRESSION OF THAT.

23 Q THERE WAS AN IMPRESSION?

24 A I THINK THERE WAS -- I COULD SENSE -- I CAN
25 SENSE SOMETHING.

26 MS. SWISS: YOUR HONOR, I'D LIKE TO READ FROM
27 THE DEPOSITION OF MS. ENNIS. PAGE 89, LINES 17 THROUGH
28 25.

1 THE COURT: YOU DON'T NEED IT RIGHT NOW. SHE
2 IS GOING TO READ FROM IT.

3 DID SOMEONE LODGE A COPY OF THAT DEPOSITION
4 WITH THE COURT?

5 THE WITNESS: WOULD YOU MIND REPEATING THE
6 LOCATION THAT YOU'RE MAKING A COMMENT ON?

7 MS. SWISS: PAGE 89. I'D LIKE TO READ LINES
8 17 THROUGH 25.

9 MS. CHUNG: NO OBJECTION, YOUR HONOR.

10 THE WITNESS: I GET CONFUSED. I'M SORRY. CAN
11 YOU HELP ME? THERE'S DIFFERENT PAGE NUMBERS
12 EVERYWHERE. AT THE BOTTOM, THE TOP?

13 MS. CHUNG: I THINK YOU HAVE THE CONDENSED
14 VERSION, IF YOU SEE ALL THE PAPER WE HAVE HERE...

15 THE WITNESS: YES.

16 THE COURT: IF YOU WANT, I CAN TRADE WITH YOU
17 BECAUSE I'M MORE ACCUSTOMED TO READING. LET ME HAVE
18 THAT ONE. THIS IS OPEN TO THE PAGE.

19 THE WITNESS: PLEASE PUT ON THE RECORD THAT I
20 REALLY APPRECIATE THE JUDGE.

21 THE COURT: YOU CAN TAKE A LOOK AT IT. BUT
22 THERE'S NO QUESTION PENDING. SHE'S ASKED THE COURT TO
23 PERMIT HER TO READ CERTAIN TESTIMONY. PAGE 89, LINES
24 17 TO 26. ANY OBJECTION?

25 MS. CHUNG: NO OBJECTION, YOUR HONOR.

26 THE COURT: GO AHEAD.

27 MS. SWISS: "QUESTION: DID YOU FEEL --
28 DID YOU GET THE IMPRESSION THAT ANY OF

1 THE SOCIAL WORKERS -- KIMBERLY ROGERS
2 OR SUSAN PENDER -- WERE BIASED, OR NOT
3 BEING FAIR TO MS. DUVAL?

4 ANSWER: AFTER THE PROCEEDINGS.

5 QUESTION: OKAY. BUT AT THE TDM, YOU
6 DIDN'T HAVE THAT FEELING?

7 ANSWER: NO."

8 I HAVE JUST A FEW MORE QUESTIONS.

9 BY MS. SWISS:

10 Q MS. ENNIS, IF YOU COULD TURN, IN THE BINDER,
11 TO PAGE 1088.28.

12 A I'M SORRY. CAN YOU REPEAT THAT AGAIN?

13 Q 1088.28. IT'S THE RECORD OF THE NOVEMBER 10TH
14 VISIT.

15 THE COURT: HAVE YOU FOUND THAT? POINT TWO
16 EIGHT.

17 THE WITNESS: YES, I HAVE IT NOW. THANK YOU.

18 MS. SWISS: THANK YOU.

19 BY MS. SWISS:

20 Q NOW, ABOUT EIGHT LINES IN, THERE'S A SENTENCE
21 STARTING WITH "PAPERWORK." DO YOU SEE THAT?

22 A YES, I DO.

23 Q AND IT SAYS: "PAPERWORK GIVEN TO READ WHICH
24 INCLUDED TO SPEAK ENGLISH ONLY AT VISIT." DO YOU SEE
25 THAT?

26 A YES, I DO.

27 Q AND YOU TESTIFIED EARLIER THAT MS. DUVAL WAS
28 NOT PERMITTED TO SPEAK SPANISH AT THE VISITS. DO YOU

1 REMEMBER TESTIFYING TO THAT?

2 A I'M SORRY. CAN YOU REPEAT THAT?

3 Q YOU TESTIFIED EARLIER, WHEN MS. CHUNG WAS
4 QUESTIONING YOU, THAT MS. DUVAL WAS NOT PERMITTED TO
5 SPEAK SPANISH AT THE VISITS. DO YOU REMEMBER
6 TESTIFYING TO THAT?

7 A I DO.

8 Q AND ARE YOU AWARE THAT THE REASON IS BECAUSE
9 MS. DUVAL FILLED OUT PAPERWORK SAYING THAT SHE WOULD
10 SPEAK IN ENGLISH DURING THE VISITS?

11 A I DO NOT RECALL.

12 Q NOW, ARE YOU AWARE -- YOU WERE AWARE THAT
13 THERE WERE DEPENDENCY PROCEEDINGS IN THE CHILDREN'S
14 COURT REGARDING MS. DUVAL AND BABY RYAN. YOU'RE AWARE
15 OF THAT?

16 A I DON'T THINK I UNDERSTAND. DEPENDENCY,
17 WHAT'S DEPENDENCY PROCEEDINGS?

18 Q IN THE CHILDREN'S COURT, WHEN THE SOCIAL
19 WORKERS -- AND THERE WAS A WHOLE -- LEGAL PROCEEDINGS
20 REGARDING THE CUSTODY OF BABY RYAN. YOU'RE AWARE THAT
21 HAPPENED SOMETIME IN THE PAST?

22 A OH, YEAH, I'M AWARE OF THAT.

23 Q AND YOU ATTENDED THE TDM. RIGHT?

24 A YES. I ATTENDED THE TDM.

25 Q AND YOU MONITORED A BUNCH OF VISITS WE'VE
26 DISCUSSED IN DETAIL. RIGHT?

27 A THAT IS CORRECT.

28 Q AND YOU TOOK COPIOUS NOTES OF WHAT YOU

1 OBSERVED DURING THOSE VISITS FOR MS. DUVAL. CORRECT?

2 A AS BEST AS I COULD.

3 Q BUT YOU DID NOT TESTIFY ON BEHALF OF MS. DUVAL
4 IN THAT HEARING. DID YOU?

5 A I'M CONFUSED. WHAT HEARING?

6 Q DID YOU EVER GO TO THE CHILDREN'S COURT ON
7 BEHALF OF MS. DUVAL AND TESTIFY IN A TRIAL OTHER THAN
8 HERE TODAY?

9 A WAS THERE ANOTHER TRIAL?

10 Q THERE WAS.

11 A I THINK -- WELL, THE ONLY TIME I DID -- UNLESS
12 IT WAS A TIME THAT I WAS ACCUSED OF BEING A
13 PROFESSIONAL TESTIFIER PERSON, THAT'S THE ONLY TIME
14 I'VE BEEN ON THE STAND. BUT I DON'T KNOW IF THAT -- I
15 CAN'T REMEMBER OTHER THAN I WAS ON THE STAND.

16 AND IF THAT WAS A TRIAL, THEN I'VE BEEN IN A
17 COURTROOM ON TRIAL FOR THIS CASE, BUT -- I'M TRYING TO
18 REMEMBER WHAT IT WAS FOR BECAUSE I DIDN'T EVEN GET TO
19 FINISH BECAUSE I WAS -- THEY TOLD ME THAT I WAS A
20 PROFESSIONAL WITNESS. THAT'S WHAT THEY SAID.

21 Q BUT THAT WAS IN THIS BUILDING. CORRECT?

22 A I BELIEVE IT MIGHT HAVE BEEN IN THIS BUILDING.

23 Q BUT YOU NEVER TESTIFIED IN THE CHILDREN'S
24 COURT, DIFFERENT BUILDING, DIFFERENT LOCATION?

25 A RIGHT. I HAVE BEEN TO PROCEEDINGS THERE AS
26 SOMEONE IN THE AUDIENCE. AND -- BUT I WAS NEVER
27 CALLED --

28 Q OKAY.

1 A -- AS A WITNESS, NO.

2 Q WHO CALLED YOU A PROFESSIONAL WITNESS?

3 A THE ATTORNEYS FOR THE PATERNAL SIDE.

4 Q BUT DCFS WAS NOT INVOLVED IN THAT, TO YOUR
5 KNOWLEDGE. WERE THEY?

6 A I CAN'T COMMENT ON THAT BECAUSE I DID NOT ASK
7 THOSE QUESTIONS.

8 Q YOU CAN LOOK AT PAGE 1088.3.

9 A .3, NOT .30. RIGHT?

10 Q CORRECT.

11 A OKAY. THANK YOU. I'M THERE.

12 Q AND YOU SEE AT THE TOP, IT SAYS FROM NORISSA
13 CUNYO ENNIS. THAT'S YOU. CORRECT?

14 A THAT IS CORRECT.

15 Q AND THE EMAIL APPEARS TO BE DATED WEDNESDAY,
16 AUGUST 22, 2012. DO YOU SEE THAT?

17 A I DO. AT 4:36 P.M.

18 Q AND THAT'S AN EMAIL THAT YOU SENT. CORRECT?

19 A I SENT -- I FORWARDED AND SENT THIS EMAIL TO
20 SAM PARK, YES.

21 Q WHO IS SAM PARK?

22 A I BELIEVE HE'S ONE OF THE ATTORNEYS. I THINK
23 SAM IS AN ATTORNEY.

24 Q WHO DOES SAM REPRESENT, OR WHO DID HE
25 REPRESENT AT THAT TIME, TO YOUR KNOWLEDGE?

26 A THE MATERNAL SIDE.

27 Q MS. DUVAL'S ATTORNEY?

28 A YES.

1 Q OKAY. NOW, THE FIRST LINE OF THAT EMAIL SAYS:
2 "SAM, THIS WAS NOT ON THE FIRST DOCUMENT SENT TO YOU.
3 IT COULD SHOW MS. PENDE," P-E-N-D-E, "PUSHING MS. DUVAL
4 UNNECESSARILY. PLEASE ADD AND REVIEW."

5 DO YOU SEE THAT?

6 A I DO.

7 Q AND WHAT DID YOU MEAN BY THAT?

8 A THE FIRST SENTENCE, WHAT I MEANT IS THAT I
9 POTENTIALLY LEFT THIS DOCUMENT OUT OF THE FIRST
10 TRANSMISSION I SENT HIM OF DOCUMENTS.

11 THE SECOND SENTENCE, THAT IT'S POTENTIALLY
12 COMMUNICATION OR ALTERCATION OF POTENTIAL UNNECESSARY
13 ACTION TOWARDS MS. DUVAL. AND THEN I ASKED HIM TO
14 REVIEW IT.

15 Q SO YOU WERE LOOKING FOR EVIDENCE ON BEHALF OF
16 MS. DUVAL AGAINST THE SOCIAL WORKERS IN THIS CASE?

17 A CAN YOU REPEAT THAT? I'M SORRY.

18 Q YOU SENT THIS EMAIL AND A BUNCH OF OTHER
19 DOCUMENTS TO MS. DUVAL'S ATTORNEYS BECAUSE YOU WERE
20 LOOKING FOR EVIDENCE AGAINST THE SOCIAL WORKERS.
21 CORRECT?

22 A I DON'T KNOW IF I WAS LOOKING FOR EVIDENCE. I
23 WAS GIVING AN UNPROFESSIONAL OPINION ABOUT THE DOCUMENT
24 THAT I LEFT OUT.

25 Q IN THE LAST LINE, IT SAYS: "IF I DO NOT HEAR
26 BACK FROM YOU, I WILL BE AT THE DISCLOSED LOCATION AT
27 NOON FOR THE 1:00 P.M. APPOINTMENT TIME."

28 DO YOU SEE THAT?

1 A I DO.

2 Q SO YOU MET WITH MR. PARK?

3 A I BELIEVE BEFORE MY DISSERTATION --

4 Q DEPOSITION?

5 A DEPOSITION, YES.

6 Q AND THAT WAS THE ONLY TIME YOU MET WITH
7 MR. PARK?

8 A I BELIEVE IT IS.

9 Q BUT YOU SENT HIM A WHOLE BUNCH OF DOCUMENTS?

10 A I SENT HIM ONE FILE THAT WAS COMPILED OF
11 SEVERAL OF MY NOTATED DOCUMENTS. SO I SENT HIM ONE --
12 PROBABLY ONE DOCUMENT, MAYBE TWO.

13 MS. SWISS: I HAVE NO FURTHER QUESTIONS.

14 THE WITNESS: THANK YOU.

15 THE COURT: YOU MAY NOT BE DONE. MS. CHUNG
16 GETS TO ASK YOU SOME FURTHER QUESTIONS.

17 MS. CHUNG: YOUR HONOR, I'D LIKE TO READ FROM
18 MS. ENNIS'S DEPOSITION, PAGE 89, LINE 6 THROUGH
19 PAGE 91, LINE 11.

20 MS. SWISS: OBJECTION, YOUR HONOR. BASED ON
21 WHAT?

22 THE COURT: JUST A MOMENT. LET ME TAKE A LOOK
23 AT IT. THE -- THE OBJECTION IS OVERRULED. HOWEVER,
24 READ THE TESTIMONY -- THE QUESTIONS AND TESTIMONY UP
25 ONLY, BECAUSE THERE'S OTHER MATTERS INCLUDED IN THERE
26 WHICH ARE NOT TESTIMONY.

27 MS. SWISS: YOUR HONOR, THIS IS -- MAY WE HAVE
28 A SIDEBAR? THE OBJECTION IS IMPROPER IMPEACHMENT.

1 THERE WAS NO OBJECTION.

2 THE COURT: YES. IF YOU WANT TO HAVE A
3 SIDEBAR OVER READING THIS TESTIMONY, WE WON'T NEED ONE.
4 I 'VE OVERRULED THE OBJECTION. AND IT MAY BE READ.

5 MS. CHUNG: THANK YOU, YOUR HONOR.

6 "QUESTION: BUT --

7 ANSWER: BUT I DON'T KNOW. I DON'T
8 KNOW WHAT OTHER FACTS.

9 QUESTION: THE PROCESS OF THAT TDM,
10 THEN, WOULD YOU CHARACTERIZE IT AS
11 BEING FAIR OR UNFAIR?

12 IF YOU HAD TO CHOSE ONE OR THE OTHER.

13 QUESTION: DID YOU FEEL" --

14 THE COURT: YOU SKIPPED THE ANSWER OF THE
15 WITNESS. IT'S EASY TO DO.

16 MS. CHUNG: "ANSWER: DEPENDS ON WHAT
17 YOU MEAN IS FAIR.

18 QUESTION: DID YOU FEEL -- DID YOU GET
19 THE IMPRESSION THAT ANY OF THE SOCIAL
20 WORKERS -- KIMBERLY ROGERS OR SUSAN
21 PENDER -- WERE BIASED OR NOT BEING FAIR
22 TO MS. DUVAL?

23 ANSWER: AFTER THE PROCEEDINGS.

24 QUESTION: OKAY. BUT AT THE TIME OF
25 THE TDM" --

26 MS. SWISS: OBJECTION: MISREAD.

27 THE COURT: YEAH.

28 MS. CHUNG: I APOLOGIZE.

1 "QUESTION: OKAY. BUT AT THE TDM, YOU
2 DIDN'T -- YOU DIDN'T HAVE THAT FEELING?

3 ANSWER: NO.

4 QUESTION: OKAY. DO YOU -- DO YOU GUYS
5 WANT TO TAKE A BREAK?"

6 WE'RE GOING TO SKIP THAT, YOUR HONOR, LIKE YOU
7 SAID.

8 THE COURT: WELL, I THINK THE BREAK IS -- I
9 THINK THAT THAT PORTION ABOUT THE BREAK SHOULD BE READ.

10 MS. CHUNG: "OKAY. DO YOU -- DO YOU
11 GUYS WANT TO JUST TAKE A QUICK BREAK?

12 MS. SWISS: SURE.

13 MR. PARK: YEAH, LET'S TAKE A MINUTE
14 BREAK."

15 THE COURT: ALL RIGHT. AND THEN -- THERE WAS
16 A RECESS IN THE PROCEEDINGS FROM 2:48 P.M. TO 3:10 P.M.

17 MS. CHUNG: "QUESTION: AND YOU INDICATED
18 TO ME YOU WANTED TO CHANGE PARTS OF THE
19 TEST -- THE TESTIMONY THAT YOU -- THAT
20 HAD BEEN PROVIDED PRIOR TO THE BREAK.
21 IS THAT CORRECT?

22 ANSWER: YES.

23 QUESTION: OKAY. MAYBE NOT NECESSARILY
24 CHANGED.

25 ANSWER: RIGHT.

26 QUESTION: BUT CLARIFY IN WHAT WAY?
27 I'LL GIVE YOU THE MIC, ACTUALLY.

28 ANSWER: WELL, THE LAST QUESTION I

1 BELIEVE YOU ASKED ME WAS IF -- ABOUT
2 WHETHER OR NOT THE TDM SEEMED FAIR.

3 QUESTION: SURE.

4 ANSWER: I BELIEVE, CORRECT ME IF I'M
5 WRONG, THAT THAT WAS THE QUESTION. AND
6 IN THINKING THROUGH IT, THE ISSUE FOR
7 ME WHEN I SAID IT, WAS IT FAIR? IT'S
8 HARD TO HAVE THAT OPINION.

9 FOR ME, IT WAS MORE -- I DON'T
10 THINK IT SEEMED RIGHT. IT DIDN'T SEEM
11 RIGHT AT ALL FROM WHAT THE INTENT WAS.
12 AND WE HAD DISCUSSED THIS ALREADY, WHAT
13 THE INTENT WAS, PRIOR TO THE TDM, IN
14 THE CONVERSATIONS I'VE HAD.

15 AND THEN AT THE END, IT JUST
16 DIDN'T ADD UP. AND SO IT DIDN'T SEEM
17 RIGHT. AND IF THAT EQUATES TO IT NOT
18 BEING FAIR, IT DIDN'T SEEM FAIR."
19 THANK YOU, YOUR HONOR.

20

21 DIRECT EXAMINATION

22 BY MS. CHUNG:

23 Q DOES THAT MORE ACCURATELY REFLECT YOUR
24 FEELINGS ABOUT THE RESULT OF THE TDM?

25 A YES. AND THANK YOU FOR BRINGING THAT UP.

26 Q MS. ENNIS, LOOKING AT EXHIBIT 1088.3, THE
27 LOWER HALF OF YOUR -- OR THE TOP PART OF YOUR EMAIL?

28 A YES.

1 Q WHAT WAS IT THAT MS. PENDER WAS PUSHING
2 MS. DUVAL TO DO?

3 A I BELIEVE THIS WAS DURING THE TRANSFER OF THE
4 CASE. AND DURING THE MONITORING SESSION, WHICH, MY
5 UNDERSTANDING WAS FOR THE PARENT AND CHILD TO SPEND
6 TIME TOGETHER, THE SOCIAL WORKER, SUSAN PENDER -- I'M
7 SORRY, I -- AGAIN, I DIDN'T ADD THE R TO HER LAST NAME.

8 MS. PENDER, SHE CAME IN AND DISRUPTED. I
9 THINK IT WAS AN ONLY HOUR OR HOUR-AND-A-HALF SESSION TO
10 HAVE PAPERWORK BE FILLED OUT. AND AT THAT POINT, SHE
11 KEPT ON GOING AT IT, AND I BELIEVE -- I DON'T KNOW IF I
12 PUT IT IN HERE -- I HAD TO CHALLENGE HER.

13 SO WHAT I WROTE IN MY NOTES WAS THAT THE
14 REASON WHY I NOTATED MY FORWARD TO HIM ABOUT PUSHING
15 UNNECESSARILY IS BECAUSE WHEN I WROTE WHAT THE -- WHAT
16 I HAD WRITTEN DOWN, I BELIEVE THAT SUSAN PENDER WAS
17 PUSHING UNNECESSARILY DURING THE MONITORING VISIT,
18 WHICH SHOULD HAVE BEEN FOR THE PURPOSE OF MONITORING
19 THE VISIT AND NOT DOING ADMINISTRATION.

20 Q DO YOU KNOW WHAT IT WAS SHE WAS ASKING
21 MS. DUVAL TO SIGN?

22 A YES, I DO. ONE MOMENT. IN ADDITION TO
23 SIGN -- OR DOCUMENTS THAT THE MATERNAL SIDE NEEDED TO
24 SIGN, THIS IS WHEN I RECEIVED -- THIS IS WHEN I
25 RECEIVED THE DOCUMENT SAYING THAT -- THE RULES OF
26 ENGAGEMENT, LIKE HOW A VISIT SHOULD LOOK PER SE, AND I
27 NEEDED TO SIGN THAT DOCUMENT.

28 AND I WASN'T REALLY HAPPY THAT IT -- THEY WERE

1 ASKING ME TO STOP TAKING NOTES TO MONITOR AND DO
2 ADMINISTRATION. THAT WAS -- IT WAS VERY ODD AND
3 UNPROFESSIONAL, INSENSITIVE. LOT OF WORDS.

4 Q MS. ENNIS -- SORRY. IS THERE ANYTHING ELSE?

5 A WELL, I THINK PART OF THAT, THEY ASKED ME TO
6 HOLD THE BABY WHILE -- SO THAT SHE COULD SIGN
7 PAPERWORK. AND I JUST THOUGHT -- I DIDN'T UNDERSTAND
8 WHY THEY WERE TRYING TO PUSH THIS THROUGH SO QUICKLY
9 AND NOT JUST WAIT UNTIL THE VISIT OR ANOTHER TIME.

10 AND SO THERE WAS SOMETHING THAT NEEDED TO GET
11 PUSHED OUT. AND THEN, OBVIOUSLY, I WAS SIGNING A
12 DOCUMENT THAT I PROBABLY SHOULD HAVE SIGNED BEFORE.
13 BUT I THINK WE TALKED ABOUT THE DISORGANIZATION OF THE
14 WHOLE THING ALREADY.

15 Q THANK YOU. AND WERE YOU PRESENT DURING ALL
16 COMMUNICATIONS BETWEEN MS. DUVAL AND THE SOCIAL WORKERS
17 DURING YOUR VISITS?

18 MS. SWISS: LACKS FOUNDATION, CALLS FOR
19 SPECULATION.

20 THE COURT: OVERRULED. EITHER YOU CAN ANSWER
21 THAT OR YOU CAN'T.

22 MS. CHUNG: DO YOU NEED THE QUESTION?

23 THE WITNESS: YES, PLEASE.

24 BY MS. CHUNG:

25 Q WERE YOU PRESENT DURING ALL COMMUNICATIONS
26 WITH -- BETWEEN MS. DUVAL AND THE SOCIAL WORKERS DURING
27 YOUR VISITS?

28 A YES.

1 Q WERE THERE ANY VISITS -- YOU WERE THERE DURING
2 THE ACTUAL VISIT. CORRECT?

3 A THAT IS CORRECT.

4 Q AND IF THERE WERE ANY COMMUNICATIONS WITH
5 SOCIAL WORKERS BEFORE OR AFTER, YOU WOULDN'T HAVE TAKEN
6 ANY NOTES ON ANYTHING LIKE THAT?

7 A IT -- NOT NECESSARILY. IF IT INVOLVED ME, I
8 MIGHT HAVE.

9 Q BUT IF IT DIDN'T INVOLVE YOU, WOULD YOU HAVE?

10 A POSSIBLY NOT, NO.

11 Q SO THERE ARE COMMUNICATIONS THAT MUST HAVE
12 OCCURRED --

13 A YES.

14 Q -- THAT YOU WERE NOT PRIVY TO?

15 A I'M SURE THERE WERE MANY.

16 Q AND OBVIOUSLY, YOU WOULDN'T HAVE TAKEN NOTES
17 ON THOSE?

18 A NO.

19 Q IS IT TRUE THAT MR. MILLS DENIED PATERNITY?

20 MS. SWISS: OBJECTION: OUTSIDE THE SCOPE.

21 THE COURT: SUSTAINED.

22 BY MS. CHUNG:

23 Q IS IT TRUE THAT MR. MILLS AND HIS FAMILY
24 ACCEPTED YOU AS A MONITOR?

25 A YES.

26 Q YOU SAID PROFESSIONAL TESTIFIER EARLIER. THAT
27 KIND OF --

28 A YEAH.

1 Q KIND OF REMINDED ME. WHAT DO YOU MEAN BY
2 THAT?

3 A ALL I WAS TOLD IS THE ATTORNEY OF THE LEGAL
4 TEAM BELIEVED THAT I WAS A PROFESSIONAL WITNESS BECAUSE
5 I BROUGHT THE FOLDER WITH ME.

6 Q JUST BECAUSE YOU BROUGHT A FOLDER?

7 A WELL, THEY QUESTIONED THE FOLDER AT HAND, AND
8 I BELIEVE THAT THEY ASKED FOR A BREAK SO THEY CAN
9 REVIEW THE FOLDER THAT I BROUGHT WITH ME TO TESTIFY.

10 Q AND YOU WERE TESTIFYING IN A -- ANOTHER MATTER
11 WITH MS. DUVAL?

12 A CORRECT.

13 Q AND WHAT WAS IN THE FOLDER?

14 A EVERYTHING THAT I HAD TURNED -- PRETTY MUCH I
15 PRINTED OUT THE DOCUMENTS THAT I SENT TO -- TO THE
16 ATTORNEYS ON THE MATERNAL SIDE, SO THAT I JUST MADE
17 SURE -- KIND OF LIKE THIS, BUT NOT LIKE THIS.

18 SO I HAD -- I JUST WANTED TO HAVE THEM IN CASE
19 I ASKED QUESTIONS, AND THAT WAS THE ONLY REFERENCE I
20 HAD. AND SO -- WHICH WAS KIND OF SHOCKING, BECAUSE
21 THERE WAS THIS ENTIRE GIGANTIC BOOK.

22 AND THEN -- I THINK THAT'S THE ONLY OTHER TIME
23 THAT IN COURT, I BROUGHT SOMETHING TO MAKE SURE I WAS
24 SAYING THE RIGHT THING. AND THEY ACCUSED ME OF BEING
25 PAID FOR DOING WHAT I WAS DOING. SO THAT'S ALL I
26 UNDERSTAND.

27 Q ARE YOU GETTING PAID TO BE HERE TODAY?

28 A NO.

1 Q HAVE YOU -- DO YOU TESTIFY IN COURT ALL THE
2 TIME?

3 A THIS IS THE SECOND TIME I'VE TESTIFIED IN
4 COURT. SO NO.

5 Q AND EARLIER YOU TALKED ABOUT ATTENDING THE
6 CUSTODY PROCEEDINGS BETWEEN MS. DUVAL AND MR. MILLS.
7 DO YOU REMEMBER THAT?

8 A YES.

9 Q TELL US A LITTLE BIT ABOUT WHAT YOU OBSERVED.
10 MS. SWISS: OBJECTION: VAGUE, CALLS FOR A
11 NARRATIVE. IT'S ALSO IRRELEVANT TO THESE PROCEEDINGS.

12 THE COURT: THE QUESTION ITSELF, THE
13 OBJECTIONS ARE OVERRULED ABOUT VAGUE AND NARRATIVE.
14 RELEVANCE IS SUSTAINED. YOU'RE GOING TO HAVE SHOW SOME
15 RELEVANCE, WHAT SHE SAW IN SOME OTHER PROCEEDINGS, OR
16 OTHERWISE DISCERNED.

17 BY MS. CHUNG:

18 Q MS. ENNIS, THE CUSTODY PROCEEDINGS. YOU WERE
19 THERE?

20 A YES.

21 Q AND YOU WERE IN THE AUDIENCE. CORRECT?

22 A THAT'S CORRECT.

23 Q BASED ON WHAT YOU SAW, COULD YOU GIVE US AN
24 OPINION ON -- IF THOSE PROCEEDINGS WERE BEING
25 HANDLED -- I'D LIKE TO GET SOME KIND OF OPINION FROM
26 YOU ON HOW THOSE PROCEEDINGS, THE MOOD, CERTAIN
27 BEHAVIORS, THAT'S WHAT I'M TRYING TO GET AT. DO YOU
28 UNDERSTAND?

1 THE WITNESS: I THINK SO.

2 MS. SWISS: OBJECTION.

3 THE COURT: JUST A MOMENT. SO FAR, WE HAVE A
4 STATEMENT, NOT A QUESTION. SO IF YOU'RE GOING TO ASK A
5 QUESTION, ASK A QUESTION.

6 BY MS. CHUNG:

7 Q MS. ENNIS, WHAT DID YOU OBSERVE DURING THOSE
8 CUSTODY PROCEEDINGS?

9 MS. SWISS: OBJECTION: RELEVANCE.

10 THE COURT: JUST A MOMENT.

11 THE REPORTER: I'M SORRY. WHAT WAS THE
12 OBJECTION?

13 MS. SWISS: RELEVANCE.

14 THE COURT: SUSTAINED.

15 BY MS. CHUNG:

16 Q DID YOU EVER SEE ANY SOCIAL WORKERS AT THOSE
17 CUSTODY PROCEEDINGS? MS. PENDER OR MS. ROGERS?

18 A I DON'T REMEMBER SEEING THEM.

19 Q DID YOU SEE ANY OTHER COUNTY EMPLOYEES AT
20 THOSE PROCEEDINGS?

21 A THE JUDGE.

22 THE COURT: I'LL JUST CORRECT THAT TO SAY THAT
23 THE JUDGE IS NOT A COUNTY EMPLOYEE. MIGHT SEEM, IT'S A
24 COUNTY COURT. WE'RE A STATE CONSTITUTIONAL OFFICER
25 ASSIGNED TO A COURT -- THE SUPERIOR COURT OF LOS
26 ANGELES COUNTY.

27 THE WITNESS: I CORRECT MYSELF. THE BAILIFF.

28

1 BY MS. CHUNG:

2 Q DID YOU SEE MS. DUVAL AT THOSE CUSTODY
3 PROCEEDINGS?

4 A YES.

5 Q AND HOW DID SHE APPEAR TO YOU AT THOSE
6 PROCEEDINGS?

7 A SAD.

8 MS. SWISS: OBJECTION: RELEVANCE.

9 THE COURT: OVERRULED.

10 THE WITNESS: SAD, NERVOUS, EXCITED. AND I
11 THINK A MIX OF FEELINGS BECAUSE SHE DIDN'T KNOW WHAT
12 THE OUTCOME WAS.

13 BY MS. CHUNG:

14 Q WHEN YOU SAY EXCITED, WHAT DO YOU MEAN BY
15 THAT?

16 A THE POTENTIAL THAT THE JUDGE COULD GIVE HER
17 ONE MORE DAY OR HALF AN HOUR MORE, YOU KNOW. LITTLE
18 THINGS LIKE THAT.

19 Q WERE YOU THERE WHEN THERE WAS A DECISION MADE
20 ABOUT PERMANENTLY TAKING AWAY BABY RYAN FROM MS. DUVAL?

21 A YES.

22 Q TELL US ABOUT THAT.

23 A IT WAS AT THE TEAM DECISION-MAKING MEETING --

24 Q I'M SORRY. I WAS -- WE WERE STILL TALKING
25 ABOUT THE CUSTODY PROCEEDINGS. WERE YOU THERE --

26 A OH, I'M SORRY.

27 Q LET ME ASK.

28 A YES. I'M SORRY. I'M TRYING --

1 Q WERE YOU THERE WHEN -- A DIFFERENT JUDGE.

2 A GOT IT.

3 Q NOT THIS ONE. MADE A DECISION TO PERMANENTLY
4 TAKE AWAY MS. DUVAL'S SON?

5 A GIVE ME -- LET ME THINK ABOUT THAT BECAUSE
6 I'VE BEEN TO A COUPLE.

7 THE COURT: THINK ABOUT IT WHILE I HEAR THE
8 OBJECTION.

9 MS. SWISS: OBJECTION: VAGUE AS TO CUSTODY
10 PROCEEDINGS VERSUS DEPENDENCY.

11 THE COURT: SUSTAINED. I'M NOT -- I'M NOT
12 SURE WHETHER THIS IS REFERRING TO A PROCEEDING IN THE
13 JUVENILE COURT OR A PROCEEDING IN THE FAMILY LAW COURT.

14 MS. CHUNG: JUVENILE COURT.

15 BY MS. CHUNG:

16 Q MS. ENNIS, WERE YOU THERE WHEN THE JUVENILE
17 COURT REMOVED CUSTODY OF BABY RYAN FROM MS. DUVAL?

18 A I DON'T THINK I WAS AT THAT ONE -- AT THAT
19 HEARING.

20 Q DID MS. DUVAL TELL YOU ABOUT IT AFTERWARDS?

21 A SHE DID.

22 Q AND WHAT WAS -- WHAT WAS YOUR UNDERSTANDING?

23 A THAT SHE WOULD NO LONGER HAVE CUSTODY OF HER
24 CHILD, AND THAT SHE WAS LIMITED IN BEING ABLE TO SEE
25 HER SON. OUTSIDE OF ALL OF HER EMOTIONS, I THINK MY
26 UNDERSTANDING WAS THAT SHE DIDN'T FEEL LIKE IT WAS FAIR
27 OR RIGHT.

28 Q DID YOU -- WHEN YOU SAY OUTSIDE OF HER

1 EMOTIONS, WHAT DO YOU MEAN?

2 A SINCE YOU WERE ASKING ME ABOUT MY
3 UNDERSTANDING OF THE SITUATION, I SAY THAT BECAUSE SHE
4 WAS VERY -- SHE WAS VERY UPSET, SHE WAS EMOTIONAL,
5 CRYING.

6 AND I WANTED TO MAKE SURE THAT I WAS
7 COMMUNICATING TO THE COURT THAT WHAT I UNDERSTOOD WAS
8 OUTSIDE OF -- I DIDN'T WANT HER EMOTIONS TO INFLUENCE
9 ME HEARING WHAT SHE SAID THE JUDGE'S DECISION WAS,
10 VERSUS HOW THE DECISION MADE HER FEEL. AND SO THAT'S
11 PRETTY MUCH IT.

12 MS. CHUNG: THANK YOU, MS. ENNIS.

13 THE WITNESS: YOU'RE WELCOME.

14 MS. SWISS: NO QUESTIONS.

15 THE COURT: ALL RIGHT, MS. ENNIS. THAT MEANS
16 WE HAVE COMPLETED YOUR TESTIMONY. THANK YOU VERY MUCH.
17 AND YOU ARE EXCUSED.

18 THE WITNESS: YOU'RE WELCOME.

19 THE COURT: AND WE'LL RETURN THESE TO COUNSEL.
20 THANK YOU.

21 THE WITNESS: YOU'RE WELCOME.

22 THE COURT: SO, MR. MCMILLAN, I HAVE A SILENT
23 MOTION FROM AT LEAST ONE OF OUR JURORS INDICATING THAT
24 IT'S PROBABLY TIME TO RECESS RATHER THAN PUT ON FURTHER
25 EVIDENCE. AND IF I MISREAD THAT JUROR, I APOLOGIZE
26 BECAUSE I THINK IT'S TIME TO RECESS.

27 SO WE WILL, AS FAR AS THE JURY'S CONCERNED,
28 UNTIL 9:00 A.M. TOMORROW MORNING. REMEMBER, TOMORROW

1 AFTERNOON, WE'LL QUIT JUST -- PROBABLY LIKE
2 FIVE MINUTES BEFORE, OR TEN MINUTES BEFORE 3:00.

3 JUST SO YOU CAN PLAN YOUR DAY, ON FRIDAY,
4 THERE WILL BE A FULL DAY OF EVIDENCE. SO BETWEEN NOW
5 AND 9:00 A.M. TOMORROW MORNING, PLEASE REMEMBER THE
6 ADMONITION.

7 DON'T HAVE ANY COMMUNICATION WITH ANYONE, OR
8 LET ANYONE COMMUNICATE WITH YOU IN ANY FASHION ABOUT
9 ANY SUBJECT, OR ISSUE, OR PERSON INVOLVED IN THE CASE.
10 DO NOT FORM ANY OPINIONS NOR EXPRESS ANY OPINIONS.
11 WE'RE NOW IN RECESS.

12 (JURY EXCUSED)

13 THE COURT: I'LL SEE COUNSEL AT 8:30.

14 MR. GUTERRES: THANK YOU, YOUR HONOR.

15 THE COURT: HOLD ON A SECOND, MR. GUTERRES.

16 WE'RE ON THE RECORD. COUNSEL ARE PRESENT.

17 ALL JURORS LEFT THE COURTROOM. I DO HAVE SOME FURTHER
18 OBSERVATIONS ABOUT VERDICT FORMS. SO IF YOU HAVE TIME
19 TONIGHT -- I'M NOT TELLING WHEN YOU SHOULD DO YOUR
20 WORK.

21 IF YOU HAVE THE OPPORTUNITY TO LOOK AT THOSE
22 FURTHER, THAT MAY HELP OUR DISCUSSION. SO,
23 MR. GUTERRES.

24 MR. GUTERRES: THANK YOU, YOUR HONOR. WE'VE
25 BEEN GIVEN THE LINEUP FOR TOMORROW, WHICH INCLUDES
26 MR. ROBERT POWELL, WHO WAS ONE OF THE ATTORNEYS THAT
27 THE COURT HAD INDICATED WOULD ALLOW -- TESTIFY TO
28 CERTAIN MATTERS BUT NOT OTHER MATTERS.

1 AND I HAD CONCERNS ABOUT THE LIMITATIONS
2 THAT -- AND WHAT HE'S GOING TO BE INFORMED AS TO WHAT
3 HE CAN AND CANNOT TESTIFY TO. DON'T KNOW IF WE'VE GOT
4 TO HAVE A 402 IN ADVANCE, OR -- BUT THIS WAS ONE OF THE
5 MOTIONS THAT THE COURT ENDED UP CHANGING.

6 THE COURT: NO, I -- RIGHT.

7 MR. GUTERRES: AND I JUST WANTED CLARIFICATION
8 SO THAT I AM AWARE OF WHAT THE PARAMETERS ARE. I MEAN,
9 AS I UNDERSTAND IT, MR. POWELL'S NEVER TRIED ANY CASES.
10 HE HAS NO INFORMATION REGARDING THIS SPECIFIC CASE.
11 WE'VE TAKEN HIS DEPOSITION ALREADY.

12 THE COURT: I SAW HIS NAME IN HERE. I AGREE,
13 THAT'S TRUE. I SAW HIS NAME, I BELIEVE REPRESENTING --

14 MS. SWISS: THERE'S ANOTHER. ROBERT HOWELL.

15 MR. GUTERRES: BOTH -- SAME FIRST NAME.

16 THE COURT: I'LL HAVE TO LOOK BACK AT MY NOTES
17 TO BE MORE SPECIFIC. BUT I DENIED THE MOTION ON THE
18 GROUND, THE MOTION TO EXCLUDE -- WELL, I'LL HAVE TO
19 START MY ANSWER AGAIN.

20 I DO NOT RECALL ALL THINGS. I ALSO INDICATED
21 THAT I SAW SOME THINGS IN HIS TESTIMONY THAT I THOUGHT
22 WOULD -- COULD PROPERLY BE PRESENTED IN EVIDENCE HERE.

23 I DECLINED AT THE TIME TO SPECIFY WHAT THAT
24 WAS, ON THE GROUND THAT I DIDN'T FEEL I SHOULD BE
25 TELLING ANYONE IN ADVANCE WHAT THEY CAN DO.

26 AND MY GENERAL OBSERVATION HAS BEEN THAT NONE
27 OF THE ATTORNEY WITNESSES WOULD BE PERMITTED TO TESTIFY
28 TO THE MERITS OF ANY -- OF ANY ACTION OR PROCEEDING

1 BEFORE THE JUVENILE COURT.

2 IF THEY HAVE OTHER CONTEXT, THAT WOULD BE A
3 DIFFERENT MATTER, BUT ON ANY MATTER THAT WAS A CASE
4 BEFORE THE JUVENILE COURT, I THINK THE CONTENT OF THOSE
5 PROCEEDINGS IS SUBJECT TO THE CONFIDENTIALITY.

6 BUT I BELIEVE THERE ARE OTHER THINGS WHICH DO
7 NOT GO TO THE CONTENT, MEANING THE TESTIMONY AT THE
8 PROCEEDING THAT COULD BE TESTIFIED TO. AND THAT'S
9 STILL PRETTY MUCH MY POSITION.

10 IF YOU WANT ME TO BE MORE SPECIFIC AND TELL
11 MR. MCMILLAN THE THINGS HE CAN'T ASK, I'LL DO SO. BUT
12 I DIDN'T FEEL THAT I SHOULD AT THE TIME THAT I RULED ON
13 THE MOTION.

14 MR. GUTERRES: THANK YOU, YOUR HONOR. THAT'S
15 FINE.

16 MR. MCMILLAN: WELL, YOUR HONOR, IF YOU'RE
17 WILLING, I WOULD VERY MUCH LIKE YOU TO LET ME KNOW WHAT
18 I CAN ASK. ARE EXIT ORDERS OKAY -- LET ME BE VERY
19 SPECIFIC.

20 THE COURT: TELL US WHAT YOU'RE PLANNING ON
21 ASKING.

22 MR. MCMILLAN: IT'S NOT GOING TO BE ABOUT
23 JUVENILE DEPENDENCY EXIT ORDERS IN THIS PARTICULAR
24 CASE, BECAUSE MR. POWELL HAS NOTHING TO DO WITH THIS
25 PARTICULAR CASE.

26 BUT IN ADDITION TO -- HE'S ONE OF THE FEW IN
27 THAT GROUP OF THE EIGHT THAT I DESCRIBED, I THINK WAY
28 AT ONE OF THE EARLIER FSCS, THERE'S THE EIGHT OF US

1 THAT DO THIS SORT OF WORK.

2 AND HE'S ONE OF THE FEW IN THAT GROUP THAT
3 ALSO PRACTICES, AND HAS PRACTICED FOR TWENTY YEARS IN
4 THE JUVENILE DEPENDENCY COURT, INCLUDING FROM TIME TO
5 TIME HERE IN LOS ANGELES.

6 SO HE'S SOMEBODY WHO WOULD BE FAMILIAR WITH
7 THE PROCESS AND PROCEDURE. FOR EXAMPLE, WHAT IS AN
8 EXIT ORDER. WHAT IS AN EXIT ORDER, JUVENILE DEPENDENCY
9 COURT CUSTODY ORDER FOR FAMILY LAW.

10 BECAUSE THERE'S AN ORDER THAT ISSUES FROM THE
11 JUVENILE DEPENDENCY COURT THAT'S BINDING ON THE FAMILY
12 COURT WHEN IT COMES OUT.

13 AND HE WOULDN'T BE TALKING SPECIFICALLY ABOUT
14 THIS ONE AND THIS CASE OR SOME OTHER PARTICULAR CASE.
15 HE'D BE TALKING ABOUT THAT PROCESS, GENERALLY WHAT IT
16 MEANS, WHAT HAPPENS, HOW IT COMES ABOUT.

17 IS THAT SOMETHING THAT WOULD BE FAIR GAME?

18 MR. GUTERRES: I DON'T KNOW WHY WE NEED --
19 WELL, I'LL OBJECT IF I DON'T FEEL THE QUESTION IS
20 RELEVANT OR...

21 THE COURT: I'M NOT GOING TO RULE ON
22 ADVANCE -- ON RELEVANCE. HOWEVER, THAT TESTIMONY WOULD
23 NOT IMPLICATE THE CONFIDENTIALITY OF ANY JUVENILE COURT
24 PROCEEDING. AND WOULD NOT BE EXCLUDED ON THAT GROUND.

25 MR. MCMILLAN: OKAY.

26 THE COURT: AND I THINK THAT -- I DON'T KNOW
27 HOW FAR YOU INTEND TO GO WITH THAT, BUT I THINK AN
28 EXPLANATION TO THE -- I DON'T KNOW WHAT THE RELEVANCE

1 WOULD BE TO THIS CASE WITHOUT -- I'LL DECIDE THAT WHEN
2 WE HEAR IT.

3 SOME EXPLANATION ABOUT HOW -- THAT YOU
4 DESCRIBED, OF THE NATURE OF THE PROCEEDINGS, AND
5 PERHAPS HOW THINGS HAPPEN IN GENERAL TERMS, SINCE IT
6 MAY NOT BE THE JUVENILE DEPENDENCY COURT IN LOS
7 ANGELES.

8 I DON'T KNOW IF IT'S ANY DIFFERENT ANYWHERE
9 ELSE. I THINK THAT THERE'S A -- THERE'S BEEN A GREAT
10 ATTEMPT BY THE STATE OF CALIFORNIA JUDICIAL BRANCH TO
11 BRING AS MUCH UNIFORMITY TO JUVENILE COURT PROCEEDINGS
12 AS POSSIBLE THROUGHOUT THE STATE.

13 AND -- BUT THAT DOESN'T MEAN THERE WOULDN'T BE
14 SOME DIFFERENCES FROM ONE PLACE TO ANOTHER. SO I THINK
15 WHATEVER TESTIMONY HE HAS TO OFFER REALLY SHOULD BE
16 BASED ON EXPERIENCE WITH THE JUVENILE COURT OF THE
17 COUNTY OF LOS ANGELES.

18 MR. MCMILLAN: THANK YOU, YOUR HONOR. I
19 APPRECIATE THAT GUIDANCE.

20 THE COURT: OKAY.

21 MR. GUTERRES: THANK YOU, YOUR HONOR.

22
23 (WHEREUPON, AT THE HOUR OF 4:26 P.M.,
24 THE PROCEEDINGS WERE ADJOURNED.)

25

26

---OOO---

27

28

(THE NEXT PAGE NUMBER IS 2701)