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M A S T E R I N D E X

OCTOBER 24, 2016

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M A S T E R I N D E X

OCTOBER 24, 2016

EXHIBITS

NONE

(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, ET AL
3 LOS ANGELES, CALIFORNIA MONDAY, OCTOBER 24, 2016
4 DEPARTMENT: 89 HON. WILLIAM A. MACLAUGHLIN, JUDGE
5 APPEARANCES: (AS HERETOFORE NOTED.)
6 REPORTER: ALISIA PATRICIO, CSR NO. 13606
7 TIME: 1:31 P.M.

8

9

---OOO---

10

11 THE COURT: I'LL ASK MS. CRUMP, IF YOU WILL
12 RESUME THE WITNESS STAND, PLEASE.

13 (A DISCUSSION WAS HELD OFF THE RECORD.)

14 (JURY PRESENT)

15 THE COURT: EVERYONE MAY BE SEATED. WE'RE ON
16 THE RECORD. EVERYONE IS PRESENT. THE WITNESS IS ON
17 THE STAND.

18 MR. MCMILLAN, YOU MAY CONTINUE.

19 MR. MCMILLAN: THANK YOU, YOUR HONOR.

20

21

WENDY CRUMP,

22 WAS CALLED AS A WITNESS AND, HAVING BEEN PREVIOUSLY

23 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

24

25

CROSS-EXAMINATION

26 BY MR. MCMILLAN:

27

Q I DON'T REMEMBER EXACTLY WHERE WE WERE BEFORE

28

THE NOON BREAK, BUT I'D LIKE TO TALK YOU NOW A LITTLE

1 BIT MORE ABOUT THAT MEETING THAT YOU HAD WITH BOTH
2 PARENTS AND THE BABY ON OCTOBER 30, 2009.

3 DO YOU REMEMBER THAT?

4 A YES.

5 Q OKAY. AND IT WAS DURING THAT MEETING, WASN'T
6 IT, THAT MOTHER EXPRESSED TO YOU A CONCERN ABOUT THE
7 BABY POTENTIALLY BEING ALLERGIC TO MILK AND EGGS?

8 DID I GET THAT RIGHT?

9 A YES.

10 Q OKAY. I'M GOING TO SHOW YOU WHAT'S BEEN
11 PREVIOUSLY MARKED AND ADMITTED AS EXHIBIT 8,
12 BATES 001266.

13 DID MOTHER, IF YOU RECALL, LET YOU KNOW
14 THAT -- AT THAT OCTOBER 30TH MEETING, THAT THREE DAYS
15 PRIOR, ON OCTOBER 27TH, THE BABY ACTUALLY HAD A SKIN
16 TEST AT DR. SODERBERG'S OFFICE?

17 DO YOU REMEMBER WHETHER OR NOT SHE TOLD YOU
18 THAT?

19 A I DON'T REMEMBER IF IT WAS SHE WHO TOLD ME
20 THAT THE BABY HAD AN ALLERGY TEST OR IT WAS SUSAN WHO
21 TOLD ME. I DON'T REMEMBER WHO TOLD ME.

22 Q OH, SO MS. PENDER TOLD YOU SOME THINGS ABOUT
23 MOM? AM I UNDERSTANDING YOU CORRECTLY?

24 A NO, SHE DIDN'T TELL ME THINGS ABOUT MOM. SHE
25 TOLD ME THINGS -- THAT THE BABY HAD BEEN TESTED FOR
26 ALLERGIES.

27 Q AND DID SHE TELL YOU THAT THE BABY WAS
28 NEGATIVE ON HIS TEST FOR ALLERGIES?

1 A I KNOW THAT THE ALLERGY TEST CAME BACK
2 NEGATIVE.

3 Q DO YOU KNOW WHAT ALLERGIC RHINITIS -- I DON'T
4 KNOW IF I'M PRONOUNCING THAT CORRECTLY.

5 A RHINITITIS [SIC] ?

6 Q OKAY. ALLERGIC -- IS IT RHINITIS OR
7 RHINITITIS?

8 A IT LOOKS LIKE RHINITITIS.

9 Q DO YOU KNOW WHAT THAT IS?

10 A NO.

11 Q HOW ABOUT COBBLESTONING, DO YOU KNOW WHAT THAT
12 IS?

13 A NO.

14 Q HOW ABOUT MUCOSAL CONJUNCTIVITIS.

15 DO YOU KNOW WHAT THAT IS?

16 A NO.

17 Q BEFORE FORMING THESE OPINIONS THAT YOU HAD
18 ABOUT MS. DUVAL, DID YOU CALL UP DR. SODERBERG, THE
19 ALLERGIST, AND TRY TO LEARN MORE ABOUT WHAT SHE HAD
20 DONE WITH THE BABY, WHAT SHE SAW WITH THE BABY?

21 A NO.

22 Q YOU JUST TOOK MS. PENDER'S WORD FOR IT?

23 A I WAS TOLD THAT THE ALLERGY TEST CAME BACK
24 NEGATIVE.

25 Q BY MS. PENDER?

26 A YES, I BELIEVE IT WAS HER.

27 Q THEN GOING FORWARD TO EXHIBIT NUMBER 1089.25.

28 DO YOU REMEMBER -- I DON'T KNOW IF YOU HAVE IT

1 THERE IN FRONT OF YOU. I CAN HELP YOU GET TO IT.

2 A OH, I DON'T KNOW. 10- WHAT?

3 Q LET ME TRY AND HELP YOU. ACTUALLY, IT'S RIGHT
4 HERE. THIS IS RIGHT.

5 OKAY. THAT'S THE FOOD DIARY THAT MS. DUVAL
6 GAVE YOU ON OCTOBER 30TH; CORRECT?

7 A 109-POINT WHAT?

8 Q 1089.25. IT'S THE PAGE --

9 A OH, YES, YES. OKAY.

10 Q OKAY?

11 A GOT IT.

12 Q I'M CORRECT THAT'S THE FOOD DIARY THAT
13 MS. DUVAL GAVE YOU ON OCTOBER 30TH?

14 A CORRECT.

15 Q OKAY. AND IF YOU LOOK ABOUT HALFWAY DOWN,
16 THERE'S:

17 "AFTERNOON SNACK, BERRY SHAKE WITH

18 BACK TO BASICS MILK."

19 DO YOU SEE THAT?

20 A CORRECT.

21 Q NOW, CORRECT ME IF I'M WRONG, BUT YOUR CHIEF
22 COMPLAINT ABOUT THAT WAS THAT YOU HAD ORDERED THAT
23 SHE -- OR DIRECTED THAT SHE USE PEDIASURE IN THAT
24 MILKSHAKE.

25 DID I GET THAT RIGHT?

26 A THAT WAS ONE OF THE RECOMMENDATIONS, YES.

27 Q OKAY. NOW, PEDIASURE, THAT'S A BRAND NAME,
28 ISN'T IT?

1 A CORRECT.

2 Q AND YOU WOULD AGREE WITH ME THERE'S OTHER
3 GENERIC BRAND NAMES FOR THE SAME SUBSTANCE; CORRECT?

4 A FOR -- PEDIASURE IS ONE OF THE RECOMMENDATIONS
5 FOR PEDIATRIC CHILDREN, YES, THAT IS ONE OF THE
6 RECOMMENDATIONS.

7 Q OKAY.

8 A SO SOMETHING LIKE ENSURE OR BOOST IS NOT A
9 TYPICAL RECOMMENDATION FOR A TODDLER. YOU'D GO WITH
10 THE PEDIASURE.

11 Q IT'S SORT OF, MA'AM, LIKE THE DIFFERENCE
12 BETWEEN BAND-AID AND CURAD; RIGHT? THEY'RE BOTH
13 BAND-AIDS?

14 A I DON'T KNOW. I'M NOT A SPECIALIST IN
15 BAND-AIDS.

16 Q OKAY.

17 A SO I'M NOT GOING TO ANSWER THAT QUESTION.

18 Q NOW, MS. DUVAL, ON OCTOBER 30, WHEN YOU
19 BROUGHT THIS UP WITH HER, SHE EXPLAINED TO YOU THAT
20 BACK TO BASICS MILK WAS ALBERTSON'S GENERIC VERSION OF
21 THE PEDIASURE THAT YOU WERE LOOKING FOR; RIGHT?

22 A I DON'T REMEMBER.

23 Q SHE COULD HAVE; YOU JUST DON'T REMEMBER IT?

24 A I DON'T REMEMBER.

25 Q OKAY. LOOKING DOWN THIS LIST, THERE'S QUITE A
26 BIT OF THINGS, THERE'S STRAWBERRIES THERE.

27 YOU APPROVED OF THOSE; RIGHT?

28 A YES.

1 Q APPLES, YOU APPROVED OF THOSE?

2 A YES.

3 Q WHITE BREAD, DID YOU APPROVE OF THAT?

4 A YES.

5 Q AVOCADO, I THINK WE TALKED ABOUT THAT.

6 YOU APPROVED THAT?

7 A YES.

8 Q LET'S GO TO OCTOBER 20TH.

9 CHEESE, YOU APPROVED OF THAT?

10 A YES.

11 Q BANANA, TOMATOES, YOU APPROVED OF THOSE?

12 A YES.

13 Q YOU DIDN'T LIKE THE VEGGIE STRAW CHIPS THOUGH;

14 RIGHT?

15 A NO.

16 Q AND YOU LET MS. DUVAL KNOW THAT SHE SHOULDN'T

17 USE THOSE BECAUSE THOSE ARE NOT AS HIGH-CALORIE AS YOU

18 WOULD LIKE?

19 A YES.

20 Q BUT YOU DON'T KNOW WHETHER OR NOT SHE WAS EVER

21 ABLE TO COMPLY WITH THAT INSTRUCTION BECAUSE THE CHILD

22 WAS TAKEN ON NOVEMBER 3RD; RIGHT?

23 A I DON'T KNOW IF SHE DID.

24 Q WELL, DID YOU MEET WITH HER OR TALK TO HER OR

25 INTERVIEW HER, ANYTHING, BETWEEN OCTOBER 30TH AND

26 NOVEMBER 3?

27 A THE ONLY TIME I'VE EVER SEEN HER WAS AFTER THE

28 THIRD VISIT, AFTER THE -- AFTER THE CHILD WAS TAKEN

1 AWAY, THAT WAS THE VISIT THAT I HAD SEEN THE TWO.

2 Q BUT BY THE TIME THE CHILD WAS TAKEN AWAY, SHE
3 WAS NO LONGER ABLE TO DO THESE THINGS BECAUSE SHE
4 DIDN'T HAVE THE CHILD; RIGHT?

5 A YES.

6 MR. MCMILLAN: DONE, YOUR HONOR. NO FURTHER
7 QUESTIONS.

8 THE COURT: MS. NAU?

9 MS. NAU: NOTHING FURTHER.

10 THE COURT: ALL RIGHT. MS. CRUMP, THAT MEANS
11 WE'VE COMPLETED YOUR TESTIMONY. IF YOU'D LEAVE OUR
12 MICROPHONE WITH US.

13 THE WITNESS: OKAY. IT'S YOURS.

14 THE COURT: YOU'RE EXCUSED.

15 THE WITNESS: OH, THANK YOU.

16 THE COURT: MS. SWISS, ARE YOU CALLING YOUR
17 NEXT WITNESS?

18 MS. SWISS: YES, YOUR HONOR. DEFENDANTS
19 RECALL MS. VICTORIA SCHEELE TO THE STAND. WE BELIEVE
20 SHE WAS IN CROSS-EXAMINATION SOMETIME LAST WEEK.

21 THE COURT: ALL RIGHT. YES.

22 ALL RIGHT. MS. SCHEELE, YOU'RE STILL UNDER
23 OATH. PLEASE JUST STATE YOUR NAME FOR THE RECORD SO
24 THE RECORD WILL BE CLEAR AS TO WHO IS TESTIFYING.

25 THE WITNESS: VICTORIA SCHEELE.

26 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

27 ALL RIGHT, MR. PRAGER?

28 MR. PRAGER: THANK YOU, YOUR HONOR.

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VICTORIA SCHEELE,
WAS CALLED AS A WITNESS AND, HAVING BEEN PREVIOUSLY
SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

CROSS-EXAMINATION

BY MR. PRAGER:

Q WHEN YOU LAST JOINED US, DO YOU RECALL TALKING
ABOUT BILINGUAL MONITORS?

A YES.

Q AND IT'S TRUE THAT YOU TESTIFIED YOU DID
NOT -- STRIKE THAT.

IT'S TRUE THAT YOU BELIEVED MS. DUVAL DID NOT
ASK YOU FOR A BILINGUAL MONITOR; CORRECT?

A YES.

MR. PRAGER: YOUR HONOR, I'D LIKE TO READ FROM
THE WITNESS'S DEPOSITION, PAGE 597, LINES 22 THROUGH
25.

MS. SWISS: I'M SORRY. PAGE 597?

MR. PRAGER: 597 THROUGH 598, AND ON 598, 1
THROUGH 21. AND IF THE COURT FOCUSES ITS ATTENTION, ON
598, LINES 16 THROUGH 21, I THINK YOU'LL SEE THE
RELEVANT PORTION BUT THE QUESTION REALLY BEGINS ON THE
PREVIOUS PAGE.

MS. SWISS: YOUR HONOR, OBJECTION REGARDING
PAGE 597 AND PAGE 598, THE READING OF SOME OF THE
DOCUMENTS IN THAT DEPOSITION, LINES 5 THROUGH 11.

THE COURT: YEAH, THE OBJECTION IS SUSTAINED.

1 WHY DON'T YOU BEGIN WITH LINE 12 ON PAGE 598
2 THROUGH LINE 19. I THINK THAT'S THE PORTION THAT YOU
3 WOULD LIKE TO READ, SO GO AHEAD.

4 MR. PRAGER: THANK YOU, YOUR HONOR.

5 (READING:)

6 "LET ME JUST STOP AND ASK FIRST,
7 WE DISCUSSED THE ISSUE TODAY, THIS
8 DOCUMENT REPORTS THAT THERE WERE AT
9 LEAST THREE REQUESTS MADE BY THE MOTHER
10 TO THE DEPARTMENT FOR A BILINGUAL
11 INTERPRETER. DOES THAT AGREE WITH YOUR
12 RECOLLECTION OF EVENTS?

13 "ANSWER: I CAN'T PLACE A NUMBER
14 ON IT, BUT I DO KNOW THAT MS. DUVAL
15 REQUESTED A BILINGUAL MONITOR."

16 OKAY. LET ME DRAW YOUR ATTENTION TO
17 EXHIBIT 82 AND TRY AND GO AS QUICKLY AS WE CAN. I'LL
18 TAKE THIS FROM YOU.

19 GO AHEAD AND LOOK AT EXHIBIT 82, PLEASE.

20 A THIS PAGE?

21 Q YES.

22 OKAY, LET ME DRAW YOUR ATTENTION FIRST --
23 WELL, LET ME ASK YOU THIS, YOU'VE ALREADY TESTIFIED
24 THAT IT WAS YOUR PRACTICE TO RECORD OBJECTIVELY AND
25 NEUTRALLY; CORRECT?

26 A YES.

27 Q AND THAT WOULD BE SUCH THINGS AS WHEN YOU
28 OBSERVED BABY RYAN HAPPY WITH HIS MOTHER; CORRECT?

1 A YES.

2 Q AND HAPPY WITH HIS FATHER?

3 A YES.

4 Q OKAY. SO LET ME DRAW YOUR ATTENTION TO
5 PAGE 27 OF 88, WHICH IS BATES NO. 1509 OF EXHIBIT 82.
6 I'M GOING TO ASK YOU ABOUT THE DECEMBER 28, 2009, ENTRY
7 THERE, WHENEVER YOU'RE READY.

8 A YES.

9 Q DO YOU SEE THAT, ON THE FOURTH LINE DOWN --
10 STRIKE THAT. LET'S LAY A LITTLE BIT OF INFORMATION
11 FIRST.

12 THIS WAS AN OBSERVATION THAT YOU PERFORMED OF
13 BABY RYAN AND HIS FATHER AND STEPMOTHER; CORRECT?

14 A YES.

15 Q AND THE DATE WAS DECEMBER 28, 2009; CORRECT?

16 A CORRECT.

17 Q AND IT'S REPORTED ON THE FOURTH LINE DOWN
18 THAT:

19 "BABY RYAN PLAYED AND BABBLED
20 HAPPILY."

21 CORRECT?

22 A YES.

23 Q SO NOW LET'S DRAW YOUR ATTENTION TO
24 BATES 1523. LET ME KNOW WHEN YOU'RE THERE.

25 A I'M THERE.

26 Q DRAWING YOUR ATTENTION TO THE JANUARY 28,
27 2010, ENTRY.

28 A 1523?

1 Q 1/28 -- OH, I'M SORRY, YES, 1523 IS THE BATES
2 NUMBER.

3 A THIS IS THE CONTACT BY HSA LEWIS?

4 Q THAT'S RIGHT.

5 JANUARY 28, 2010; RIGHT?

6 A YES.

7 Q TAKE A MOMENT TO REVIEW THE NOTE. LET ME KNOW
8 WHEN YOU'RE READY.

9 A YES, I'M READY.

10 Q NOW, IT'S TRUE IN THIS NOTE THAT IT REPORTS
11 THE MOTHER WAS HAPPY TO SEE THE MINOR; CORRECT?

12 A YES.

13 MS. SWISS: OBJECTION. LACKS FOUNDATION.
14 CALLS FOR SPECULATION.

15 THE COURT: OVERRULED.

16 IS THAT WHAT YOU NOTED AT THE TIME?

17 THE WITNESS: IT'S NOT MY CONTACT, SIR. IT'S
18 SOMEONE ELSE'S.

19 THE COURT: OH, OKAY. SUSTAINED.

20 BY MR. PRAGER:

21 Q MS. SCHEELE, YOU READ AND REVIEW THE NOTES OF
22 OTHER SOCIAL WORKERS IN DOING YOUR WORK; CORRECT?

23 A NOT NECESSARILY, NO.

24 Q YOU REVIEW THE DELIVERED SERVICE LOGS TO GET
25 INFORMATION AND RECORD INFORMATION REGARDING CLIENTS;
26 CORRECT?

27 A I'M NOT UNDERSTANDING YOUR QUESTION.

28 Q WHY DO YOU RECORD INFORMATION IN THE DELIVERED

1 SERVICE LOGS?

2 A I RECORD MY CONTACTS IN THE DELIVERED SERVICE
3 LOGS SO THAT THEY'RE WHERE THEY SHOULD BE. THAT'S
4 POLICY.

5 Q WELL, YOU DO THAT TO KEEP TRACK OF WHAT'S
6 GOING ON WITH THE CASE; CORRECT?

7 A I DO THAT BECAUSE THAT'S POLICY THAT ALL
8 CONTACTS ARE PUT IN.

9 Q AND YOUR EXPECTATION IS THAT OTHER SOCIAL
10 WORKERS WILL RELY ON YOUR WORK AS YOU INPUT IT IN THE
11 DELIVERED SERVICE LOGS; CORRECT?

12 A YES.

13 Q AND YOU RELY ON THE WORK OF OTHER SOCIAL
14 WORKERS IN DOING YOUR JOB; CORRECT?

15 A YES.

16 Q AND YOU RELY ON THE DELIVERED SERVICE LOGS IN
17 DOING YOUR WORK; CORRECT?

18 MS. SWISS: OBJECTION. ASKED AND ANSWERED.

19 THE COURT: SUSTAINED.

20 BY MR. PRAGER:

21 Q WOULD YOU CUSTOMARILY DO SUCH THINGS AS REVIEW
22 THE DELIVERED SERVICE LOGS FOR MS. LEWIS TO GATHER
23 INFORMATION FOR YOUR CASES?

24 A NO.

25 Q SO LET ME DRAW YOUR ATTENTION TO BATES
26 PAGE 1525. THERE'S A JANUARY 9, 2010, ENTRY THERE.

27 DO YOU SEE THAT?

28 A I SEE A FEBRUARY 9, 2010.

1 Q THANK YOU. SORRY. I MISSPOKE.

2 AND THIS IS FOR MS. DUVAL AND HER SON;

3 CORRECT?

4 A YES.

5 Q ON THE SECOND LINE DOWN, IT REPORTS THE MOTHER
6 IS HAPPY TO SEE THE MINOR; CORRECT?

7 A YES.

8 Q IT DOES NOT REPORT THAT THE BABY IS HAPPY TO
9 SEE THE MOTHER; CORRECT?

10 MS. SWISS: OBJECTION. RELEVANCE.

11 THE COURT: OVERRULED. IS THERE SUCH A
12 STATEMENT THERE?

13 THE WITNESS: THERE IS A STATEMENT ABOUT
14 MOTHER WAS HAPPY TO SEE THE MINOR. THERE'S NO
15 STATEMENT ABOUT MINOR WAS HAPPY TO SEE THE MOTHER.
16 BY MR. PRAGER:

17 Q OKAY.

18 A SIR, THAT'S NOT MY CONTACT EITHER. THAT'S
19 HSA LEWIS'S CONTACT.

20 Q I'M TALKING ABOUT THE FEBRUARY 9, 2010,
21 CONTACT --

22 A YES.

23 Q -- ON BATES PAGE 1525.

24 A YES.

25 "HSA LEWIS MONITORED VISIT BETWEEN
26 MOTHER, RAFAELINA DUVAL, AND MINOR,
27 RYAN. MOTHER WAS HAPPY TO SEE MINOR."
28 ARE WE ON THE RIGHT ONE?

1 Q WHAT DOES IT SAY AS STAFF PERSON?

2 A IT SAYS MY NAME RIGHT THERE. BUT THIS IS
3 HSA LEWIS'S PORTION OF THE VISIT.

4 Q OKAY. BUT -- I UNDERSTAND THAT. BUT JUST FOR
5 A SECOND, IT SAYS:

6 "STAFF PERSON, VICTORIA SCHEELE."

7 CORRECT?

8 A YES, IT DOES.

9 Q OKAY. SO IN THIS NOTE YOU DID NOT OBSERVE THE
10 MOTHER AND SON -- STRIKE THAT.

11 YOU DID NOT OBSERVE THE SON BEING HAPPY IN THE
12 PRESENCE OF MOTHER; CORRECT?

13 MS. SWISS: OBJECTION. LACKS FOUNDATION.

14 THE COURT: SUSTAINED AS TO THE WAY THE
15 QUESTION WAS ASKED.

16 BY MR. PRAGER:

17 Q I BELIEVE YOU TESTIFIED --

18 THE COURT: IF YOU'RE ASKING -- I'M NOT SURE
19 WHAT YOU'RE ASKING, IF YOU'RE ASKING HER MEMORY, IF
20 YOU'RE ASKING WHAT SHE RECORDED -- IT'S UNCLEAR. BUT I
21 THINK YOU COULD CLARIFY THAT.

22 MR. PRAGER: THANK YOU, YOUR HONOR.

23 BY MR. PRAGER:

24 Q SO DO YOU RECALL THIS VISIT?

25 A I DON'T HAVE INDEPENDENT MEMORY OF THIS VISIT.

26 Q ALL RIGHT. AND HAVING --

27 A IN READING IT, I HAVE SOME RECALL, YES.

28 Q DO YOU HAVE ANY RECOLLECTION OF BABY RYAN

1 BEING HAPPY IN THE PRESENCE OF HIS MOTHER DURING THIS
2 VISIT?

3 A THIS IS A SPLIT VISIT. THE FIRST PART YOU
4 WERE TALKING ABOUT IS MONITORED BY HSA LEWIS. THE
5 SECOND PARAGRAPH IS MONITORED BY ME, FOR THE LAST
6 HALF-HOUR. THAT'S MY PORTION OF IT.

7 Q THANK YOU.

8 MR. PRAGER: YOUR HONOR, OBJECT AND MOVE TO
9 STRIKE AS NONRESPONSIVE.

10 THE COURT: OBJECTION IS SUSTAINED. THE
11 MOTION TO STRIKE IS GRANTED. THE ENTIRE ANSWER WILL BE
12 ORDERED STRICKEN, AND JURY MUST DISREGARD IT.

13 BY MR. PRAGER:

14 Q JUST FOCUSING ON YOUR CONTACT NOTES AND THE
15 VISIT THAT YOU OBSERVED, YOU DID NOT DOCUMENT THAT
16 BABY RYAN WAS HAPPY IN THE PRESENCE OF MOTHER; CORRECT?

17 THE WITNESS: I DON'T USE THE WORD "HAPPY."

18 BY MR. PRAGER:

19 Q OKAY LET ME DRAW YOUR ATTENTION TO THE NEXT
20 ENTRY AT BATES PAGE 1527. IT'S DATED FEBRUARY 16,
21 2010.

22 DO YOU SEE THAT?

23 A YES.

24 Q AND IT'S WITH MR. MILLS AND BABY RYAN;
25 CORRECT?

26 A ON FEBRUARY 16TH?

27 Q YES, MA'AM.

28 A THIS IS WITH MS. DUVAL AND MYSELF.

1 Q ON FEBRUARY 16, 2010, BATES PAGE 1527?

2 A I'M SORRY. I'M ON THE WRONG PAGE.

3 YES.

4 Q OKAY. FIRST, LET ME ASK YOU: DO YOU RECALL
5 THIS VISIT?

6 A VAGUELY.

7 Q DO YOU RECALL BABY RYAN BEING HAPPY IN THE
8 PRESENCE OF FATHER?

9 A HE WAS -- HE HAD STARTED TO CRAWL AND HE WAS
10 VERY EXCITED FOR HIMSELF.

11 MR. PRAGER: YOUR HONOR --

12 THE WITNESS: YES, HE WAS HAPPY.

13 BY MR. PRAGER:

14 Q ALL RIGHT. SO DRAWING YOUR ATTENTION TO BATES
15 PAGE 1535, DATED MARCH 17, 2010?

16 A YES.

17 Q NOW, DO YOU RECALL THIS VISIT?

18 A YES.

19 Q NOW, IF YOU LOOK TOWARDS THE BOTTOM -- WELL,
20 LET ME ASK YOU, FIRST, FROM YOUR RECOLLECTION, DO YOU
21 RECALL BABY RYAN BEING HAPPY WHILE VISITING WITH HIS
22 FATHER AT THIS TIME?

23 A HE'S NOT WITH HIS FATHER AT THIS VISIT.

24 Q ON MARCH 17, 2010, IT DOESN'T SAY MR. RYAN
25 MILLS?

26 A NO. DO I HAVE THE WRONG PERSON? YES.

27 Q SO IS IT TRUE THAT THE VISIT WAS WITH MR. RYAN
28 MILLS?

1 A NO, MR. MILLS WAS NOT PRESENT. WELL, I DON'T
2 REMEMBER MR. MILLS BEING THERE.

3 Q DOES THE RECORD INDICATE THAT MR. MILLS WAS
4 PRESENT?

5 A IT DOES.

6 Q NOW, IT'S TRUE IN THIS NOTE -- STRIKE THAT.
7 FROM YOUR MEMORY, DO YOU RECALL BABY RYAN
8 BEING HAPPY?

9 A NOT FROM MY MEMORY, NO.

10 Q IF YOU LOOK DOWN TOWARDS THE BOTTOM OF THE
11 PAGE, ABOUT THREE LINES FROM THE BOTTOM?

12 A UH-HUH.

13 Q CAN YOU READ THAT TO YOURSELF, PLEASE.

14 A SURE.

15 OKAY.

16 Q DOES THAT REFRESH YOUR RECOLLECTION THAT
17 BABY RYAN WAS HAPPY WHILE VISITING WITH HIS FATHER IN
18 YOUR PRESENCE?

19 A HE WAS IN THE CARE OF HIS STEPGRANDPARENTS,
20 HECTOR AND CARMEN ALVAREZ.

21 Q AND YOUR BELIEF WAS HE WAS HAPPY AT THAT TIME;
22 CORRECT?

23 A HE APPEARS TO BE HAPPY IS WHAT I SAID, YES.

24 Q LET ME DRAW YOUR ATTENTION TO PAGE 1565. AND
25 DRAW YOUR ATTENTION TO THE JULY 20, 2010, ENTRY.

26 DO YOU SEE THAT?

27 A YES.

28 Q DO YOU SEE YOUR NAME THERE?

1 A UH-HUH.

2 Q YES?

3 A YES.

4 Q DO YOU RECALL THAT VISIT TODAY, AS YOU SIT
5 HERE?

6 A OH, YES, THAT'S WHEN HE STARTED TO SPEAK.

7 Q OKAY. AND IT'S TRUE, FROM YOUR MEMORY, YOU
8 BELIEVED THAT HE APPEARED HAPPY AT THAT VISIT; CORRECT?

9 A I DON'T SEE HAPPY HERE. AM I MISSING IT?

10 Q IF YOU LOOK --

11 A I SEE THAT HE'S TALKING AND HE'S WALKING ON
12 THE COUCH.

13 WHERE?

14 Q RIGHT HERE.

15 A OH, I'M ON THE WRONG PAGE. I APOLOGIZE.

16 Q IT'S 1569.

17 A 1569.

18 THE COURT: WHICH ENTRY, PLEASE.

19 MR. PRAGER: IT IS AUGUST 6, 2010. I
20 APOLOGIZE, YOUR HONOR.

21 THE WITNESS: I'M SORRY. I'M NOT FINDING IT.
22 BY MR. PRAGER:

23 Q YOU KNOW, I ACTUALLY MISSPOKE ON THE PAGE.
24 IT'S 1565, 18 LINES DOWN, JULY 20, 2010.

25 THE COURT: I'VE LOOKED AT A NUMBER OF PAGES
26 SO I'M A LITTLE UNCLEAR. IT'S 1565.

27 MR. PRAGER: YES, YOUR HONOR.

28 THE COURT: OKAY. THANK YOU.

1 MR. PRAGER: AND THE ENTRY IS JULY 20, 2010.

2 BY MR. PRAGER:

3 Q MA'AM, DO YOU RECALL THIS VISIT?

4 A I'M SORRY. I'M LOST.

5 Q OKAY. LET ME SHOW YOU.

6 A PLEASE.

7 OH, YES, I SEE IT.

8 Q DO YOU HAVE A RECOLLECTION OF IT?

9 A I REMEMBER THIS VISIT, YES.

10 Q IS IT TRUE HE WAS HAPPY AT THAT TIME?

11 A HE WAS HAPPY.

12 Q NOW YOU WERE INVOLVED IN MONITORING VISITS
13 BETWEEN APPROXIMATELY DECEMBER 28, 2009, AND I BELIEVE
14 YOU SAID JULY 29TH -- OR JULY 2010; CORRECT?

15 A YES.

16 Q AND THERE WERE APPROXIMATELY 65 VISITS THAT
17 WERE MONITORED DURING THAT PERIOD OF TIME; CORRECT?

18 A I DON'T KNOW THE NUMBER. THERE WERE A LOT,
19 YES.

20 Q IF YOU'D ESTIMATE FOR US, DOES THAT SOUND
21 ABOUT CORRECT?

22 A TWO A WEEK.

23 Q RIGHT.

24 A FOR THAT TIME.

25 Q ISN'T IT TRUE THAT DURING ALL THE VISITS THAT
26 WERE OBSERVED BY YOU WITH MOM, YOU NEVER ONCE REPORTED
27 THAT BABY RYAN WAS HAPPY DURING HIS VISITS WITH MOTHER?

28 A I NEVER ONCE USED THE WORD "HAPPY." I USED

1 MANY DESCRIPTORS THAT SHOWED THAT HE WAS HAPPY.

2 Q NOW, DO YOU RECALL TESTIFYING LAST TIME THAT
3 YOU DO NOT RECALL WHO MS. ENNIS IS?

4 A YES.

5 MR. PRAGER: YOUR HONOR, I'D LIKE TO READ FROM
6 THE WITNESS'S DEPOSITION, PAGE 424, LINES 12 THROUGH
7 14.

8 THE WITNESS: AND IF I MAY CORRECT THAT,
9 MR. PRAGER, I DON'T BELIEVE LAST TIME I SAID I DON'T
10 RECALL WHO SHE IS; I SAID I DON'T RECALL MEETING HER.
11 I DO RECALL WHO SHE IS FROM PREVIOUS INFORMATION.

12 MS. SWISS: OBJECTION, YOUR HONOR. IMPROPER
13 IMPEACHMENT.

14 MR. PRAGER: I HAVE A ROUGH OF HER TRANSCRIPT,
15 YOUR HONOR. I'LL SHOW IT TO THE COURT.

16 THE COURT: I'VE GOT IT HERE.

17 OVERRULED. GO AHEAD.

18 BY MR. PRAGER:

19 Q (READING:)

20 "QUESTION: MS. DUVAL ASKED FOR A
21 DIFFERENT MONITOR, INCLUDING NORISSA
22 ENNIS; RIGHT?

23 "ANSWER: YES."

24 NOW, IT'S TRUE -- WELL, STRIKE THAT.

25 DO YOU RECALL NOW THAT MS. ENNIS WAS A MONITOR
26 FOR MS. DUVAL?

27 A SHE WAS A MONITOR FOR MS. DUVAL WHEN THE CASE
28 WAS AT METRO NORTH, YES.

1 Q UNDERSTOOD. THANK YOU.

2 AND DO YOU NOW RECALL EVER TELLING MS. ENNIS
3 THAT SHE COULD NO LONGER MONITOR VISITS FOR MS. DUVAL?

4 A I DO NOT RECALL TELLING MS. ENNIS. I RECALL
5 TELLING MS. DUVAL.

6 Q SO YOU DENY TELLING MS. ENNIS THAT SHE WAS NO
7 LONGER ABLE TO MONITOR VISITS FOR MS. DUVAL?

8 A I DON'T RECALL TELLING MS. ENNIS. I RECALL
9 TELLING MS. DUVAL.

10 MR. PRAGER: YOUR HONOR, I'M GOING TO APPROACH
11 AND ASK THE WITNESS TO REVIEW EXHIBIT 207, BATES PAGE
12 IS 2910.

13 BY MR. PRAGER:

14 Q WILL YOU TAKE THIS AND JUST READ IT TO
15 YOURSELF FOR A MOMENT.

16 YOU'VE HAD A CHANCE TO REVIEW THE EXHIBIT;
17 CORRECT?

18 A YES.

19 Q THIS IS A STATEMENT FROM MS. ENNIS; CORRECT?

20 A YES, IT IS.

21 Q HAVING REVIEWED THAT STATEMENT, DOES IT
22 REFRESH YOUR RECOLLECTION REGARDING WHETHER OR NOT YOU
23 TOLD MS. ENNIS THAT SHE COULD NO LONGER MONITOR VISITS
24 FOR MS. DUVAL?

25 A I HAVE NO RECOLLECTION OF SPEAKING WITH
26 MS. ENNIS. I JUST DON'T REMEMBER.

27 Q SO YOU HAVE NO INFORMATION TO REBUT ANYTHING
28 MS. ENNIS MAY HAVE TESTIFIED ABOUT REGARDING THIS

1 ISSUE; CORRECT?

2 MS. SWISS: OBJECTION. LACKS FOUNDATION.
3 CALLS FOR SPECULATION. ARGUMENTATIVE. IT'S SOMETHING.

4 THE COURT: WELL, THAT'S REALLY -- OVERRULED.

5 DO YOU UNDERSTAND -- GO AHEAD AND ANSWER IT IF
6 YOU CAN.

7 THE WITNESS: I DON'T REMEMBER.

8 BY MR. PRAGER:

9 Q RIGHT. YOU HAVE NO INFORMATION?

10 A I DON'T, SORRY.

11 Q OKAY.

12 MR. PRAGER: YOUR HONOR, I'M GOING TO HAND THE
13 WITNESS EXHIBIT 720 BUT I DON'T THINK THAT'S BEEN
14 INCLUDED IN THE BOOKS.

15 SO MR. KING?

16 BY MR. PRAGER:

17 Q PLEASE TAKE A LOOK AT EXHIBIT 720 AND LET ME
18 KNOW WHEN YOU'RE FINISHED WITH IT.

19 A I'VE SEEN IT.

20 Q WHAT IS EXHIBIT 720?

21 A IT'S A LETTER OF DETERMINATION ADDRESSED TO ME
22 FROM MICHELLE HOCHSTEIN, CIVIL RIGHTS INVESTIGATOR.

23 Q IT'S TRUE, MA'AM, THAT THIS LETTER INFORMS YOU
24 THAT THERE'S BEEN A LETTER OF DETERMINATION IN
25 MS. DUVAL'S DISCRIMINATION CASE; CORRECT?

26 MS. SWISS: OBJECTION. LACKS FOUNDATION.
27 CALLS FOR SPECULATION. OUTSIDE THE SCOPE.

28 THE COURT: ALL RIGHT. UNFORTUNATELY, IT'LL

1 TAKE A LITTLE WHILE.

2 MR. PRAGER: IF WE COULD APPROACH, MAYBE IT
3 CAN SAVE YOU SOME TIME, YOUR HONOR.

4 THE COURT: PARDON?

5 MR. PRAGER: IF WE COULD APPROACH, MAYBE IT
6 CAN SAVE YOU SOME TIME.

7 THE COURT: ALL RIGHT.

8 (THE FOLLOWING PROCEEDINGS WERE HELD AT
9 SIDEBAR.)

10 THE COURT: ALL RIGHT. WE'RE AT SIDEBAR.
11 PLEASE SAVE ME SOME TIME IF YOU CAN.

12 MR. PRAGER: THANK YOU. I THINK THIS GOES TO
13 THE WITNESS'S CREDIBILITY, FITNESS BIAS. SO WE THINK
14 WITHIN THE CROSS-EXAMINATION, IT'S PROPER. SO
15 WHETHER -- I REALIZE THE COURT'S ABOUT TO REVIEW ITS
16 NOTES TO FIND OUT WHAT'S BEEN OFFERED BY THIS
17 WITNESS -- HAS BEEN OFFERED BY THE DEFENDANT, AND HER
18 CREDIBILITY IS ALWAYS AT ISSUE, AND I THINK THIS
19 DOCUMENT IMPEACHES THAT AND HER VERACITY TOO.

20 THE COURT: I DON'T KNOW IN WHAT MANNER IT
21 IMPEACHES HER, BUT I SIMPLY DON'T REMEMBER THERE BEING
22 ANY TESTIMONY ON DIRECT EXAMINATION. THIS, AGAIN, GOES
23 TO WHAT WE'VE TALKED ABOUT PREVIOUSLY, AND I DON'T
24 RECALL -- HONESTLY, AT THE MOMENT, I DON'T RECALL IF
25 YOU PLAYED HER DEPOSITION.

26 MR. MCMILLAN: WE DID.

27 THE COURT: I BELIEVE YOU DID. AND I DON'T
28 KNOW WHETHER THIS SUBJECT WAS COVERED IN THE PART OF

1 THE DEPOSITION THAT WAS PLAYED.

2 MS. SWISS: YOUR HONOR, I HAVE THE HIGHLIGHTED
3 DEPOSITION FROM MS. SCHEELE THAT WAS READ OR PLAYED TO
4 THE JURY, AND THIS EXHIBIT WAS ALREADY DISCUSSED,
5 EXHIBIT 12 FROM HER DEPOSITION. AND IT WAS NOT THE
6 SUBJECT OF MY DIRECT EXAMINATION IN THE DEFENDANT'S
7 CASE; THEREFORE, IT SHOULD BE OUTSIDE THE SCOPE. AND
8 IT'S CUMULATIVE SINCE IT WAS ALREADY DISCUSSED WITH
9 THIS WITNESS AND PLAYED FOR THE JURY.

10 MR. PRAGER: AND THE ISSUE FOR US --

11 THE COURT: CAN I SEE THE TESTIMONY THAT WAS
12 GIVEN?

13 MS. SWISS: STARTS AT PAGE 509 AND CONTINUES
14 TO THE NEXT COUPLE OF PAGES.

15 THE COURT: YOU ALREADY HAVE THIS TESTIMONY ON
16 THE RECORD. THIS IS CUMULATIVE. AND IT IS OUTSIDE THE
17 SCOPE OF HER EXAMINATION. IF YOU FEEL THIS GOES TO HER
18 CREDIBILITY, YOU ALREADY HAVE THE EVIDENCE IN THE
19 REPORT.

20 MR. PRAGER: THANK YOU.

21 MS. SWISS: THANK YOU, YOUR HONOR.

22 (THE FOLLOWING PROCEEDINGS WERE HELD IN
23 OPEN COURT IN THE PRESENCE OF THE
24 JURY.)

25 BY MR. PRAGER:

26 Q MS. SCHEELE, LET ME ASK YOU TO RETURN TO
27 EXHIBIT 82 FOR A MOMENT AND I'LL DRAW YOUR ATTENTION TO
28 BATES PAGE 1535.

1 A YES.

2 Q LET ME DRAW YOUR ATTENTION TO THE MARCH 17,
3 2010, CONTACT NOTE. PLEADS REVIEW THAT AND LET ME KNOW
4 WHEN YOU'RE READY.

5 A YES.

6 Q DO YOU HAVE AN INDEPENDENT RECOLLECTION OF
7 THIS VISIT?

8 A SOME OF IT, YES.

9 Q DO YOU RECALL AS YOU SIT HERE TODAY GOING TO
10 THE MILLS' HOME WITH A SPANISH-SPEAKING INTERPRETER?

11 A YES.

12 Q NOW, LAST TIME YOU WERE HERE YOU TESTIFIED
13 ABOUT BABY RYAN CRAWLING UNDER THE TABLE.

14 DO YOU RECALL THAT?

15 A WHERE?

16 Q DURING THE VISITS WITH HIS MOTHER IN YOUR
17 PRESENCE.

18 A I RECALL HIM CRAWLING UNDER TABLES AND CHAIRS
19 WITH HIS MOTHER.

20 Q DO YOU RECALL SAYING --

21 A IN VISITS.

22 Q I'M SORRY.

23 A OKAY.

24 Q ARE YOU FINISHED?

25 A YES.

26 Q THANK YOU.

27 DO YOU RECALL TELLING US THAT IT WAS BECAUSE
28 OF MOTHER'S FEARS THAT SHE WOULD NOT CRAWL UNDER THE

1 TABLE OR ALLOW HER SON TO CRAWL UNDER THE TABLE?

2 A I DON'T RECALL HOW I PHRASED IT, BUT SHE DID
3 EXPRESS A LOT OF FEAR THAT HE WOULD BUMP HIS HEAD.

4 Q ISN'T IT TRUE THAT MS. DUVAL FEARED THAT
5 BABY RYAN WOULD BUMP HIS HEAD IN YOUR PRESENCE AND THEN
6 YOU WOULD PUT IN YOUR CONTACT NOTES THAT HE BUMPED HIS
7 HEAD WHILE IN MOTHER'S CUSTODY?

8 MS. SWISS: OBJECTION. VAGUE. CALLS FOR
9 SPECULATION.

10 THE COURT: SUSTAINED AS TO SPECULATION.

11 BY MR. PRAGER:

12 Q LET ME DRAW YOUR ATTENTION TO PAGE 82 -- I'M
13 SORRY -- EXHIBIT 82 AND BATES NO. 1534. IT'S A
14 MARCH 16, 2010, CONTACT NOTE.

15 LET ME KNOW WHEN YOU'VE HAD A CHANCE TO REVIEW
16 THAT.

17 A WHAT IS THE DATE?

18 Q MARCH 16, 2010.

19 A OKAY, YES, I SEE THE PART YOU'RE TALKING
20 ABOUT.

21 Q NOW, SITTING HERE TODAY, DO YOU RECALL THE
22 MARCH 16, 2010, VISIT WITH MS. DUVAL AND BABY RYAN?

23 A PARTS OF IT.

24 Q DO YOU RECALL ANY PART REGARDING WHAT
25 MS. DUVAL TOLD YOU ABOUT FEARING HOW YOU WOULD DOCUMENT
26 HER VISITATION IN COURT REPORTS?

27 A SHE SAYS THAT SHE'S WORRIED THAT IF THE CHILD
28 BUMPS HIS HEAD WHILE UNDER THE CHAIR IT WILL END UP IN

1 THE COURT PAPERS THAT THE CHILD BUMPED HIS HEAD WHILE
2 IN HER CARE.

3 Q THANK YOU FOR THAT. BUT LET'S ASK ABOUT YOUR
4 MEMORY FIRST.

5 DO YOU HAVE A MEMORY OF MS. DUVAL EXPRESSING
6 TO YOU THAT SHE THOUGHT YOU WERE BIASED AGAINST HER?

7 A I BELIEVE SHE SAID THAT AT SOME POINT IN TIME.

8 Q AND DO YOU ALSO UNDERSTAND THAT ONE OF THE
9 REASONS THAT SHE DID NOT WANT BABY RYAN TO CRAWL UNDER
10 THE TABLE DURING HER VISITATION IS THAT SHE WAS AFRAID
11 HE WOULD BUMP HIS HEAD AND YOU WOULD BLAME HER FOR THAT
12 AND PUT IT IN COURT RECORDS? CORRECT?

13 A I'M NOT SURE THAT SHE'S SAYING THAT I WOULD
14 BLAME HER FOR IT.

15 Q IS IT TRUE THAT MS. DUVAL EVER STATED TO YOU,
16 DURING A VISIT ON MARCH 16, 2010, THAT SHE BELIEVED IF
17 BABY RYAN BUMPED HIS HEAD WHILE UNDER THE CHAIR, IT
18 WOULD END UP IN COURT PAPERS THAT HE BUMPED HIS HEAD
19 WHILE UNDER THE CARE OF MOTHER?

20 A THAT'S WHAT SHE SAID, YES. IT DOESN'T SAY
21 THAT I WOULD BLAME HER.

22 Q IN FACT, IT'S YOUR BELIEF THAT MS. DUVAL DOES
23 NOT TRUST YOU; CORRECT?

24 MS. SWISS: OBJECTION. RELEVANCE.

25 MR. PRAGER: STRIKE THAT. I'LL REPHRASE IT.
26 BY MR. PRAGER:

27 Q DURING THE PERIOD OF TIME THAT YOU WERE
28 MS. DUVAL'S SUPERVISING SOCIAL WORKER FOR VISITATION,

1 ISN'T IT TRUE THAT SHE DISTRUSTED YOU?

2 MS. SWISS: OBJECTION. CALLS FOR SPECULATION.

3 THE COURT: SUSTAINED AS TO SPECULATION.

4 BY MR. PRAGER:

5 Q NOW, DID YOU CREATE THE CONTACT NOTE IN THE
6 DELIVERED SERVICE LOG ON MARCH 16, 2010?

7 LET ME DRAW YOUR ATTENTION -- I SEE YOUR
8 PUZZLED LOOK.

9 LET ME HAVE YOU LOOK AT PAGE 82, BATES STAMP
10 1534, SPECIFICALLY THE MARCH 16TH, 2010, VISIT WE'RE
11 SPEAKING OF.

12 A YES.

13 Q DID YOU CREATE THIS NOTE?

14 A YES.

15 Q AND IS IT TRUE THAT YOU CREATED THE NOTE
16 CONTEMPORANEOUS IN TIME WITH THE VISIT?

17 A CONTEMPORANEOUS IN TIME?

18 Q AT THE SAME TIME?

19 A AT THE SAME TIME AS THE VISIT? NO.

20 Q HOW LONG WAS IT AFTER THE VISIT ENDED THAT YOU
21 CREATED THE NOTE ON MARCH 16, 2010?

22 A IT WOULD HAVE BEEN WITHIN ONE TO THREE DAYS,
23 MOST LIKELY. THAT'S NORMAL PRACTICE.

24 Q IT'S TRUE YOUR MEMORY OF THE EVENT WAS FRESHER
25 THEN THAN IT IS TODAY; CORRECT?

26 A YES.

27 Q AND IT'S TRUE WHEN YOU PUT SOMETHING IN
28 QUOTATIONS IN YOUR DELIVERED SERVICE LOG, THAT'S A

1 DIRECT QUOTE FROM WHOMEVER IT IS YOU'RE QUOTING;
2 CORRECT?

3 A YES.

4 Q AND IT'S TRUE ON THIS NOTE THAT YOU PUT,
5 QUOTE, I DON'T TRUST YOU, END QUOTE; CORRECT?

6 A YES.

7 Q AND THAT WAS MS. DUVAL SPEAKING ABOUT YOU AS
8 HER MONITOR; CORRECT?

9 A AS HER SOCIAL WORKER, YES.

10 Q THANK YOU.

11 MR. PRAGER: THANK YOU, YOUR HONOR.

12 THE COURT: MS. SWISS, ANY REDIRECT?

13 MS. SWISS: VERY, VERY BRIEFLY.

14

15 REDIRECT EXAMINATION

16 BY MS. SWISS:

17 Q MS. SCHEELE, LAST WEEK, WE TALKED ABOUT
18 MONITORING VISITS WHEN THE MATERNAL GRANDMOTHER WAS
19 PRESENT.

20 DO YOU REMEMBER THAT?

21 A YES.

22 Q OKAY. WHEN GRANDMOTHER WAS PRESENT AT THE
23 VISITS, WHAT LANGUAGE WAS SPOKEN DURING THE VISITS?

24 A ENGLISH --

25 MR. PRAGER: OBJECTION. EXCEEDS THE SCOPE OF
26 CROSS-EXAMINATION.

27 THE COURT: OVERRULED.

28 MS. SWISS: IT'S FROM LAST WEEK.

1 THE COURT: YEAH.

2 THE WITNESS: ENGLISH WAS SPOKEN DURING THE
3 VISITS.

4 BY MS. SWISS:

5 Q AND DID YOU EVER OBSERVE THE MATERNAL
6 GRANDMOTHER SPEAKING ENGLISH DURING THOSE VISITS?

7 A MOTHER SPOKE ENGLISH TO HER. SHE DIDN'T SPEAK
8 MUCH AT ALL.

9 Q DID YOU GET THE SENSE WHETHER GRANDMOTHER
10 UNDERSTOOD WHEN ENGLISH WAS BEING SPOKEN TO HER DURING
11 THOSE VISITS?

12 MR. PRAGER: OBJECTION. COMPOUND. VAGUE.
13 CALLS FOR SPECULATION.

14 THE COURT: SUSTAINED AS TO SPECULATION.
15 BY MS. SWISS:

16 Q DID YOU OBSERVE GRANDMOTHER RESPOND WHEN
17 QUESTIONS -- WHEN STATEMENTS WERE MADE TO HER IN
18 ENGLISH DURING THE VISITS THAT YOU MONITORED?

19 A YES, SHE RESPONDED.

20 Q NOW, WITH REGARD TO MS. DUVAL'S REQUEST FOR A
21 BILINGUAL MONITOR, WAS THAT REQUEST EVER MADE TO YOU
22 PERSONALLY?

23 A IT WAS NOT.

24 MS. SWISS: THANK YOU. NO FURTHER QUESTIONS.

25 THE COURT: MR. PRAGER?

26 MR. PRAGER: THANK YOU, YOUR HONOR.

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RECROSS-EXAMINATION

BY MR. PRAGER:

Q ISN'T IT TRUE, MA'AM, THAT MS. DUVAL REQUESTED
A BILINGUAL INTERPRETER ON MORE THAN ONE OCCASION?

A I'M ONLY AWARE OF HER REQUESTING IT FROM
MS. LEWIS AT THE END OF JULY.

Q LET ME --

MR. PRAGER: AGAIN, YOUR HONOR, I WANT TO READ
PAGE 598, LINES 12 THROUGH 19.

MS. SWISS: OBJECTION. IT'S CUMULATIVE.

MR. PRAGER: OKAY.

THE COURT: ISN'T IT THE SAME?

MR. PRAGER: SAME THING.

THE COURT: SAME REREAD? WE DON'T NEED TO
READ IT TWICE.

MR. PRAGER: OKAY. VERY GOOD, YOUR HONOR.
THANK YOU.

THE COURT: MS. SWISS?

MS. SWISS: NO FURTHER QUESTIONS.

THE COURT: WE'VE COMPLETED YOUR TESTIMONY.
YOU'RE EXCUSED.

THE WITNESS: THANK YOU.

THE COURT: MS. SWISS, ARE YOU GOING TO CALL
THE NEXT WITNESS?

MS. SWISS: YES, YOUR HONOR, THE DEFENDANTS
CALL MS. ELBA PINEDO.

THE COURT: ALL RIGHT.

1 ELBA PINEDO,
2 WAS CALLED AS A WITNESS AND, HAVING BEEN FIRST DULY
3 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:
4

5 THE CLERK: FOR THE RECORD, PLEASE STATE YOUR
6 NAME AND SPELL YOUR FIRST AND LAST NAME.

7 THE WITNESS: ELBA PINEDO, FIRST NAME,
8 E-L-B-A, LAST NAME, P-I-N-E-D-O.

9 THE COURT: THANK YOU.
10 YOU MAY PROCEED, MS. SWISS.
11

12 DIRECT EXAMINATION

13 BY MS. SWISS:

14 Q GOOD AFTERNOON, MS. PINEDO.

15 A GOOD AFTERNOON.

16 Q WITH WHOM ARE YOU CURRENTLY EMPLOYED?

17 A DEPARTMENT OF CHILDREN AND FAMILY SERVICES.

18 Q HOW LONG HAVE YOU BEEN EMPLOYED WITH THE
19 DEPARTMENT OF CHILDREN AND FAMILY SERVICES?

20 A 17 YEARS.

21 Q NOW, WHAT IS YOUR CURRENT POSITION?

22 A I AM A CHILDREN'S SOCIAL WORKER WITH THE
23 INTAKE AND DETENTION CONTROL UNIT.

24 Q IS THAT COMMONLY REFERRED TO AS IDC?

25 A YES.

26 Q OKAY. WHAT ARE YOUR CURRENT JOB DUTIES?

27 A MY PRIMARY DUTIES ARE FILING PETITIONS WITH
28 THE JUVENILE COURT.

1 Q AND BACK IN NOVEMBER OF 2009, WHAT WAS YOUR
2 POSITION WITH DCFS?

3 A NOVEMBER OF 2009, I WAS A SOCIAL WORKER AT
4 IDC.

5 Q SO YOU'VE BEEN IN THE SAME SPOT SINCE 2009 OR
6 BEFORE THEN?

7 A CORRECT.

8 Q AND WHAT WERE YOUR JOB DUTIES BACK IN NOVEMBER
9 OF 2009?

10 A FILING PETITIONS.

11 Q OKAY. WHAT IS A PETITION?

12 A A PETITION IS A LEGAL DOCUMENT, A COURT
13 DOCUMENT THAT BEGINS PROCEEDINGS WITH JUVENILE COURT.
14 SO WHEN CHILDREN ARE TEMPORARILY TAKEN INTO PROTECTIVE
15 CUSTODY, THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES
16 MUST FILE A PETITION WITH THE JUVENILE COURT. AND THIS
17 PETITION PROVIDES ALLEGATIONS IN DETAILED INFORMATION,
18 WHAT WE IDENTIFY AS ALLEGATIONS AS TO HOW THE CHILD OR
19 CHILDREN ARE DESCRIBED UNDER SECTION 300 OF THE WELFARE
20 AND INSTITUTIONS CODE.

21 Q OKAY. NOW, WERE YOU INVOLVED IN THE CASE OF
22 BABY RYAN?

23 A YES.

24 Q WHAT WAS YOUR INVOLVEMENT WITH BABY RYAN'S
25 CASE?

26 A I PREPARED THE PETITION AND THE ADDENDUM
27 REPORT FOR THAT CASE.

28 Q OKAY. WE ARE GOING TO TAKE A LOOK AT THE

1 PETITION. IT IS EXHIBIT 11, AND IT HAS ALREADY BEEN --
2 IT'S ALREADY BEEN RECEIVED IN EVIDENCE.

3 AND THAT'S BATES NO. 8 THROUGH 12.

4 NOW, MS. PINEDO, IF YOU CAN TAKE A LOOK AT
5 EXHIBIT 11, AND LET ME KNOW WHEN YOU'RE READY.

6 A OKAY.

7 Q DO YOU RECOGNIZE THIS DOCUMENT?

8 A YES, IT'S THE PETITION.

9 Q OKAY. AND IF YOU LOOK AT PAGE 2, IT'S BATES
10 NO. 9, THERE'S A SIGNATURE THERE.

11 DO YOU SEE THAT?

12 A YES.

13 Q IS THAT YOUR SIGNATURE?

14 A IT IS.

15 Q OKAY. NOW, YOU TESTIFIED THAT --

16 NOW, DID YOU FILE THIS DOCUMENT WITH THE
17 JUVENILE COURT?

18 A YES.

19 Q OKAY. AND DO YOU KNOW ABOUT WHEN THIS WAS
20 FILED?

21 A BASED ON THE FILE STAMP HERE IN THE CORNER, IT
22 WAS FILED NOVEMBER 6TH OF 2009.

23 Q OKAY. AND DID YOU ACTUALLY TYPE IN ALL OF THE
24 INFORMATION IN THIS DOCUMENT YOURSELF?

25 A SOME I TYPED IN. OTHER -- SOME INFORMATION
26 WAS POPULATED FROM OUR COMPUTERIZED SYSTEM, CWCMS.

27 Q OKAY. NOW, TAKING A LOOK AT NO. 1 THERE, IT
28 SAYS:

1 "PETITIONER, ON INFORMATION AND
2 BELIEF, ALLEGES THE FOLLOWING."

3 DO YOU SEE THAT?

4 A YES.

5 Q AND DO YOU KNOW WHAT THAT PHRASE MEANS?

6 A UM --

7 MR. MCMILLAN: OBJECTION. LACKS FOUNDATION.
8 CALLS FOR SPECULATION.

9 THE COURT: OVERRULED.

10 THE WITNESS: TO THE BEST OF MY KNOWLEDGE, IT
11 MEAN THAT IS IT'S -- THAT THE ALLEGATIONS THAT ARE
12 BEING ALLEGED IN THIS PETITION ARE BASED ON THE
13 INFORMATION THAT I'VE RECEIVED. THAT WOULD BE A
14 DETENTION REPORT AND ATTACHMENTS THAT ARE INCLUDED AS
15 WELL AS THE BELIEF THAT THE INDIVIDUAL OR THE SOCIAL
16 WORKER THAT'S COMPLETING THAT DETENTION REPORT, IT'S
17 CREDIBLE. I BELIEVE THEY'VE BEEN TRUTHFUL AND ACCURATE
18 WITH THE INFORMATION THAT THEY'VE PROVIDED IN THEIR
19 DETENTION REPORTS.

20 BY MS. SWISS:

21 Q OKAY. AND WHERE IT SAYS "PETITIONER, ON
22 INFORMATION AND BELIEF, ALLEGES," IS PETITIONER, THEN,
23 YOU BECAUSE YOU SIGNED IT?

24 A IT'S ME BECAUSE I'M THE ONE WHO SIGNED IT,
25 OBVIOUSLY. I'M A REPRESENTATIVE OF THE DEPARTMENT OF
26 CHILDREN AND FAMILY SERVICES.

27 Q OKAY. AND IN THIS PETITION DID YOU ACTUALLY
28 MAKE ALLEGATIONS?

1 A YES.

2 Q OKAY. TAKING A LOOK AT NUMBER -- UNDER 1A, I
3 GUESS, THERE'S CHECK BOXES A THROUGH J?

4 A YES.

5 Q DO YOU SEE THAT?

6 AND IT LOOKS LIKE THE B IS CHECKED AND THE E
7 IS CHECKED.

8 DO YOU SEE THAT?

9 A YES.

10 Q WHAT DOES THE CHECK BOX FOR B MEAN?

11 A SO WHEN -- SO UNDER THE SECTION 300 OF THE
12 WELFARE AND INSTITUTIONS CODE, THERE ARE SUBDIVISIONS,
13 CATEGORIES. AND THOSE SUBDIVISIONS ARE IDENTIFIED BY
14 ALPHABET, A THROUGH J. AND SO, WHEN GENERATING THIS
15 PETITION, THOSE SUBDIVISIONS, THAT A THROUGH J,
16 DESCRIBES SPECIFIC TYPES OF ABUSE THAT A CHILD OR
17 CHILDREN WOULD SUFFER.

18 SO IN GENERATING THIS PETITION, I HAVE TO
19 IDENTIFY UNDER WHAT SUBDIVISION DOES THAT CHILD -- IS
20 THAT CHILD DESCRIBED UNDER? SO FOR BABY RYAN'S
21 PETITION, I FILED A B COUNT AND AN E COUNT UNDER
22 SUBDIVISION B AND SUBDIVISION E.

23 Q OKAY. AND THEN FURTHER IN THE DOCUMENT, DO
24 YOU ACTUALLY DESCRIBE THE ALLEGATIONS FOR THE B COUNT
25 AND THE E COUNT?

26 A YES. THAT WOULD BE MY SUPPORTING FACTS.

27 Q OKAY. SO LET'S TAKE A LOOK AT PAGE 3, IT'S
28 BATES 10.

1 AND JUST FOCUSING ON THE TOP THERE, THERE'S
2 SOME ADDITIONAL CHECK BOXES. IT SAYS FAILURE TO
3 PROTECT, SECTION 300B.

4 THEN DO YOU SEE THE BOX THAT'S CHECKED THERE:

5 "AS A RESULT OF THE FAILURE OR
6 INABILITY OF HIS OR HER PARENT OR LEGAL
7 GUARDIAN TO SUPERVISE OR PROTECT THE
8 CHILD ADEQUATELY."

9 DO YOU SEE THAT?

10 A YES.

11 Q DO YOU KNOW WHY YOU CHECKED THAT BOX IN THE
12 PETITION?

13 A YES. BASED ON THE COUNTS THAT I FILED,
14 COUNTS B1 AND B2, THE ALLEGATIONS THAT WERE DESCRIBED
15 IDENTIFIED THAT AS A RESULT -- THAT THIS CHILD WAS
16 ABUSED AS A RESULT OF A PARENT'S FAILURE OR INABILITY
17 TO PARENT OR SUPERVISE THEIR CHILD AND ALSO AS A RESULT
18 OF WILLFUL AND NEGLECTFUL ACTS BY A PARENT TO FAIL TO
19 PROTECT THEIR CHILD FROM THE CUSTODIAL PARENT WHO HAD
20 CUSTODY OF THAT CHILD.

21 Q OKAY. SO THE FIRST CHECK BOX, DOES THAT HAVE
22 TO DO WITH B1 AND THE SECOND CHECK BOX, DOES THAT HAVE
23 TO DO WITH B2?

24 MR. MCMILLAN: OBJECTION. LEADING.

25 THE COURT: SUSTAINED.

26 BY MS. SWISS:

27 Q WHAT DOES THE DESCRIPTION UNDER B1 -- WHAT IS
28 THE RELATIONSHIP BETWEEN THE FIRST CHECK BOX, IF ANY,

1 AND THE DESCRIPTION UNDER B1?

2 A SO B1 WOULD BE IDENTIFIED AS THAT FIRST CHECK
3 BOX AND THE B2 WOULD BE DESCRIBED UNDER THE SECOND BOX,
4 CHECK 2.

5 Q OKAY. SO WHAT WERE THE ALLEGATIONS THAT YOU
6 WERE MAKING FOR SECTION B1?

7 A UNDER THIS SUBDIVISION B, I FILED THAT
8 MS. RAFAELINA DUVAL WILLFULLY AND INTENTIONALLY FAILED
9 OR REFUSED TO PROPERLY FEED A 15-MONTH OLD CHILD,
10 RESULTING IN THE CHILD BEING DIAGNOSED WITH FAILURE TO
11 PROTECT.

12 I'M NOT SURE IF YOU NEED ME TO READ THE WHOLE
13 COUNT.

14 Q NO.

15 A ALSO IN MY B1, I FILED A FAILURE TO PROTECT BY
16 FATHER, THAT HE WAS AWARE OF THE CONDITION OF THE CHILD
17 AND FAILED TO TAKE ACTION AND PROTECT THE CHILD. SO I
18 ALSO INCLUDED FATHER IN THAT COUNT.

19 Q OKAY. SO WE'RE LOOKING AT THE DOCUMENT, AND
20 DO YOU SEE THERE'S SOME HANDWRITING THERE?

21 A YES.

22 Q DO YOU KNOW WHOSE HANDWRITING THAT IS?

23 A NO.

24 Q DO YOU KNOW WHEN THAT HANDWRITING WAS PLACED
25 ON THE DOCUMENT?

26 A I CAN'T SAY ACCURATELY, NO.

27 Q OKAY. WHEN YOU FILED THE DOCUMENT, WAS THE
28 HANDWRITING THERE?

1 A NO.

2 Q OKAY. SO ALL OF THE TYPED LANGUAGE WAS IN THE
3 PETITION THAT YOU FILED WITH THE JUVENILE COURT ON OR
4 ABOUT NOVEMBER 6, 2009?

5 A YES.

6 Q OKAY. NOW, THE LANGUAGE THERE ON THE FIRST
7 LINE THAT YOU ALLEGE MS. DUVAL WILLFULLY AND
8 INTENTIONALLY FAILED AND REFUSED TO PROPERLY FEED A
9 15-MONTH OLD CHILD, WHY DID YOU USE THAT LANGUAGE?

10 A WELL --

11 MR. MCMILLAN: OBJECTION, YOUR HONOR. VAGUE.

12 THE COURT: OVERRULED.

13 THE WITNESS: WELL, IN REVIEWING THE
14 DETENTION -- MY COMMON PRACTICE IS, WHEN I PREPARE
15 THESE PETITIONS, I REVIEW THE DETENTION REPORT ENTIRELY
16 FROM BEGINNING TO END, EVERYTHING THAT'S INCLUDED, AND
17 IN ADDITION, THE ATTACHMENTS. AND BASED ON THAT, BASED
18 ON THE TOTALITY OF MY DETENTION REPORT -- I'M SORRY, OF
19 THE REPORT, THE DETENTION REPORT AND ATTACHMENTS, I
20 THEN -- WE WILL BE ABLE TO SEE THE FAMILY DYNAMIC IN
21 THIS DETENTION REPORT THAT'S BEING PROVIDED.

22 AND BASED ON THE FACTS THAT WERE PROVIDED IN
23 THE DETENTION REPORT AT THAT TIME, IN REVIEWING THIS, I
24 FOUND THAT THE -- I FOUND THAT THE ACTIONS OF MS. DUVAL
25 WERE WILLFUL AND INTENTIONAL AND THAT SHE FAILED AND
26 REFUSED TO PROPERLY FEED HER CHILD.

27 THERE WAS -- I BELIEVE THERE WAS DOCUMENTATION
28 FROM TWO SPECIALISTS WHO FOUND THE CHILD TO BE FAILURE

1 TO PROVIDE. I BELIEVE IT WAS DR. EGGE FROM THE FAILURE
2 TO THRIVE CLINIC WHO FOUND THE CHILD TO BE FAILURE TO
3 THRIVE, YOU KNOW, WITH -- DUE TO ENVIRONMENTAL CAUSES.
4 THE CHILD HAD BEEN SEEN PREVIOUSLY BY DR. EVANS, WHO
5 ALSO IDENTIFIED THE CHILD WITH FAILURE TO THRIVE. AND
6 AT THAT TIME, NO ORGANIC CAUSES WERE IDENTIFIED.

7 DR. -- I BELIEVE THERE WAS A NUTRITIONIST,
8 WENDY TRUMP [SIC], WHO HAD IDENTIFIED THAT MOM WAS
9 BEING RESTRICTIVE IN THE FOOD SHE WAS OFFERING THE
10 CHILD. AND ALSO THAT IT APPEARED TO DR. TRUMP --
11 SORRY, TO THE NUTRITIONIST, WENDY TRUMP, THAT THE
12 MOTHER WAS NOT -- IT APPEARED TO HER THAT SHE WAS NOT
13 PROVIDING PROTEIN, WHICH WAS NEEDED FOR THE CHILD TO
14 GROW. AND I THINK THERE WAS, LIKE, A STATEMENT MADE
15 THAT SHE WAS PROVIDING ADVICE AND MOTHER WASN'T
16 FOLLOWING IT.

17 THERE WERE STATEMENTS FROM A DR. EGGE -- I'M
18 SORRY, DR. GILL, WHO MADE REFERENCE TO THE FACT THAT
19 MOTHER WASN'T PROVIDING -- WASN'T FOLLOWING THROUGH
20 WITH DIRECTIVES THAT SHE HAD BEEN GIVEN AS TO HOW TO
21 FEED THE CHILD.

22 SO WITH REGARDS, YOU KNOW, IN TOTALITY WITH
23 ALL THAT INFORMATION, I FOUND THAT HER ACTIONS -- THAT
24 MS. DUVAL'S ACTIONS WERE WILLFUL. IT WASN'T JUST THAT
25 IT WAS NEGLECTFUL, SHE FORGOT A COUPLE DAYS, OR IT WAS
26 JUST, YOU KNOW, MISSED A FEW DAYS. IT WAS JUST -- YOU
27 KNOW, BASED ON THIS -- I KNOW THIS DOESN'T REFLECT, BUT
28 IN SUBDIVISION E -- AS IN SUBDIVISION E, ONE OF THE --

1 IT'S IDENTIFIED AS SEVERE PHYSICAL ABUSE TO A CHILD
2 UNDER FIVE. AND ONE OF THE DESCRIPTIONS UNDER THAT
3 SUBDIVISION IS THAT A PARENT WILLFULLY PROLONGED --
4 PROLONGED FAILURE TO PROVIDE ADEQUATE FOOD.

5 SO UNDER THAT SUBDIVISION, I FOUND THAT
6 MS. DUVAL'S ACTIONS WERE WILLFUL, THAT SHE
7 INTENTIONALLY REFUSED TO FOLLOW DIRECTIONS THAT SHE WAS
8 BEING PROVIDED, AND SHE CHOSE NOT TO FOLLOW THOSE
9 DIRECTIONS AND THAT RESULTED IN THE CHILD'S FAILURE.
10 THE CHILD WAS IDENTIFIED -- DIAGNOSED WITH
11 DEVELOPMENTAL DELAYS. AND AGAIN, THE CONDITIONS OF THE
12 CHILD, THIS FAILURE TO THRIVE WERE DUE TO ENVIRONMENTAL
13 CAUSES, AND AT THAT POINT NO ORGANIC CAUSES TO THE
14 CHILD'S CONDITION HAD BEEN IDENTIFIED.

15 MR. MCMILLAN: OBJECTION, YOUR HONOR.
16 NARRATIVE RESPONSE. MOVE TO STRIKE.

17 THE WITNESS: OVERRULED.

18 BY MS. SWISS:

19 Q NOW, TAKING A LOOK AT THE SECOND CHECK BOX,
20 THAT HAS TO DO WITH AS A RESULT OF THE WILLFUL OR
21 NEGLIGENT FAILURE OF THE CHILD'S PARENT OR LEGAL
22 GUARDIAN TO SUPERVISE OR PROTECT THE CHILD ADEQUATELY
23 FROM THE CONDUCT OF THE CUSTODIAN WITH WHOM THE CHILD
24 HAS BEEN LEFT.

25 IS THAT YOUR B2 COUNT?

26 A IT'S ALSO WITH B1 BECAUSE I'M IDENTIFYING THE
27 FATHER FAILED -- I'M ALLEGING THE FATHER FAILED TO
28 PROTECT THE CHILD WHEN HE KNEW OF THE CHILD'S

1 CONDITION. SO THAT CHECK ALSO REFLECTS THAT B1.

2 Q OKAY. SO BOTH OF THE CHECK BOXES HAVE TO DO
3 WITH THE B1 AND B2 COUNT?

4 A I'M SORRY, YES.

5 Q OKAY. AND WHAT ARE YOU ALLEGING IN THE B2
6 COUNT?

7 A B2, THE COUNT ALLEGES THAT THE CHILD WAS
8 DIAGNOSED WITH FAILURE TO THRIVE, AND THAT BOTH MOTHER,
9 MS. DUVAL, AND FATHER, RYAN MILLS, KNEW OF THE CHILD'S
10 CONDITION AND THEY FAILED TO TIMELY -- I'M SORRY -- TO
11 PROVIDE TIMELY NECESSARY MEDICAL CARE FROM JUNE 2009 TO
12 SEPTEMBER OF 2009.

13 AND IT WAS MEDICAL NEGLECT BY BOTH PARENTS.

14 Q OKAY. AND I BELIEVE YOU ALREADY TESTIFIED
15 THAT YOU ALSO MADE AN ALLEGATION UNDER WELFARE AND
16 INSTITUTIONS CODE 300E; RIGHT?

17 A YES.

18 Q OKAY. WE'RE GOING TO TAKE A LOOK AT PAGE 4 OF
19 THE PETITION AND THAT'S BATES 11.

20 IS THIS THE DESCRIPTION FOR THE E COUNT?

21 A YES.

22 Q THAT YOU PREPARED?

23 A YES.

24 Q OKAY. AND WHAT ARE YOU ALLEGING IN THE E
25 COUNT?

26 A I'M ALLEGING THE SAME ALLEGATIONS THAT I MADE
27 AS TO B1. THIS IS THE EXACT -- IT'S THE EXACT -- I'M
28 SORRY. IT'S THE EXACT SAME COUNT.

1 Q IT'S THE EXACT SAME --

2 A YES.

3 Q -- LANGUAGE?

4 A THAT -- IT'S THE SAME LANGUAGE, THAT MS. DUVAL
5 WILLFULLY AND INTENTIONALLY FAILED TO, REFUSED TO
6 PROPERLY FEED THIS 15-MONTH OLD CHILD, AND ALSO THE
7 ALLEGATION OF THE FATHER'S FAILURE TO PROTECT.

8 Q OKAY. NOW, AFTER YOU PREPARE THE PETITION,
9 WHAT HAPPENS NEXT?

10 A WELL, ONCE I PREPARE THE PETITION, I THEN HAND
11 IT OVER TO OUR COUNTY COUNSEL, OUR ATTORNEY, THAT ARE
12 ASSIGNED TO OUR UNIT. AND I GIVE THEM THESE COUNTS
13 THAT I'VE PREPARED WITH THE COPY OF THE DETENTION
14 REPORT AND ATTACHMENTS. AND THEY'LL REVIEW IT FOR
15 LEGAL SUFFICIENCY AND THEY APPROVE THEM.

16 Q OKAY. AND THEN WHAT HAPPENS TO THE PETITION
17 ONCE COUNTY COUNSEL APPROVES IT?

18 A ONCE THEY APPROVE IT, I THEN GENERATE THIS
19 PETITION. I NOTICE ALL THE PARENTS, I CONTACT ALL THE
20 PARTIES AND INFORM THEM OF THE DETENTION REPORT, ADVISE
21 THEM OF THE ALLEGATIONS, AND DEPENDING ON WHAT KIND OF
22 RECOMMENDATIONS, I WOULD ADVISE THEM OF SPECIFIC
23 RECOMMENDATIONS.

24 Q OKAY. NOW, IN THIS SPECIFIC CASE, AFTER YOU
25 PREPARED THE PETITION AND HAD THAT FILED, DID YOU HAVE
26 ANY ADDITIONAL INVOLVEMENT IN THE CASE?

27 A AFTER THE PETITION?

28 Q AFTER YOU PREPARE -- AFTER YOU PREPARED THE

1 PETITION DOCUMENT.

2 A WELL, I ALSO GENERATED THE ADDENDUM REPORT.

3 Q OKAY.

4 A WHICH IS A REPORT THAT IDC SOCIAL WORKERS MUST
5 PREPARE AND ALSO ATTACH WITH THEIR PETITION. AND THIS
6 ADDENDUM REPORT INCLUDES ALL THE NOTICES PROVIDED TO
7 THE -- ALL THE PARTIES, PARENTS, CAREGIVERS, DEPENDING
8 ON WHERE THE CHILDREN ARE PLACED, AND RECOMMENDATIONS
9 OF THE COURT AND ANY OTHER ADDITIONAL INFORMATION THAT
10 I PERSONALLY WOULD HAVE GATHERED DURING THE PREPARATION
11 OF MY PETITION.

12 Q OKAY. IF YOU CAN TURN TO EXHIBIT 13 IN THAT
13 BINDER.

14 AND FOR THE RECORD, EXHIBIT 13 IS
15 BATES-LABELED 7109 THROUGH 7114, AND IT IS ADDENDUM
16 REPORT FOR THE HEARING, NOVEMBER 6, 2009.

17 IF YOU COULD PLEASE TAKE A LOOK AT THAT AND
18 LET ME KNOW WHEN YOU'RE READY.

19 A I'M READY.

20 Q DO YOU RECOGNIZE THIS DOCUMENT?

21 A YES.

22 Q WHAT IS THIS?

23 A IT'S AN ADDENDUM REPORT. BASED ON THE NAME OF
24 THE CASE, IT WAS THE ADDENDUM REPORT THAT WAS GENERATED
25 FOR BABY RYAN'S CASE.

26 Q OKAY. AND TAKING A LOOK AT PAGE BATES 7114 --
27 IT SHOULD BE THE LAST PAGE OF THAT EXHIBIT -- THERE IS
28 A SIGNATURE THERE.

1 DO YOU RECOGNIZE THAT SIGNATURE?

2 A YES.

3 Q AND WHOSE SIGNATURE IS THAT?

4 A MY SIGNATURE.

5 Q OKAY. NOW, WHAT WAS THE PURPOSE OF PREPARING
6 THIS ADDENDUM REPORT?

7 A THE PURPOSE WAS, AGAIN, TO PROVIDE INFORMATION
8 TO THE COURT THAT I HAD NOTICED ALL THE PARTIES, THAT
9 WE MADE SPECIFIC RECOMMENDATIONS FOR -- FOR THE
10 DETENTION HEARING, THAT WE PROVIDE SPECIFIC INFORMATION
11 AS TO THE REASONS WHY THE DEPARTMENT IS RECOMMENDING,
12 MAKING THE -- YOU KNOW, MAKING THE RECOMMENDATIONS THAT
13 THEY ARE, SPECIFIC AS TO ANY ADDITIONAL INFORMATION I
14 WOULD HAVE GATHERED, AND ANY OTHER INFORMATION THAT
15 WOULD HAVE BEEN PROVIDED BY THE PARTIES INVOLVED.

16 Q DID YOU MAKE SPECIFIC RECOMMENDATIONS FOR THE
17 BABY RYAN CASE IN THIS ADDENDUM REPORT?

18 A YES.

19 Q WHAT WERE THOSE RECOMMENDATIONS?

20 A I RECOMMENDED THAT THE COURT NOT PROVIDE
21 REUNIFICATION SERVICES TO MOTHER, RAFAELINA DUVAL.

22 Q WHAT WAS THE BASIS FOR THAT RECOMMENDATION?

23 A WELL UNDER WELFARE AND INSTITUTIONS
24 CODE 361.5, THERE ARE SOME PROVISIONS, THERE'S A LIST
25 OF PROVISIONS, A CATEGORY. AND UNDER -- BASED ON THOSE
26 PROVISIONS UNDER THIS WIC 361.5, THE COURT IS REQUIRED
27 TO CONSIDER NOT TO PROVIDE REUNIFICATION SERVICES IF
28 THEY FIND THAT THE CASE -- OBVIOUSLY, IF THEY FIND THE

1 ALLEGATIONS SUSTAINED AS TO -- OR UNLESS THEY FIND THAT
2 REUNIFICATION SERVICES IS IN THE CHILD'S BEST INTEREST.

3 SO BASED ON THESE PROVISIONS, ONE OF THOSE
4 PROVISIONS WAS THAT E COUNT THAT I FILED, THAT SEVERE
5 PHYSICAL ABUSE TO THAT CHILD UNDER FIVE IS ONE OF THOSE
6 IDENTIFIED PROVISIONS UNDER THAT 361.5.

7 SO UNDER THAT, I WAS -- I'M ALLOWED TO MAKE
8 THAT RECOMMENDATION. IN FACT, I'M REQUIRED AS AN IDC
9 WORKER, TO MAKE THAT RECOMMENDATION BECAUSE THE CHILD
10 MET THAT REQUIREMENT.

11 AND SO MY RESPONSIBILITY WAS TO, IN MY
12 ADDENDUM REPORT, ASK THE COURT TO NOT PROVIDE
13 REUNIFICATION SERVICES, AND ALSO PROVIDE A NOTICE TO
14 THE PARENTS IN MY PETITION, RIGHT UNDERNEATH THAT E1
15 COUNT, THAT THE DEPARTMENT MAY SEEK THAT NO
16 REUNIFICATION SERVICES BE OFFERED TO THE PARENT UNDER
17 THIS WIC 361.5.

18 Q WERE THERE ANY OTHER RECOMMENDATIONS THAT YOU
19 MADE IN THIS ADDENDUM REPORT TO THE COURT?

20 A I MADE -- YES. AS PART OF THAT, I MADE
21 RECOMMENDATIONS FOR SERVICES AS TO FATHER AND CHILD,
22 WHAT RECOMMENDATIONS OF SERVICES I BELIEVE THE FATHER
23 SHOULD PARTICIPATE IN AND SERVICES THAT THE CHILD
24 SHOULD RECEIVE. I MADE RECOMMENDATIONS AS TO THE CHILD
25 RECEIVING A SPECIFIC -- I'M SORRY -- THAT THE COURT
26 AUTHORIZE A SPECIFIC MENTAL HEALTH AND DEVELOPMENTAL
27 ASSESSMENT AS PART OF A POLICY THAT WE IDENTIFY AS THE
28 MAT LANGUAGE. AND THEN THERE'S RECOMMENDATIONS WITH

1 REGARDS TO VISITATION BETWEEN MOTHER AND BABY RYAN.

2 Q OKAY. AND I BELIEVE YOU ALSO TESTIFIED THEN
3 THAT YOU GAVE NOTICE TO THE PARTIES?

4 A CORRECT.

5 Q WHAT DO YOU MEAN BY THAT?

6 A MY RESPONSIBILITY AS AN IDC WORKER IS TO CALL
7 THE PARENTS AND INFORM THEM OF THE DETENTION HEARING,
8 MAKE SURE THEY'RE AWARE THAT THERE IS A DETENTION
9 HEARING AND WHAT TIME THEY NEED TO BE PRESENT, ADDRESS
10 THE ALLEGATIONS, REVIEW THOSE ALLEGATIONS WITH THE
11 PARENTS.

12 AND ALSO, FOR THIS CASE, I JUST NOTICED THAT,
13 BASED ON THE DOCUMENTATION THAT I ENTERED INTO MY
14 ADDENDUM REPORT, I NOTICED MOTHER AS TO THIS -- AS TO
15 THE DEPARTMENT'S RECOMMENDATION OF NO REUNIFICATION
16 SERVICES.

17 AND THEN I ALSO, DEPENDING ON IF THEY MAKE ANY
18 STATEMENTS, THEN I WOULD ENTER ANY STATEMENTS THAT THE
19 PARENTS OR ANY PARTIES INVOLVED IN THE CASE WOULD
20 PROVIDE TO ME, IN MY ADDENDUM REPORT.

21 Q WHEN YOU GAVE NOTICE TO THE MOTHER, HOW DID
22 YOU DO THAT?

23 A UM --

24 Q WHAT WAS THE FORM OF COMMUNICATION?

25 A BY TELEPHONE. BASED ON THE REPORT, IT WAS
26 DONE BY TELEPHONE.

27 Q OKAY.

28 A ON NOVEMBER 5.

1 Q AND THAT'S 2009?

2 A YES.

3 Q OKAY. DID THE MOTHER MAKE ANY STATEMENT WHEN
4 YOU GAVE HER NOTICE?

5 A IT STATES:

6 "MOTHER MADE NO STATEMENT."

7 Q OKAY. DID YOU ALSO CONTACT THE FATHER TO
8 GIVER HIM NOTICE?

9 A I DID.

10 Q HOW DID YOU DO THAT?

11 A ALSO BY TELEPHONE, ON THE SAME DAY,
12 NOVEMBER 5.

13 Q DID YOU FILE THIS ADDENDUM REPORT WITH THE
14 COURT?

15 A YES.

16 Q AFTER YOU FILED THIS PETITION AND THE ADDENDUM
17 REPORT, DID YOU HAVE ANY FURTHER INVOLVEMENT IN BABY
18 RYAN'S CASE?

19 A NO, I HAD NO INVOLVEMENT WITH THE CASE AFTER
20 THE DETENTION HEARING ON NOVEMBER 6, 2009.

21 MS. SWISS: NO FURTHER QUESTIONS.

22 THE COURT: MR. MCMILLAN?

23 MR. MCMILLAN: YES, YOUR HONOR. I'VE BEEN
24 PATIENTLY WAITING.

25

26 CROSS-EXAMINATION

27 BY MR. MCMILLAN:

28 Q LET'S JUST START WAY BACK AT THE BEGINNING

1 WITH YOUR PETITION.

2 NOW, WE LOOKED AT THIS FIRST BLOCK, AND YOU
3 NOTICE THERE'S SORT OF A BIG BLOCK HERE AND IT'S ALL
4 SET ASIDE UNDER SUBPARAGRAPH 1, THIS A, B --

5 A I'M SORRY. COULD YOU GIVE ME THE --

6 Q OH, I'M SORRY. MY APOLOGIES. IT'S
7 EXHIBIT 11, BATES NO. 000008.

8 A GOT IT.

9 Q ARE YOU THERE?

10 A YES.

11 Q OKAY. YOU SEE THERE'S A BIG BLOCK HERE AND
12 IT'S LETTERED A THROUGH K WITH EACH DIFFERENT BOX
13 HAVING A DIFFERENT LETTER DESIGNATION; RIGHT?

14 A YES.

15 Q AND THEN THIS PORTION I BELIEVE IS WHAT YOU
16 WERE TELLING US WAS AUTOPOPULATING OUT OF THE CWS/CMS
17 SYSTEM; CORRECT?

18 A WELL, I IDENTIFIED -- IN THAT PARTICULAR BOX,
19 A, I IDENTIFY THOSE IN THE SYSTEM, AND THEN ONCE THE
20 DOCUMENT POPULATES IT AUTOMATICALLY GIVES ME THE
21 CHECKS.

22 Q OKAY. SO WHEN YOU SAY ONCE THAT POPULATES,
23 THAT'S LIKE YOU'RE TALKING ABOUT THE CHILD'S NAME, THE
24 ADDRESSES, THE CHECK BOXES HERE, THINGS LIKE THAT?

25 A CORRECT. AND AGAIN, IN THAT BOX, B AND E, I
26 WOULD IDENTIFY THOSE IN THE SYSTEM BEFORE I GENERATE
27 THE DOCUMENT.

28 Q RIGHT. THEN ALL THE OF THE OTHER BOXES HERE,

1 LIKE THIS ONE DOWN HERE, K, THAT AUTOPOPULATES? THAT'S
2 NOT SOMETHING YOU PUT IN?

3 A THE DATE AND TIME WOULD AUTOMATICALLY BE
4 THERE, AND THEN I WOULD ENTER THE INFORMATION BELOW AS
5 TO WHERE THE CHILD IS PLACED.

6 Q OKAY. SO SOME OF IT AUTOPOPULATES, SOME OF IT
7 DOESN'T?

8 A CORRECT.

9 Q AND AS TO THE INFORMATION IN IT THAT YOU
10 PERSONALLY INSERT INTO IT, YOU HAVE TO GO THROUGH SOME
11 STEPS TO FIGURE OUT WHETHER OR NOT THAT'S THE CORRECT
12 INFORMATION; RIGHT?

13 A YES.

14 Q OKAY. BUT AS TO THE STUFF THAT AUTOPOPULATES,
15 YOU DON'T HAVE ANY PERSONAL KNOWLEDGE ABOUT THAT
16 INFORMATION. IT'S JUST INFORMATION THAT CAME UP OUT OF
17 THE CWS/CMS SYSTEM; CORRECT?

18 A CORRECT. HOWEVER, I MAKE CORRECTIONS TO THOSE
19 IF THEY'RE INACCURATE.

20 Q RIGHT. LIKE SPELL CHECK OR THINGS LIKE THAT?

21 A OR ADDRESSES OR NAMES, SPELLINGS OF NAMES OR
22 WHETHER IT'S AN ALLEGED FATHER OR IF IT'S A LEGAL
23 MOTHER. SO I DO LOOK THROUGH THE DOCUMENT, DEFINITELY,
24 TO MAKE SURE THAT I HAVE THE CORRECT PARENTS IDENTIFIED
25 AND THAT I HAVE THE CORRECT ADDRESSES IDENTIFIED. AND
26 THAT EVERY BOX IS ACCURATE BASED ON THE INFORMATION I
27 HAVE IN FRONT OF ME. AND AGAIN, I COMPARE THAT TO THE
28 DETENTION REPORT.

1 Q RIGHT. AND THIS FIRST BOX HERE UNDER
2 PARAGRAPH 1 WHERE IT SAYS:

3 "PETITIONER, ON INFORMATION AND
4 BELIEF, ALLEGES THE INFORMATION IN THIS
5 BOX HERE" --

6 THAT'S BECAUSE PART OF THE INFORMATION YOU DO
7 ON YOUR OWN AND PART OF IT COMES FROM SOMEWHERE ELSE;
8 RIGHT?

9 A YES.

10 Q OKAY.

11 A SOME OF THAT IS POPULATED AND DOESN'T NEED
12 CORRECTIONS.

13 Q RIGHT. AND THEN THIS NEXT LINE THAT'S
14 SUBPART 2, THAT SAYS:

15 "I HAVE ASKED ABOUT INDIAN
16 ANCESTRY FOR THIS CHILD AND HAVE
17 COMPLETED THE ATTACHED REQUIRED INDIAN
18 CHILD INQUIRY ATTACHMENT FORM."
19 CORRECT?

20 A CORRECT.

21 Q AND THAT'S WORK THAT YOU, YOURSELF, PERSONALLY
22 DO, YOU'RE TELLING US HERE THAT YOU PERSONALLY HAVE
23 ASKED THESE QUESTIONS; RIGHT?

24 A WELL, WHAT I THINK I EXPLAINED EARLIER WAS
25 THAT WHEN I SAY "PETITIONER," I MEAN THE DEPARTMENT OF
26 CHILDREN AND FAMILY SERVICES. SO WHEN I SAY "I," I
27 DON'T MEAN ELBA PINEDO, I. I MEAN THE DEPARTMENT OF
28 CHILDREN AND FAMILY SERVICES HAS ASKED ABOUT THE INDIAN

1 ANCESTRY, WHICH WE HAVE BECAUSE THAT INFORMATION IS
2 PROVIDED BY THE EMERGENCY RESPONSE SOCIAL WORKER WHEN
3 THEY SUBMIT THEIR DETENTION REPORT. THAT'S THE INQUIRY
4 THAT IS DONE BY THE EMERGENCY RESPONSE WORKER.

5 Q OKAY. LET'S LOOK AT THE NEXT PAGE, THEN,
6 000009.

7 WHEN YOU SAY:

8 "I DECLARE UNDER PENALTY OF
9 PERJURY UNDER THE LAWS OF THE STATE OF
10 CALIFORNIA THAT THE FOREGOING AND ALL
11 ATTACHMENTS ARE TRUE AND CORRECT."

12 IS THAT THE IMPERIAL I, WHERE WE'RE TALKING
13 ABOUT DCFS, OR IS THAT YOU MAKING THAT DECLARATION?

14 A THAT'S -- I'M MAKING THAT DECLARATION THAT THE
15 INFORMATION PROVIDED IS TRUE.

16 Q YOU, NOT DCFS, THE DEPARTMENT?

17 A ME PERSONALLY, YES, THAT I'VE REVIEWED THE
18 DOCUMENTATION, THAT, ONE, I'VE MADE SURE THAT THERE WAS
19 AN INDIAN ANCESTRY INQUIRY MADE, THAT ALL THE
20 INFORMATION THAT HAS BEEN ENTERED IS CORRECT AND
21 ACCURATE, AND THAT I'VE REVIEWED AND THAT THE
22 INFORMATION THAT I'VE RECORDED AS THE SUPPORTING FACT
23 IS TRUE, AND SO THEREFORE I SIGN UNDER PENALTY OF
24 PERJURY.

25 MR. MCMILLAN: OBJECTION, YOUR HONOR. MOVE TO
26 STRIKE EVERYTHING BEYOND "YES" AS A NONRESPONSIVE
27 NARRATIVE RESPONSE.

28 THE COURT: OBJECTION IS SUSTAINED, MOTION TO

1 STRIKE IS GRANTED. ALL PORTIONS AFTER THE ANSWER --
2 PART OF THE ANSWER SAYING "ME PERSONALLY, YES" BE
3 ORDERED STRICKEN, THE JURY DISREGARD IT.

4 BY MR. MCMILLAN:

5 Q MA'AM, AM I CORRECT THAT HERE, WHEN YOU SAY:

6 "I DECLARE UNDER PENALTY OF
7 PERJURY UNDER THE LAWS OF THE STATE OF
8 CALIFORNIA THAT THE FOREGOING AND ALL
9 ATTACHMENTS ARE TRUE AND CORRECT."

10 THE I YOU'RE REFERRING TO THERE IS YOU
11 PERSONALLY?

12 A CORRECT. CORRECT.

13 Q OKAY. AND THEN YOU'RE TELLING US NOW THAT
14 UNDER SUBPARAGRAPH 2, THE I YOU'RE REFERRING TO WHEN
15 YOU SAY "I HAVE ASKED THESE QUESTIONS," IT'S NOT YOU,
16 PERSONALLY, IT'S SOMEBODY ELSE THAT'S ASKED THESE
17 QUESTIONS?

18 A CORRECT.

19 Q DO YOU TELL US SOMEWHERE HERE IN THE
20 DOCUMENT -- I MEAN, JUST ASSUME I'M A JUDGE, I'M
21 LOOKING AT THIS DOCUMENT.

22 DO YOU TELL ME SOMEWHERE THAT IN ONE INSTANCE
23 I MEANS YOU, AND IN OTHER INSTANCES I MEANS THE
24 DEPARTMENT?

25 A I MEAN, THE JUDGES AT DEPENDENCY COURT
26 UNDERSTAND THE PROCESS. THEY DO THIS ALL THE TIME.
27 THESE INQUIRIES ARE MADE AS TO THE DEPARTMENT. THERE'S
28 NO SPECIFIC LINE THAT SAYS ELBA PINEDO DIDN'T DO IT.

1 I'M NOT SURE WHAT EXACTLY YOU ARE ASKING ME.

2 MR. MCMILLAN: OBJECTION, YOUR HONOR.
3 NONRESPONSIVE. MOVE TO STRIKE. ALSO LACKS FOUNDATION.
4 CALLS FOR SPECULATION AS TO WHAT THE COURTS MAY OR MAY
5 NOT KNOW ABOUT INTERNAL POLICIES.

6 THE COURT: THE OBJECTION OF NONRESPONSIVE IS
7 SUSTAINED. THE MOTION TO STRIKE IS GRANTED. THE
8 ENTIRE ANSWER WILL BE STRICKEN AND THE JURY MUST
9 DISREGARD IT.

10 BY MR. MCMILLAN:

11 Q SIMPLE QUESTION, MA'AM. DO YOU TELL ME
12 ANYWHERE ON THIS DOCUMENT WHICH I WE'RE HEARING FROM?
13 THE I THAT'S THE DEPARTMENT OR THE I THAT IS ELBA
14 PINEDO?

15 A IN YOUR SPECIFIC QUESTION, IT DOESN'T SAY.

16 Q OKAY. WE'LL LOOK AT PAGE NO. 000010.
17 AND UNDER B1, YOU TELL THE COURT UNDER PENALTY
18 OF PERJURY:

19 "THE CHILD RYAN DUVAL'S MOTHER,
20 RAFAELINA DUVAL, WILLFULLY AND
21 INTENTIONALLY FAILED AND REFUSED TO
22 PROPERLY FEED THE 15-MONTH OLD CHILD,
23 RESULTING IN THE CHILD BEING DIAGNOSED
24 WITH FAILURE TO THRIVE DUE TO BEING
25 UNDERFED AND UNDERNOURISHED AND BEING
26 FED AN INADEQUATE DIET WHILE IN THE
27 CARE, CUSTODY, AND CONTROL OF THE
28 CHILD'S MOTHER."

1 RIGHT?

2 A YES.

3 Q WHEN YOU SAID HERE "WILLFULLY," WHAT EXACTLY
4 DID YOU MEAN?

5 A I DON'T HAVE THE RECOLLECTION OF EXACTLY
6 NOVEMBER OF 2009. BUT I'VE HAD THE OPPORTUNITY TO
7 REVIEW THE DETENTION REPORTS, AND BASED ON THE
8 INFORMATION THAT WAS PROVIDED IN THE DETENTION REPORT,
9 WITH REGARDS TO THE SPECIALIST WHO MADE STATEMENTS, AS
10 WELL AS NUTRITIONIST, THE DOCTORS, I FOUND THAT
11 MS. DUVAL'S ACTIONS, BASED ON WHAT I FILED IN NOVEMBER
12 OF 2009, THAT HER ACTIONS WERE WILLFUL AND INTENTIONAL.

13 MR. MCMILLAN: OBJECTION, YOUR HONOR. MOVE TO
14 STRIKE AS NONRESPONSIVE.

15 THE COURT: THE OBJECTION IS SUSTAINED.
16 MOTION TO STRIKE IS GRANTED. THE ENTIRE ANSWER WILL BE
17 STRICKEN AND THE JURY WILL DISREGARD IT.

18 BY MR. MCMILLAN:

19 Q SIMPLE QUESTION, MA'AM: WHAT DID YOU MEAN BY
20 THE WORD "WILLFULLY"?

21 A THAT SHE HAD -- WELL, BASED ON WHAT IT MEANS
22 TO ME, IT MEANS THAT THERE WASN'T -- IT WAS -- IT WAS
23 FREE WILL, THAT MS. DUVAL CHOSE NOT TO PROPERLY FEED
24 THE CHILD.

25 Q SHE CHOSE NOT TO PROPERLY FEED THE CHILD.

26 YES?

27 A YES.

28 Q AND I THINK YOU TOLD US JUST A LITTLE BIT

1 EARLIER THAT YOU READ THE DETENTION REPORT AND ALL THE
2 ATTACHMENTS TO IT; CORRECT?

3 A YES.

4 Q LET'S LOOK AT SOME OF WHAT THOSE ATTACHMENTS
5 WERE.

6 DO YOU REMEMBER THERE BEING A REPORT FROM
7 DR. EVANS AT THE CATC CLINIC?

8 A I BELIEVE THERE WAS.

9 CAN I LOOK AT THE DETENTION REPORT --

10 Q ABSOLUTELY.

11 A -- TO SEE THE --

12 Q ABSOLUTELY. EXHIBIT 12, AND FOR THE
13 ATTACHMENTS YOU CAN GO TO THE PAGE BEARING BATES
14 NO. 000022.

15 ARE YOU THERE?

16 A YES.

17 Q I'M RIGHT, AREN'T I, THAT THE CATC CLINIC
18 REPORT WAS ATTACHED?

19 A YES.

20 Q AND YOU REVIEWED IT?

21 A IT WAS ATTACHED, SO I REVIEWED IT, YES.

22 Q AND WHEN YOU REVIEWED IT, YOU REVIEWED IT IN
23 THE DETAIL RIGHT?

24 A WELL, I REVIEW ALL MY DOCUMENTS CAREFULLY.

25 Q AND THEN THE REGIONAL CENTER EVALUATION DATED
26 SEPTEMBER 29, 2009, THAT WAS ATTACHED TO THE DETENTION
27 REPORT; RIGHT?

28 A YES.

1 Q AND YOU REVIEWED THAT IN DETAIL AS WELL,
2 DIDN'T YOU?

3 A IT'S IDENTIFIED HERE AS AN ATTACHMENT, SO I
4 WOULD HAVE REVIEWED IT.

5 Q OKAY. LET'S LOOK FIRST AT THE CATC CLINIC
6 EVALUATION AND REPORT. THIS IS MARKED AS EXHIBIT
7 NO. 167, BATES NO. 002030.

8 AND DO YOU NEED IT THERE IN FRONT OF YOU? I
9 DON'T KNOW THAT YOU HAVE IT. GIVE ME ONE SECOND.

10 NOW, IF WE LOOK AT THE FIRST CHECK BOX THERE,
11 "NO," DO YOU SEE THAT?

12 A YES.

13 Q (READING:)

14 "HAS THIS CHILD EXPERIENCED SEVERE
15 PHYSICAL OR SEXUAL ABUSE, EXTREME OR
16 CHRONIC NEGLECT, OR BEEN EXPOSED TO
17 EXTREME VIOLENT BEHAVIOR OR TRAUMA?"

18 DID I READ THAT RIGHT?

19 A YES.

20 Q AND DR. EVANS, SHE'S A SPECIALIST; RIGHT?
21 CHILD ABUSE SPECIALIST, PEDIATRIC CHILD ABUSE
22 SPECIALIST?

23 A YES.

24 Q THIS BOX HERE, THAT SAYS NO?

25 A I DON'T REMEMBER SEEING THIS DOCUMENT.

26 WAS THIS ATTACHED -- IF THIS WAS -- WAS THIS
27 ATTACHED TO THE DETENTION REPORT.

28 Q I DON'T KNOW. I DON'T KNOW WHAT WAS THERE

1 BACK IN 2009.

2 A NEITHER DO I, SIR. I HAVE NO RECOLLECTION OF
3 NOVEMBER 2009, WHICH IS WHY I'M ASKING. I DON'T RECALL
4 EVER SEEING THIS DOCUMENT.

5 Q OKAY. LET'S LOOK AT ANOTHER ONE MAYBE YOU
6 WILL RECALL SEEING.

7 YOU SAID THAT THE EASTERN LOS ANGELES REGIONAL
8 CENTER REPORT AND EVALUATION WAS ATTACHED TO THE
9 DETENTION REPORT; RIGHT?

10 A THAT'S WHAT IT STATES, YES.

11 THE COURT: WHILE YOU'RE LOOKING AT THAT,
12 WE'RE GOING TO TAKE THE AFTERNOON RECESS AT THIS TIME,
13 APPROXIMATELY 10 MINUTES.

14 ALL JURORS PLEASE REMEMBER THE ADMONITION.

15 (JURY EXCUSED)

16 (RECESS)

17 (JURY PRESENT)

18 THE COURT: EVERYONE MAY BE SEATED. WE ARE ON
19 THE RECORD.

20 YOU MAY PROCEED, MR. MCMILLAN.

21 MR. MCMILLAN: THANK YOU, YOUR HONOR.

22 BY MR. MCMILLAN:

23 Q NOW, I THINK BEFORE THE BREAK YOU'D TOLD US
24 THAT YOU REVIEWED THE EASTERN LOS ANGELES REGIONAL
25 CENTER OCCUPATIONAL THERAPY DEVELOPMENTAL EVALUATION;
26 RIGHT?

27 A IT WAS LISTED, SO I MUST HAVE REVIEWED IT.

28 Q OKAY. AND WHEN YOU REVIEWED IT, YOU LEARNED

1 THAT, IN FACT, BABY RYAN WAS DEMONSTRATING DIFFICULTY
2 WITH REGULATING HIS EMOTIONS IN ORDER TO BE ABLE TO
3 CALM HIMSELF AND REORGANIZE AND MOVE ON; RIGHT?

4 A I CAN'T REALLY READ IT. IT'S REALLY BLURRY
5 FROM HERE. IF YOU'RE SAYING THAT'S WHAT IT SAYS.

6 Q IT'S EXHIBIT NO. 9, I THINK IN THE BOOK TO
7 YOUR FAR RIGHT, THAT ONE THERE.

8 A OKAY.

9 Q EXHIBIT 9, IF YOU TURN TO THE PAGE BEARING
10 BATES NO. 001330. AND IT'S TOWARDS THE BOTTOM OF THAT
11 HUGE PARAGRAPH IN THE MIDDLE OF THE PAGE, AND IT'S THE
12 LAST TWO SENTENCES AT THE BOTTOM OF THAT FIRST BIG
13 PARAGRAPH THERE. SEE IT?

14 A THE LAST TWO SENTENCES?

15 Q RIGHT.

16 A OKAY.

17 Q WHEN YOU REVIEWED THIS REPORT AS PART OF THE
18 PROCESS OF PUTTING TOGETHER THIS PETITION THAT YOU
19 SIGNED UNDER PENALTY OF PERJURY, DO YOU RECALL READING
20 THAT THIS CONDITION THAT BABY RYAN SUFFERED:

21 "MAY ALSO CAUSE HIM TO BE
22 HYPERVIGILANT AND MORE RESISTIVE TO
23 OUTSIDE INFLUENCES ON HIS BODY, AND
24 CAUSES HIM TO STAY WITH MOVEMENT AND
25 FOODS WHICH ARE FAMILIAR."

26 DO YOU REMEMBER READING THAT?

27 A I DON'T RECALL THAT, NO.

28 Q WELL, LET ME -- I'M HAVING TROUBLE. IF WE

1 LOOK HERE AT YOUR PETITION -- LET'S JUST FOCUS IN ON
2 "WILLFULLY AND INTENTIONALLY" FOR A MOMENT.

3 DO YOU RECALL HAVING THIS CONVERSATION WITH ME
4 AT YOUR DEPOSITION?

5 A YES.

6 Q AND YOU TOLD ME THAT WILLFULLY MEANT
7 PURPOSEFULLY; RIGHT?

8 A I DON'T REMEMBER EXACTLY WHAT I SAID. I
9 REMEMBER HAVING A CONVERSATION WITH YOU BUT I DON'T
10 REMEMBER EXACTLY.

11 Q ONE MOMENT.

12 MR. MCMILLAN: YOUR HONOR, I WOULD READ FROM
13 THE DEPOSITION OF ELBA PINEDO TAKEN ON JULY 25, 2014,
14 LINES 15 THROUGH 18.

15 MS. SWISS: WOULD THE PLAINTIFF'S COUNSEL LIKE
16 TO GIVE THE PAGE?

17 MR. MCMILLAN: I'M SORRY?

18 MS. SWISS: THE PAGE?

19 MR. MCMILLAN: OH, 91. I'M SORRY. DID I NOT
20 SAY THAT? I GUESS I WAS GETTING TOO EXCITED.

21 MS. SWISS: NO OBJECTION.

22 THE COURT: GO AHEAD.

23 MR. MCMILLAN: (READING:)

24 "QUESTION: WHAT DOES THE WORD
25 'WILLFULLY' MEAN TO YOU AS YOU READ IT
26 HERE IN THIS PETITION THAT YOU SIGNED
27 UNDER PENALTY OF PERJURY?

28 "ANSWER: WILLFULLY WOULD MEAN

1 PURPOSEFULLY."

2 BY MR. MCMILLAN:

3 Q NOW, I ALSO ASKED YOU ABOUT INTENTIONALLY.

4 DO YOU REMEMBER THAT?

5 A YES.

6 Q DO YOU REMEMBER WHAT YOU TOLD ME INTENTIONALLY
7 MEANT?

8 A NO.

9 Q MAYBE I CAN REFRESH YOUR RECOLLECTION.

10 THE COURT: NO. JUST READ IT IF YOU WANT TO.

11 MR. MCMILLAN: ALL RIGHT. THANK YOU, YOUR
12 HONOR. PAGE 91, 19 THROUGH 20 -- ACTUALLY, TO
13 SHORT-CIRCUIT THE NEXT QUESTION, ALL THE WAY THROUGH
14 92-2.

15 MS. SWISS: AT THIS POINT, I HAVE NO OBJECTION
16 TO READING 19 THROUGH 23 ON PAGE 91.

17 THE COURT: SOMEONE WILL HAVE TO GIVE ME THE
18 DEPOSITION FOR ME TO RULE ON THE OBJECTION.

19 ALL RIGHT. THE OBJECTION IS SUSTAINED.

20 THIS PERTAINS TO THE WORD "INTENTIONALLY," SO
21 YOU MAY READ LINES 19 TO 23.

22 MR. MCMILLAN: THANK YOU, YOUR HONOR.

23 (READING:)

24 "QUESTION: OKAY. WHAT DOES
25 'INTENTIONALLY' MEAN TO YOU IN THIS
26 DOCUMENT THAT YOU SIGNED UNDER PENALTY
27 OF PERJURY?

28 "ANSWER: SHE HAD THE INTENTION,

1 OR A PARENT HAD THE INTENTION OF
2 CAUSING OR FAILING TO DO SOMETHING."

3 BY MR. MCMILLAN:

4 Q AND IF WE LOOK AT THE NEXT WORD IN THE
5 SENTENCE YOU WROTE HERE IN THE PETITION YOU SIGNED
6 UNDER PENALTY OF PERJURY, "REFUSED."

7 DO YOU REMEMBER WHAT REFUSED MEANT --

8 A NO.

9 Q -- WHEN YOU DID THIS?

10 A NO.

11 MR. MCMILLAN: YOUR HONOR, I'D READ PAGE 91,
12 LINE 24, THROUGH 92, LINE 2.

13 MS. SWISS: NO OBJECTION.

14 THE COURT: GO AHEAD.

15 MR. MCMILLAN: (READING:)

16 "QUESTION: OKAY. AND WHEN IT
17 SAYS 'REFUSED,' WHAT DOES THAT WORD
18 MEAN TO YOU AS YOU READ IT HERE TODAY
19 IN THE DOCUMENT THAT YOU SIGNED UNDER
20 PENALTY OF PERJURY?

21 "ANSWER: THEY DIDN'T WANT TO."

22 BY MR. MCMILLAN:

23 Q SO MA'AM, IS IT YOUR TESTIMONY HERE TODAY
24 THAT, BASED ON YOUR VIEW OF THE TOTALITY OF THE
25 EVIDENCE THAT YOU SAW ATTACHED TO THIS DETENTION
26 REPORT, THAT MS. DUVAL DIDN'T WANT TO FEED HER BABY AND
27 THAT SHE HAD THE PURPOSE AND INTENT TO NOT FEED HER
28 BABY?

1 IS THAT WHAT YOU'RE TELLING US?

2 A CAN YOU ASK THE QUESTION AGAIN, PLEASE?

3 Q I CAN TRY.

4 IS IT YOUR TESTIMONY HERE TODAY THAT
5 MS. DUVAL, BASED ON ALL THE EVIDENCE YOU SAW IN THAT
6 DETENTION REPORT, MS. DUVAL HAD THE INTENT AND PURPOSE
7 TO NOT FEED HER BABY; SHE DID IT WILLFULLY AND
8 INTENTIONALLY?

9 A BASED ON THE DOCUMENTATION IN THE DETENTION
10 REPORT AND THE ATTACHMENTS, YES.

11 Q DO YOU KNOW WHAT A FOOD AVERSION IS?

12 A NO.

13 Q DO YOU KNOW WHAT IT MEANS FOR A BABY TO BE
14 HYPERVIGILANT AND RESISTIVE TO OUTSIDE INFLUENCES?

15 A NO.

16 Q WHEN YOU WERE READING THESE DOCUMENTS THAT
17 WERE ATTACHED TO THE DETENTION REPORT, DID YOU THINK,
18 LET ME GO ASK SOMEBODY WHAT ALL THIS MEANS?

19 A I DON'T HAVE RECOLLECTION OF WHAT TOOK PLACE
20 IN NOVEMBER OF 2009, OR IF I ASKED. I POSSIBLY COULD
21 HAVE ASKED. I DON'T REMEMBER.

22 Q OKAY. AND IN FACT, DO YOU REMEMBER WHEN WE
23 SAT DOWN FOR YOUR DEPOSITION AND I ASKED YOU, DIDN'T I,
24 TO TAKE THIS PETITION AND GO THROUGH THE DETENTION
25 REPORT AND IDENTIFY FOR ME SPECIFICALLY WHAT EVIDENCE
26 YOU HAD THAT SUPPORTED THESE ALLEGATIONS HERE, YOU
27 WEREN'T TO ABLE TO DO THAT FOR ME, WERE YOU?

28 A I WASN'T PREPARED TO DO THAT AT THAT TIME, NO.

1 Q AND DURING THAT DEPOSITION, YOU TOLD ME YOU
2 NEEDED SOME TIME TO LOOK IT OVER, RIGHT, BECAUSE YOU
3 DIDN'T REMEMBER?

4 A CORRECT.

5 Q AND I LET YOU GO OUTSIDE AND TAKE A LONG BREAK
6 WITH YOUR ATTORNEY AND COME BACK AND TRY IT AGAIN.

7 DO YOU REMEMBER THAT?

8 A I DON'T REMEMBER IT BEING A LONG BREAK, NO,
9 BUT I DID TAKE TIME TO STEP OUT AND REVIEW IT.

10 Q AND WHEN YOU CAME BACK AND I ASKED YOU THAT
11 QUESTION AGAIN, IN FACT, WE WENT THROUGH A SERIES OF
12 QUESTIONS -- YOU KNOW YOU HAVE TO HAVE EVIDENCE TO
13 SUPPORT THOSE ALLEGATIONS; RIGHT?

14 A CORRECT.

15 Q AND YOU KNOW WHAT EVIDENCE IS, THAT'S SPECIFIC
16 FACTS; RIGHT?

17 A SPECIFIC INFORMATION OR STATEMENTS OR
18 DOCUMENTATION.

19 Q AND TO GET YOUR SPECIFIC FACTS, YOU DIDN'T
20 TALK TO DR. GILL; RIGHT?

21 A NO.

22 Q YOU DIDN'T TALK TO DR. EVANS; RIGHT?

23 A NO.

24 Q DO YOU REMEMBER WHETHER OR NOT YOU WENT BACK
25 AND LOOKED AT THE DELIVERED SERVICE LOGS?

26 A FROM WHEN?

27 Q WHEN YOU WERE DRAFTING UP THIS PETITION, YOU
28 NEEDED EVIDENCE.

1 DID YOU GO BACK AND LOOK AT THE CONTACT NOTES,
2 MS. PENDER'S CONTACT NOTES, TO SEE IF THERE WERE SOME
3 EVIDENCE IN THERE?

4 A I DON'T HAVE A RECOLLECTION OF DOING THAT NO.

5 Q AS A NORMAL PART OF YOUR CUSTOM AND PRACTICE
6 WHEN YOU'RE PUTTING TOGETHER ONE OF THESE PETITIONS,
7 ISN'T IT TRUE THAT YOU SOMETIMES DO GO BACK AND LOOK AT
8 THOSE CONTACT NOTES?

9 A THAT'S RIGHT.

10 Q IT'S JUST YOU DON'T HAVE A SPECIFIC
11 RECOLLECTION OF HAVING DONE THAT HERE?

12 A CORRECT.

13 Q DO YOU REMEMBER WITH RESPECT TO DR. EVANS THAT
14 DR. EVANS ACTUALLY TOLD SUSAN PENDER, BABY'S DEFINITELY
15 FAILURE TO THRIVE BUT AT THIS POINT A LOT MORE TESTING
16 IS NEEDED; I CAN'T TELL YOU FOR SURE WHETHER THIS
17 FAILURE TO THRIVE IS CAUSED BY PARENTAL NEGLECT.

18 DO YOU RECALL THAT STATEMENT BEING MADE BY
19 DR. EVANS?

20 A WHERE?

21 Q ANYWHERE IN THE EVIDENCE YOU REVIEWED?

22 A I REMEMBER DR. EVANS MAKING A STATEMENT IN THE
23 DETENTION REPORT. I DON'T SPECIFICALLY BELIEVE IT
24 STATES JUST WHAT YOU STATED.

25 Q OKAY. I THINK YOU'RE RIGHT. LET'S LOOK AT
26 THE DETENTION REPORT.

27 A CAN YOU SAY THAT AGAIN?

28 Q IT'S GOING TO BE EXHIBIT NO. 12, SPECIFICALLY

1 BATES NO. 000017.

2 DO YOU HAVE THAT THERE IN FRONT OF YOU?

3 A YES.

4 Q THAT WAS THE STATEMENT YOU WERE RELYING ON
5 WHEN YOU FILLED OUT AND SIGNED THIS PETITION UNDER
6 PENALTY OF PERJURY; RIGHT?

7 A ONE OF THE STATEMENTS.

8 Q THERE'S A COUPLE MORE AND WE'LL GET TO THEM,
9 BUT THIS IS ONE OF THEM; RIGHT?

10 A CORRECT. AND THE ATTACHMENT.

11 Q RIGHT.

12 A OF THE CATC CLINIC.

13 Q AND HERE, IT WASN'T DR. EVANS THAT PUT THIS
14 INFORMATION INTO THE DETENTION REPORT, WAS IT, IF YOU
15 KNOW?

16 A NO I DON'T BELIEVE SO, NO.

17 Q IT WOULD HAVE BEEN SUSAN PENDER?

18 A CORRECT.

19 Q BUT HERE IN THIS ENTRY, YOU DON'T SEE ANYWHERE
20 IN THERE, DO YOU, DR. EVANS TELLING SUSAN PENDER THAT
21 WE CAN'T TELL IF THIS BABY'S CONDITION IS CAUSED BY
22 PARENTAL NEGLECT? YOU DON'T SEE THAT IN THERE, DO YOU?

23 A NO.

24 Q BUT YOU RELIED ON THIS STATEMENT HERE OF
25 MS. PENDER WHEN YOU PUT TOGETHER YOUR PETITION THAT YOU
26 SIGNED UNDER PENALTY OF PERJURY?

27 A THIS IS ONE OF THE STATEMENTS THAT I RELIED
28 ON, YES.

1 Q AND ANOTHER BIG ONE THAT YOU RELIED ON WAS A
2 CONVERSATION WITH DR. GILL; RIGHT?

3 A CORRECT.

4 Q LET'S SEE IF WE CAN'T FIND THAT HERE. LOOK AT
5 PAGE NO. 000018, STILL ON EXHIBIT NO. 12.

6 IT SAYS THERE THAT THE CSW SPOKE TO
7 DR. JASMEET GILL, STATED THAT -- WHERE IS IT? I WANT
8 TO DRAW YOUR ATTENTION TO IT.

9 IT'S RIGHT HERE:

10 "DR. GILL FURTHER INDICATED THAT
11 THE MAIN REASON FOR FAMILY BEING
12 DISMISSED WAS THE MOTHER HAD BEEN GIVEN
13 SPECIFIC DIRECTIONS IN TERMS OF FEEDING
14 THE CHILD AND IT WAS EVIDENT TO HER
15 THAT THE DIRECTIVES WERE NOT BEING
16 FOLLOWED BY MOTHER IN ORDER TO HELP THE
17 CHILD MAINTAIN AND ATTAIN HEALTHY
18 GROWTH PATTERNS."

19 IS THAT ONE OF THE FACTS YOU WERE RELYING ON
20 WHEN YOU CREATED THIS PETITION AND SIGNED IT UNDER
21 PENALTY OF PERJURY?

22 A YES.

23 Q DID YOU EVER TALK TO MS. PENDER ABOUT THIS
24 SUPPOSED CONVERSATION SHE HAD WITH DR. GILL?

25 A I DON'T HAVE A RECOLLECTION OF SPEAKING WITH
26 MS. PENDER, NO.

27 Q YOU JUST TOOK HER WORD FOR IT AS IT'S SET DOWN
28 HERE IN THIS DETENTION REPORT?

1 A I TOOK THE INFORMATION SHE PROVIDED, YES.

2 Q NOW, ONE OF THE THINGS -- ONE OF YOUR DUTIES
3 AS AN IDC WORKER -- LET ME ASK YOU THIS FIRST: THIS
4 PETITION HERE, YOU'RE THE ONE, YOU CREATE THE
5 ALLEGATIONS IN THE PETITION; RIGHT?

6 A I'M THE ONE WHO GENERATES THE SUPPORTING
7 FACTS, YES.

8 Q OKAY. AND WHEN YOU DO THAT, ONE OF YOUR
9 DUTIES IS TO CORRECT ANY INACCURATE INFORMATION; RIGHT?

10 A IF I BELIEVE THAT THERE'S INACCURATE OR
11 INCONSISTENT INFORMATION, THEN I WOULD, YES.

12 Q AND ONE OF THE WAYS THAT YOU FIGURE OUT
13 WHETHER OR NOT THERE'S INCONSISTENT INFORMATION IS YOU
14 COMPARE WHAT'S IN THE DETENTION REPORT WITH WHAT'S IN
15 THE ATTACHED DOCUMENTS AND/OR THE CONTACT NOTES; RIGHT?

16 A WITH REGARDS TO THE ATTACHMENTS, YES, I WOULD
17 REFER TO THOSE ATTACHMENTS IF THEY'RE REFERENCED IN THE
18 DETENTION REPORT. AS TO THE DELIVERED SERVICE LOGS, IT
19 DEPENDS. I DON'T REVIEW THEM ALL THE TIME.

20 Q OKAY. WELL, UNDER WHAT CIRCUMSTANCES WOULD
21 YOU REVIEW THEM?

22 A IF I BELIEVE THERE WAS -- IF IN READING A
23 DETENTION REPORT I FIND THAT THERE ARE INCONSISTENCIES,
24 OR THERE'S THINGS THAT NEED CLARIFICATION, OR
25 STATEMENTS THAT WERE MADE THAT ARE NOT COMPLETE, OR I
26 JUST NEED ADDITIONAL INFORMATION THAT WASN'T PROVIDED
27 IN THE STATEMENTS THAT WERE GATHERED, INFORMATION THAT
28 WAS ENTERED IN THE DETENTION REPORT.

1 Q OKAY. ANOTHER ONE OF THE STATEMENTS THAT YOU
2 RELIED ON, BESIDES THIS CONVERSATION WITH DR. GILL THAT
3 MS. PENDER SUPPOSEDLY HAD, YOU ALSO RELIED ON THE NEXT
4 STATEMENT UP THERE FOR THE CONTACT DATED OCTOBER 30,
5 2009, RIGHT?

6 THAT'S THE ONE THAT SAYS -- IT'S ON
7 PAGE 000018. SAYS:

8 "CSW SPOKE WITH THE ASSIGNED
9 REGIONAL CENTER WORKER, CINDY PARRAS."
10 DO YOU SEE THAT ONE?

11 A YES.

12 Q THAT'S ALSO ONE OF THE ITEMS YOU RELIED ON;
13 RIGHT?

14 A WELL ALL THE INFORMATION PROVIDED IN THE
15 REPORT THAT'S THERE, SO IT TOOK PART IN WHEN I
16 GENERATED THIS COUNT.

17 Q DO YOU RECALL READING IN ANY OF THE
18 ATTACHMENTS, OR ANYTHING ELSE THAT YOU READ IN DECIDING
19 WHETHER OR NOT TO FILE THIS PETITION, DO YOU RECALL
20 READING THAT MS. PARRAS ESPECIALLY HAD TO TELL FATHER
21 OVER AND OVER AGAIN THAT THE LOCATION OF THE REGIONAL
22 CENTER WAS DECIDED BY THE ADDRESS OF THE MOTHER AND
23 THERE WAS NOTHING THAT COULD BE DONE ABOUT IT, OR WORDS
24 TO THAT EFFECT?

25 A NO, I DON'T REMEMBER RECALLING THAT IN
26 NOVEMBER OF 2009, NO.

27 Q WELL, EVER?

28 A RECENTLY, IN REVIEWING THESE DOCUMENTATION, I

1 REVIEWED THE DETENTION REPORTS AND THE ATTACHMENTS AND
2 THE SERVICE LOGS.

3 Q AND IN YOUR -- WHEN WAS IT THAT YOU RECENTLY
4 REVIEWED ALL THESE DELIVERED SERVICE LOGS?

5 A WELL, I HAD REVIEWED THEM BRIEFLY BEFORE OUR
6 DEPOSITION. AND THEN IN PREPARATION FOR MY TESTIMONY I
7 REVIEWED ALL THE DOCUMENTATION. I FELT THAT IT WAS
8 IMPORTANT THAT I REVIEW THOSE BECAUSE I DIDN'T KNOW HOW
9 TO PREPARE OR WHAT EXACTLY WAS GOING TO BE ASKED OF ME
10 SO I READ ALL THE SERVICE LOGS THAT PERTAIN TO WHAT LED
11 TO THE DETENTION OF BABY RYAN.

12 Q SO AM I CORRECT THAT YOU DID READ THE
13 DELIVERED SERVICE LOG FOR THE CATC CLINIC, DR. EVANS,
14 WHERE SHE EXPRESSLY TOLD MS. PENDER THAT A LOT MORE
15 TESTING NEEDED TO BE DONE AND WE COULDN'T TELL FOR SURE
16 AT THIS POINT WHETHER THE FAILURE TO THRIVE WAS CAUSED
17 BY PARENTAL NEGLECT?

18 DO YOU REMEMBER READING THAT IN PREPARATION
19 FOR YOUR TESTIMONY HERE TODAY?

20 MS. SWISS: OBJECTION. ASSUMES FACTS NOT IN
21 EVIDENCE.

22 THE COURT: SUSTAINED. WHY DON'T YOU REFER US
23 THEN TO THE --

24 MR. MCMILLAN: SURE.

25 THE COURT: -- CERTAIN DSL ENTRIES THAT YOU'RE
26 REFERRING TO.

27 BY MR. MCMILLAN:

28 Q OKAY. IF I CAN GET YOU TO TURN TO -- I DON'T

1 KNOW IF YOU HAVE EXHIBIT 82 THERE IN FRONT OF YOU.

2 A NO.

3 Q LET ME SEE WHAT I'VE GOT.

4 THE COURT: CAN YOU TELL US WHAT PAGE YOU'RE
5 REFERRING TO?

6 MR. MCMILLAN: SURE, YOUR HONOR. IT'S
7 EXHIBIT 82, BATES NO. 1487. IT'S THE THIRD ENTRY DOWN
8 TOWARDS THE CENTER OF THE PAGE RIGHT NEXT TO THE
9 THREE-HOLE PUNCH, OR THE SECOND HOLE IN THE THREE-HOLE
10 PUNCH. AND IT'S THE ENTRY DATED OCTOBER 22ND, 2009.
11 BY MR. MCMILLAN:

12 Q HAVE YOU HAD A CHANCE TO READ THAT ENTRY?

13 A I'M SORRY. YES.

14 Q DOES THAT REFRESH YOUR RECOLLECTION THAT
15 DR. EVANS TOLD MS. PENDER ON OCTOBER 22ND, 2009, THAT:

16 "IT WOULD BE DIFFICULT TO TELL FOR
17 SURE AT THIS POINT WHETHER THIS WAS
18 DIRECTLY DUE TO PARENT NEGLECT;
19 HOWEVER, DOCTOR HAD ALREADY RULED OUT
20 NUMEROUS POSSIBLE ORGANIC CAUSES.
21 DR. EVANS DID ORDER SOME LAB TESTS AND
22 IS WAITING ON RESULTS."

23 DOES THAT REFRESH YOUR RECOLLECTION?

24 A OF RECENTLY READING IT, YES.

25 Q OKAY. AND THEN DR. EVANS ALSO MADE SOME
26 RECOMMENDATIONS TO THE MOTHER; RIGHT?

27 A YES.

28 Q RECOMMENDED THAT MS. DUVAL CONTINUE WITH HER

1 NUTRITIONIST?

2 MS. SWISS: OBJECTION. IMPROPER READING OF
3 THE DOCUMENT. IMPROPER REFRESHMENT OF RECOLLECTION.

4 THE COURT: SUSTAINED. YOU CAN ASK HER IF
5 SHE'S READ THIS. THIS ISN'T HER ENTRY, NOT HER
6 CONVERSATION.

7 MR. MCMILLAN: WELL, LET ME --

8 BY MR. MCMILLAN:

9 Q DID YOU SEE ANYWHERE IN THE DSL WHERE MOTHER
10 DID NOT FOLLOW ANY OF THE RECOMMENDATIONS MADE BY
11 DR. EVANS?

12 MS. SWISS: OBJECTION. LACKS FOUNDATION.
13 CALLS FOR SPECULATION REGARDING THE CONTENTS OF 88
14 PAGES OF EXHIBIT 82.

15 THE COURT: THE -- ALL --

16 MS. SWISS: AND VAGUE AS TO TIME.

17 THE COURT: ALL THAT IS TRUE, THERE ARE 88
18 PAGES. BUT THE OBJECTION IS OVERRULED.

19 DID YOU SEE -- DO YOU REMEMBER THE QUESTION?

20 THE WITNESS: NO.

21 THE COURT: WE'LL HAVE THE REPORTER READ IT
22 BACK TO YOU.

23 (THE PREVIOUS QUESTION WAS READ BACK BY
24 THE COURT REPORTER AS FOLLOWS:

25 "QUESTION: DID YOU SEE ANYWHERE
26 IN THE DSL WHERE MOTHER DID NOT FOLLOW
27 ANY OF THE RECOMMENDATIONS MADE BY
28 DR. EVANS?")

1 THE WITNESS: I DON'T RECALL READING ANY OF
2 THAT.

3 BY MR. MCMILLAN:

4 Q IN FACT, FROM WHAT YOU READ IN THE DSL, MOTHER
5 FOLLOWED TO THE LETTER EACH OF DR. EVANS'
6 RECOMMENDATIONS?

7 MS. SWISS: OBJECTION. LACKS FOUNDATION.
8 CALLS FOR SPECULATION.

9 THE COURT: SUSTAINED AS TO FOUNDATION.
10 BY MR. MCMILLAN:

11 Q IN YOUR REVIEW OF THE DSL, DID YOU SEE THAT
12 MS. DUVAL ACTUALLY WAS ABLE TO SET UP AN APPOINTMENT
13 WITH AN ALLERGIST?

14 A I'D HAVE TO LOOK AT THOSE SERVICE LOGS ONE BY
15 ONE TO TELL YOU -- TO BE ABLE TO ANSWER THAT.

16 Q OKAY. HOW LONG AGO WAS IT THAT YOU DID THIS
17 REVIEW OF THE CONTACT NOTES IN PREPARATION FOR YOUR
18 TESTIMONY HERE TODAY?

19 A SOMETIME LIKE TWO WEEKS AGO.

20 Q AND HOW MUCH TIME DID YOU SPEND DOING THAT
21 REVIEW?

22 A I DON'T RECALL.

23 Q AND WE WENT OVER IN YOUR DEPOSITION, YOU AND I
24 TOGETHER, WE WENT OVER A LOT OF THESE CONTACT NOTES
25 THEN; RIGHT?

26 A I DON'T RECALL GOING THROUGH CONTACT NOTES,
27 NO.

28 Q SO THIS CINDY PARRAS, DO YOU RECALL WHEN IT

1 WAS THAT -- IF I CAN GET YOU TO TURN TO BATES
2 NO. 001491, TOWARDS THE BOTTOM OF THE PAGE THERE.

3 ARE YOU THERE?

4 A YES.

5 Q OKAY. HAVE YOU HAD A CHANCE TO READ THAT TO
6 YOURSELF?

7 A NOT YET.

8 Q OKAY. IT'S THE ONE FOR OCTOBER 30TH, 2009,
9 SUSAN PENDER WITH THE E LARK WORKER, CINDY PARRAS,
10 BOTTOM OF THE PAGE?

11 A YES.

12 Q DO YOU RECALL REVIEWING THIS NOTE, THIS
13 CONTACT NOTE BACK WHEN YOU WERE DOING THE REVIEW TO
14 PREPARE FOR YOUR TESTIMONY HERE TODAY?

15 A YES.

16 MS. SWISS: OBJECTION. RELEVANCE.

17 THE COURT: SUSTAINED.

18 BY MR. MCMILLAN:

19 Q LET ME ASK YOU THIS WAY: THIS CONTACT ENTRY
20 FOR THIS CONVERSATION THAT MS. PENDER HAD WITH
21 MS. PARRAS ON OCTOBER 30, 2009, IN LOOKING AT THE
22 DETENTION REPORT AT PAGE 18, MS. PENDER DOESN'T GIVE US
23 ALL THE INFORMATION THAT IS IN THIS CONTACT NOTE AT
24 PAGE 1491 OF EXHIBIT 82, DOES SHE?

25 MS. SWISS: OBJECTION. LACKS FOUNDATION.
26 CALLS FOR SPECULATION. IMPROPER CROSS-EXAMINATION OF
27 THIS WITNESS.

28 THE COURT: SUSTAINED. THE DOCUMENT WILL

1 SPEAK FOR ITSELF.

2 BY MR. MCMILLAN:

3 Q MS. CRUMP, SHE JUST TESTIFIED TODAY.

4 SEE THERE IN QUOTES THE ENTRY FOR OCTOBER 22,
5 2009, SAYS THAT:

6 "MS. CRUMP STATED THAT, QUOTE,
7 MOTHER -- MOTHER IS VERY INCONSISTENT
8 WITH HER REPORTING HISTORY OF WHAT AND
9 HOW MUCH SHE FEEDS THE BABY."

10 DID YOU EVER LEARN AT ANY POINT IN TIME THAT
11 MS. CRUMP ACTUALLY SAID BOTH MOTHER AND FATHER WERE
12 INCONSISTENT, WITH FATHER EXAGGERATING HOW MUCH ON THE
13 HIGH END AND MOTHER EXAGGERATING HOW MUCH ON THE LOW
14 END, AT LEAST IN HER OPINION? DID YOU EVER LEARN THAT?

15 A I DON'T HAVE A RECOLLECTION OF LEARNING THAT.

16 Q OKAY. AND WHILE WE'RE ON THE POINT, THESE
17 QUOTE MARKS HERE, IN YOUR TRAINING, YOU GUYS ARE
18 TRAINED, WHEREVER POSSIBLE, USE VERBATIM STATEMENTS IN
19 QUOTES IN YOUR REPORTING; CORRECT?

20 MS. SWISS: OBJECTION. BEYOND THE SCOPE OF
21 DIRECT. LACKS FOUNDATION. CALLS FOR SPECULATION ON
22 THE PART OF THIS WITNESS IN PREPARING THIS REPORT.

23 THE COURT: THOSE OBJECTIONS ARE OVERRULED.

24 BUT SHE PREPARED THE PETITION, AND DIDN'T
25 PURPORT TO BE QUOTING ANYONE. SO IT JUST -- IT'S NO
26 RELEVANCE TO HER ROLE.

27 BY MR. MCMILLAN:

28 Q WELL, LET ME ASK YOU, MA'AM, WHEN YOU PUT

1 TOGETHER THAT PETITION TO TELL THE COURT THAT MOTHER'S
2 INTENTIONALLY AND WILLFULLY REFUSING TO FEED HER CHILD,
3 IS PART OF THE REASON THAT YOU WERE WILLING TO USE THAT
4 LANGUAGE BECAUSE OF THE THINGS THAT WE SEE HERE IN
5 THESE THREE ENTRIES, AT LEAST IN PART?

6 A I DON'T UNDERSTAND THE QUESTION.

7 Q OKAY. YOUR PETITION. WILLFULLY,
8 INTENTIONALLY FAILED AND REFUSED; RIGHT? YOU WROTE
9 THAT?

10 A CORRECT.

11 Q AM I CORRECT THAT ONE OF THE REASONS YOU FELT
12 COMFORTABLE USING THOSE WORDS, THAT LANGUAGE, WAS
13 BECAUSE OF THE ENTRIES THAT YOU SAW HERE IN THIS
14 DETENTION REPORT, OCTOBER 22ND, OCTOBER 30TH, AND
15 NOVEMBER 2ND, CONVERSATIONS WITH DR. GILL, THE REGIONAL
16 CENTER WORKER, AND WENDY CRUMP?

17 A YES.

18 Q OKAY. AND YOU WOULD AGREE WITH ME, MA'AM,
19 THAT IN THE JOB THAT YOU DO, YOU HAVE TO RELY ON THE
20 INTEGRITY OF THE PEOPLE THAT ARE GETTING THE
21 INFORMATION TO YOU; RIGHT?

22 A THAT'S CORRECT.

23 Q BECAUSE YOU DON'T GO OUT AND DO ANY
24 INVESTIGATION AT ALL ON YOUR OWN?

25 A THAT'S CORRECT.

26 Q AND IF THE PEOPLE THAT ARE DRAFTING -- AND ONE
27 OF THE REASONS, ONE OF THE REASONS THAT YOU FEEL
28 COMFORTABLE RELYING ON THIS DETENTION REPORT, FOR

1 EXAMPLE, IS BECAUSE IT WAS SIGNED UNDER PENALTY OF
2 PERJURY; RIGHT?

3 A ONE OF THE REASONS, YES.

4 Q AND IT WAS REVIEWED BY A SUPERVISOR WHO ALSO
5 SIGNED IT UNDER PENALTY OF PERJURY; RIGHT?

6 A CORRECT.

7 Q AND IT WAS ALSO REVIEWED BY AN ARA WHO SIGNED
8 IT UNDER PENALTY OF PERJURY; RIGHT?

9 A YES.

10 Q AND WITH ALL OF THAT TOGETHER, THAT'S WHY YOU
11 FELT COMFORTABLE ENOUGH TO USE THIS LANGUAGE HERE,
12 "INTENTIONALLY AND WILLFULLY FAILED AND REFUSED";
13 RIGHT?

14 A I DON'T KNOW IF COMFORTABLY IS THE WORD. I
15 DON'T THINK THERE'S ANY COMFORTABLE -- THERE'S NO
16 FEELING OF -- FEELING COMFORTABLE IN THE KIND OF JOB I
17 DO. HOWEVER, THIS LANGUAGE THAT I GENERATED -- AND
18 AGAIN, I DON'T HAVE A RECOLLECTION OF WHAT TOOK PLACE
19 EXACTLY IN NOVEMBER OF 2009, WHAT MY THINKING PROCESS
20 WAS AND WHO I CONSULTED WITH, WITH COUNTY COUNSEL, WITH
21 REGARDS TO THIS LANGUAGE.

22 BUT IN TOTALITY, I TOOK ALL THE INFORMATION I
23 WAS PROVIDED, NOT JUST THESE STATEMENTS BUT ALSO THE
24 INFORMATION THAT WAS PROVIDED BY DR. EVANS AND DR. EGGE
25 AS TO THE DIAGNOSIS OF FAILURE TO THRIVE.

26 Q OKAY. AND IS IT YOUR TESTIMONY THAT DR. EGGE
27 SPECIFICALLY SAID THAT THE FAILURE TO THRIVE -- THE
28 FAILURE TO THRIVE WAS DUE TO BEING UNDERFERD AND

1 UNDERNOURISHED AND BEING FED AN INADEQUATE DIET? THOSE
2 WERE DR. EGGE'S WORDS?

3 A NO. DR. EGGE'S WORDS, THAT THEY WERE -- THE
4 CHILD HAD BEEN DIAGNOSED WITH FAILURE TO THRIVE DUE TO
5 ENVIRONMENTAL CAUSES.

6 Q DID YOU ACTUALLY SEE THAT NOTE?

7 A I BELIEVE IT'S IN ONE OF DR. EGGE'S -- THE
8 DETAIL IN THE HARBOR-UCLA FAILURE TO THRIVE CLINIC.

9 Q DID YOU REVIEW THAT NOTE -- WHENEVER IT WAS --
10 LAST WEEK, WHEN YOU WERE PREPARING FOR YOUR TESTIMONY?

11 A YES.

12 Q AND YOU REMEMBER, WHEN YOU REVIEWED THAT NOTE,
13 IT'S A HANDWRITTEN CHART; RIGHT?

14 A YES, IT'S HANDWRITTEN.

15 Q AND THERE'S A BUNCH OF INFORMATION OVER ON THE
16 RIGHT-HAND SIDE, AND THEN IN PARENTHESES, SORT OF
17 TRAILING DOWN THE EDGE OF THE PAGE, IT SAYS
18 "ENVIRONMENTAL"; RIGHT?

19 MS. SWISS: OBJECTION. RELEVANCE.

20 THE COURT: OVERRULED.

21 THE WITNESS: YES.

22 BY MR. MCMILLAN:

23 Q AND IS THAT PARENTHESES, ENVIRONMENTAL, THAT
24 YOU'RE RELYING ON HERE WHEN YOU SAY THAT HIS FAILURE TO
25 THRIVE DUE TO BEING UNDERFED, UNDERNOURISHED, BEING FED
26 AN INADEQUATE DIET?

27 RIGHT?

28 A I'M SORRY. CAN YOU REPHRASE YOUR QUESTION?

1 Q THAT NOTE, THE ONE WITH THE TRAILING
2 PARENTHETICAL ENVIRONMENTAL WORD?

3 A YES.

4 Q IT'S THAT WORD THAT YOU'RE RELYING ON FOR THIS
5 PROPOSITION THAT THE CHILD WAS FAILURE TO THRIVE DUE TO
6 BEING UNDERFED, UNDERNOURISHED, AND BEING FED AN
7 INADEQUATE DIET?

8 A I DON'T THINK I'M UNDERSTANDING YOUR QUESTION.

9 Q IT'S ALL RIGHT. I'LL WITHDRAW IT.

10 OH, EXHIBIT NO. 13, I DID WANT TO TALK TO YOU
11 ABOUT THAT. DO YOU STILL HAVE THAT UP IN FRONT OF YOU?

12 A NO.

13 Q OKAY. THAT EXHIBIT NO. 13 THAT'S AN ADDENDUM
14 REPORT THAT YOU CREATED AND CAUSED TO BE FILED WITH THE
15 JUVENILE COURT; CORRECT?

16 A YES.

17 Q AND IT BEARS BATES NO. 000026 THROUGH 000031.
18 AM I RIGHT ON THAT?

19 A YES.

20 Q IS THAT THE TOTALITY OF THE ADDENDUM REPORT
21 THAT YOU FILED?

22 A YES.

23 Q OKAY. AND WHEN YOU FILED THIS REPORT, YOU
24 EXPECTED THE COURT TO ACCEPT IT INTO EVIDENCE AND RELY
25 ON IT; CORRECT?

26 A YES.

27 Q AND WHEN YOU FILED THE REPORT, IT WAS BASED ON
28 THE EVIDENCE, THE SAME EVIDENCE, WASN'T IT, THE

1 EVIDENCE THAT YOU REVIEWED IN CREATING YOUR PETITION?

2 A IN GENERATING? I'M NOT UNDERSTANDING.

3 Q OKAY. WAS THERE A DIFFERENT BODY OF EVIDENCE
4 THAT YOU RELIED ON WHEN YOU CREATED YOUR PETITION
5 VERSUS CREATING THE ADDENDUM REPORT?

6 A OH, I'M SORRY. NO. SAME INFORMATION.

7 Q SAME INFORMATION.

8 AND IN THAT ADDENDUM REPORT, I THINK YOU'D
9 TOLD US EARLIER THAT YOU WERE RECOMMENDING TO THE COURT
10 THAT THE MOTHER LOSE HER BABY FOREVER BASED ON THE
11 ALLEGATIONS UNDER 300E IN YOUR PETITION; CORRECT?

12 A THAT'S NOT WHAT THE RECOMMENDATION STATES, NO.

13 Q OKAY. WHAT WAS THE RECOMMENDATION AGAIN?

14 A THAT THE MOTHER RECEIVE NO REUNIFICATION
15 SERVICES UNDER THAT 361.5 WIC.

16 Q OKAY. LET ME TRY -- SORRY. WERE YOU
17 FINISHED?

18 A YES.

19 Q LET ME TRY THIS OUT: MOTHER RECEIVE NO
20 REUNIFICATION SERVICES.

21 DID I GET THAT RIGHT?

22 A THAT WAS THE RECOMMENDATION, YES.

23 Q IF MOTHER RECEIVED NO REUNIFICATION SERVICES,
24 DOESN'T THAT MEAN SHE LOSES CUSTODY OF HER BABY?

25 A IF THE COURT MAKES THAT FINDING UNDER
26 SUBDIVISION E, THEN THE COURT CAN CONSIDER MAKING THAT
27 ORDER.

28 Q AND YOU ACTUALLY WERE ASKING THE COURT TO MAKE

1 THAT ORDER?

2 A BASED ON SUBDIVISION E, I'M ALLOWED TO MAKE
3 THAT RECOMMENDATION.

4 Q YOU WERE ASKING THE COURT TO MAKE THAT ORDER;
5 CORRECT?

6 A BASED ON THAT SUBDIVISION E, THAT IS THE
7 RECOMMENDATION THAT I MADE -- WAS ALLOWED TO MAKE.

8 Q I'M NOT ASKING IF YOU WERE ALLOWED TO MAKE IT.
9 IT WAS YOUR CHOICE TO MAKE THAT RECOMMENDATION, AND YOU
10 DID IT, YOU MADE THE RECOMMENDATION? YOU, NOT THE
11 DEPARTMENT, YOU?

12 A NO, SIR. THAT'S INCORRECT. I FOLLOWED
13 POLICY. AND PER POLICY, THAT CHILD MET THE
14 REQUIREMENTS BASED ON THAT 361.5. THAT E SUBDIVISION
15 DOES FALL UNDER THE PROVISIONS OF THE 361.5, AND BASED
16 ON THAT, I AM REQUIRED TO MAKE THAT RECOMMENDATION AND
17 INFORM THE COURT AND PARENTS OF THE DEPARTMENT'S
18 WANTING TO SEEK THAT RECOMMENDATION.

19 Q OKAY. LET'S JUST MAKE SURE I UNDERSTAND THIS
20 CORRECTLY. YOU HAD ABSOLUTELY NO CHOICE, WHEN YOU WERE
21 PUTTING TOGETHER THIS PETITION, YOU HAD NO CHOICE BUT
22 TO INCLUDE THE 300E ALLEGATION AND TO RECOMMEND THAT
23 THE CHILD NOT BE REUNIFIED WITH HIS MOTHER.

24 AM I GETTING THAT RIGHT? YOU HAD NO CHOICE?

25 MS. SWISS: OBJECTION. COMPOUND.
26 ARGUMENTATIVE.

27 THE COURT: OVERRULED.

28 THE WITNESS: I GUESS I'M MISUNDERSTANDING

1 WHAT YOU MEAN BY NO CHOICE. I FOLLOW THE POLICIES THAT
2 I -- THE POLICIES AND PROCEDURES THAT I'M INSTRUCTED.
3 AND UNDER THOSE POLICIES AND PROCEDURES, I'M ALLOWED
4 TO -- I DEVELOPED THIS PETITION, AND I HAVE TO IDENTIFY
5 UNDER WHAT SUBDIVISION THE CHILDREN ARE DESCRIBED
6 UNDER. BASED ON THIS INFORMATION, I FOUND THAT THE
7 CHILD MET THAT CRITERIA. BASED ON POLICY, I'M REQUIRED
8 TO MAKE THAT RECOMMENDATION.

9 BY MR. MCMILLAN:

10 Q SO YOU'RE REQUIRED, MEANING YOU HAD NO CHOICE.
11 AM I CORRECT?

12 A BY FOLLOWING POLICY, YES.

13 Q AND WHEN YOU WERE REVIEWING THE UNDERLYING
14 SUPPORTING EVIDENCE IN THIS JUVENILE DEPENDENCY
15 DETENTION REPORT, EXHIBIT NO. 12, DID YOU HAVE ANY
16 CHOICE AS TO WHAT ALLEGATIONS YOU WOULD SET OUT IN YOUR
17 PETITION, WHETHER THEY WOULD BE 300B OR 300E OR BOTH,
18 DID YOU HAVE ANY CHOICE IN THAT, OR WAS THAT ALSO
19 DRIVEN ENTIRELY BY POLICY?

20 A WELL, IT'S TAKEN FROM THE SECTION 300 OF THE
21 WELFARE AND INSTITUTIONS CODE SUBDIVISIONS. WHEN
22 REVIEWING A DETENTION REPORT, I'M REQUIRED TO SEE, YOU
23 KNOW, BASED ON THE ABUSE THAT THE CHILD OR THE CHILDREN
24 HAVE SUFFERED, TO IDENTIFY UNDER WHICH SUBDIVISION THEY
25 FALL UNDER. AND IN THIS CASE, I FOUND, BASED ON THE
26 PETITION THAT I FILED, THAT IT FELL UNDER
27 SUBDIVISION B, THAT BABY RYAN WAS DESCRIBED UNDER
28 SUBDIVISION B AND SUBDIVISION E.

1 Q SO LET ME GO BACK TO MY QUESTION.

2 AM I CORRECT THAT UNDER POLICY YOU HAD NO
3 CHOICE BUT TO STATE A 300B ALLEGATION AND A 300E
4 ALLEGATION?

5 RIGHT?

6 MS. SWISS: OBJECTION. ASKED AND ANSWERED.

7 THE COURT: OVERRULED.

8 THE WITNESS: CAN YOU REPEAT THE QUESTION
9 AGAIN, PLEASE?

10 BY MR. MCMILLAN:

11 Q AM I CORRECT THAT UNDER POLICY YOU HAD NO
12 CHOICE BUT TO STATE A 300B ALLEGATION AND A 300E
13 ALLEGATION BASED ON THESE FACTS?

14 A I DON'T KNOW HOW TO ANSWER THAT. I...

15 Q YOU FOLLOWED POLICY?

16 A I FOLLOWED -- BASED ON THE INFORMATION THAT I
17 RECEIVED IN THIS DETENTION REPORT, I FOUND THAT THE
18 CHILD WAS DESCRIBED UNDER SUBDIVISION B AND
19 SUBDIVISION E.

20 Q YOU FOLLOWED POLICY; RIGHT?

21 A YES. POLICY AND INSTRUCTIONS AND --

22 Q POLICY AND INSTRUCTIONS?

23 A THE INSTRUCTIONS THAT I'M GIVEN AT MY TRAINING
24 THROUGH IDC.

25 Q SO IN YOUR TRAINING, THEY ACTUALLY TEACH
26 YOU -- CORRECT ME IF I'M WRONG -- BUT IN YOUR TRAINING
27 THEY ACTUALLY TEACH YOU TO MAKE THESE TYPES OF
28 ALLEGATIONS BASED JUST ON WHAT'S IN THE DETENTION

1 REPORT AND ATTACHED TO IT; RIGHT? YOU DON'T HAVE A
2 CHOICE?

3 A THAT'S INCORRECT.

4 MY TRAINING TEACHES ME ON HOW TO GENERATE
5 THESE PETITIONS WHEN REVIEWING THE WHOLE ENTIRE
6 DETENTION REPORT AND THE ATTACHMENTS AND HOW TO READ IT
7 AND WHAT TO LOOK FOR WHEN YOU'RE LOOKING AT -- TO CHILD
8 ABUSE. AND, YOU KNOW, I'M TRAINED AS TO HOW TO
9 GENERATE THESE PETITIONS, HOW TO STATE THEM. THAT'S
10 WHAT I'M TRAINED AT IDC.

11 Q HOW TO STATE THEM IN THE STRONGEST POSSIBLE
12 TERMS TO ENSURE THAT THE PETITION IS SUSTAINED; RIGHT?

13 A TO ENSURE THE CHILD'S SAFETY. TO CONTINUE TO
14 ENSURE THE CHILD'S SAFETY. AT THE END OF THE DAY,
15 THAT'S WHAT FILING THIS PETITION IS, IT'S DESCRIBING TO
16 THE COURT THESE ALLEGATIONS OF THE ABUSE THAT THE CHILD
17 HAS SUFFERED, AND IN FILING THIS PETITION, ENSURING THE
18 CHILD'S SAFETY AND HIS WELLBEING.

19 MR. MCMILLAN: OBJECTION, YOUR HONOR. MOVE TO
20 STRIKE AS NONRESPONSIVE TO THE QUESTION.

21 THE COURT: THE OBJECTION NONRESPONSIVE IS
22 SUSTAINED. THE MOTION TO STRIKE IS GRANTED. THE
23 ENTIRE ANSWER WILL BE STRICKEN AND THE JURY DISREGARD
24 IT.

25 BY MR. MCMILLAN:

26 Q THERE'S ONE MORE THING THAT YOU BROUGHT UP IN
27 YOUR DIRECT EXAMINATION WITH MS. SWISS AND THAT'S THIS
28 CONCEPT OF TAKING A CHILD INTO PROTECTIVE CUSTODY.

1 DO YOU REMEMBER THAT?

2 A YES.

3 Q YEAH. I'M GOING TO SHOW YOU EXHIBIT NO. 405.

4 AM I CORRECT THAT WHEN YOU TAKE -- OR WHEN A
5 SOCIAL WORKER TAKES A CHILD INTO PROTECTIVE CUSTODY,
6 THAT'S A SEIZURE; RIGHT?

7 MS. SWISS: OBJECTION. RELEVANCE. OUTSIDE
8 THE SCOPE.

9 THE WITNESS: SUSTAINED AS TO OUTSIDE THE
10 SCOPE.

11 MR. MCMILLAN: ALL RIGHT, YOUR HONOR.

12 YOUR HONOR, I HAVE NO FURTHER QUESTIONS.

13 THE COURT: ALL RIGHT. MS. SWISS?

14

15 DIRECT EXAMINATION

16 BY MS. SWISS:

17 Q MS. PINEDO, I'D LIKE TO SHOW YOU ANOTHER PAGE
18 FROM THE PETITION, EXHIBIT 11, BATES-LABELED 12.

19 JUST LOOKING AT THE TOP OF THIS DOCUMENT. IF
20 I SCROLL IN TOO MUCH, IT'S HARD TO READ.

21 WELL, JUST LOOKING AT THE TOP FOR NOW, CAN
22 YOU, IN LOOKING AT THE DOCUMENT IN FRONT OF YOU, DO YOU
23 KNOW WHAT THIS IS?

24 A THIS IS THE INQUIRY FOR THE INDIAN CHILD --
25 I'M SORRY. IT'S THE INDIAN CHILD INQUIRY ATTACHMENT.

26 Q OKAY. AND WHAT IS THIS?

27 MR. MCMILLAN: OBJECTION. BEYOND THE SCOPE OF
28 CROSS.

1 THE COURT: JUST A MOMENT.

2 OVERRULED.

3 THE WITNESS: THIS IS A DOCUMENTATION THAT THE
4 EMERGENCY RESPONSE WORKER HAS TO INQUIRE TO EVERY
5 PARENT TO ENSURE THERE'S NO INDIAN HERITAGE OR
6 ANCESTRY.

7 BY MS. SWISS:

8 Q AND DO YOU KNOW IF THIS INQUIRY WAS MADE IN
9 THIS CASE?

10 A YES.

11 Q HOW DO YOU KNOW THAT?

12 A BECAUSE THIS WAS SUBMITTED BY MS. SUSAN PENDER
13 AND SIGNED.

14 Q AND WAS THIS DOCUMENT SIGNED UNDER PENALTY OF
15 PERJURY?

16 A YES.

17 Q AND WAS THIS DOCUMENT PART OF THE PETITION
18 THAT YOU FILED WITH THE COURT, EXHIBIT 11?

19 A YES.

20 Q NOW, MS. PINEDO, WHEN YOU MADE THE
21 RECOMMENDATIONS WHEN YOU FILED THE PETITION AND THE
22 ADDENDUM REPORT, WERE ANY OF THOSE RECOMMENDATIONS
23 BASED ON A CONCERN THAT THE MOTHER SUFFERED FROM
24 MUNCHAUSEN SYNDROME BY PROXY?

25 MR. MCMILLAN: OBJECTION, YOUR HONOR. BEYOND
26 THE SCOPE.

27 THE COURT: SUSTAINED.

28 MS. SWISS: NO FURTHER QUESTIONS.

1 MR. MCMILLAN: JUST ONE.

2

3

REXCROSS-EXAMINATION

4 BY MR. MCMILLAN:

5 Q GOING BACK TO EXHIBIT NO. 11, I JUST WANT TO
6 CLEAR THIS UP.

7 SO WHEN YOU SIGNED THIS THING UNDER PENALTY OF
8 PERJURY SAYING "I HAVE ASKED ABOUT," THAT WAS THE
9 IMPERIAL I, MEANING SOMEBODY ELSE IN THE DEPARTMENT?

10 A ON THE INFORMATION MS. SUSAN PENDER HAD
11 INQUIRED, YES.

12 Q SO THE I WASN'T YOU?

13 A CORRECT.

14 MR. MCMILLAN: NO FURTHER QUESTIONS, YOUR
15 HONOR.

16 THE COURT: ANYTHING ELSE? ALL RIGHT.

17 MS. PINEDO, THANK YOU VERY MUCH. WE'VE
18 COMPLETED YOUR TESTIMONY, AND YOU ARE EXCUSED.

19 THE WITNESS: THANK YOU.

20 MR. GUTERRES?

21 MR. GUTERRES: YOUR HONOR, WE'RE CHECKING TO
22 SEE IF OUR NEXT WITNESS IS OUT IN THE HALLWAY.

23 THE COURT: ALL RIGHT.

24 MR. GUTERRES: DEFENSE WILL CALL MS. JOI
25 RUSSELL.

26

27

JOI RUSSELL,

28

WAS CALLED AS A WITNESS AND, HAVING BEEN FIRST DULY

1 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

2

3 THE CLERK: FOR THE RECORD, PLEASE STATE YOUR
4 NAME AND SPELL YOUR FIRST AND LAST NAME.

5 THE WITNESS: JOI RUSSELL, FIRST NAME IS
6 J-O-I, LAST NAME IS R-U-S-S-E-L-L.

7 THE COURT: THANK YOU. GO AHEAD.

8 MR. GUTERRES: THANK YOU, YOUR HONOR.

9

10 DIRECT EXAMINATION

11 BY MR. GUTERRES:

12 Q GOOD AFTERNOON, MS. RUSSELL.

13 A GOOD AFTERNOON.

14 Q COULD YOU TELL US A LITTLE ABOUT WHAT IT IS
15 THAT YOU DO AT THE PRESENT TIME?

16 A I'M AN EXPERT WITNESS FOR THE COUNTY OF
17 LOS ANGELES DEPARTMENT OF CHILDREN AND FAMILY SERVICES.

18 Q AND PRIOR TO YOU DOING THIS TYPE OF WORK, WHAT
19 DID YOU DO?

20 A I WORKED FOR THE COUNTY FOR 34 YEARS. THE
21 FIRST THREE YEARS I WAS A JUVENILE PROBATION OFFICER
22 AND THEN I MOVED OVER TO THE DEPARTMENT OF CHILDREN AND
23 FAMILY SERVICES. I STARTED AS A SOCIAL WORKER AND
24 WORKED MY WAY UP TO A SUPERVISOR, THEN BECAME A
25 CHILDREN'S SERVICES ADMINISTRATOR I, THEN BECAME A
26 CHILDREN'S SERVICES ADMINISTRATOR III, THEN A REGIONAL
27 ADMINISTRATOR, AND EVENTUALLY A DEPUTY DIRECTOR.

28 Q AND WHEN DID YOU LEAVE THE DEPARTMENT?

1 A 2011.

2 Q AND AT THE TIME THAT YOU LEFT THE DEPARTMENT
3 IN 2011, WHAT WAS YOUR POSITION?

4 A I WAS A DEPUTY DIRECTOR.

5 Q AND WHO WAS AT THE TOP OF THE DEPARTMENT?
6 WHAT'S THAT POSITION?

7 A THE DIRECTOR.

8 Q AND AS A DEPUTY DIRECTOR, WHERE WOULD YOU BE
9 IN THE PECKING ORDER, FOR LACK OF A BETTER WORD?

10 A SO I WOULD BE ON THE THIRD LEVEL. THERE WOULD
11 BE LIKE SIX PEERS. I'D HAVE SIX PEERS AT THAT LEVEL.

12 Q SO YOU WOULD BE REPORTING TO SOMEONE WHO THEN
13 REPORTS ULTIMATELY TO THE DIRECTOR?

14 A I REPORTED TO THE CHIEF DEPUTY DIRECTOR.

15 Q AND THEN THE CHIEF WOULD REPORT TO THE?

16 A DIRECTOR.

17 Q DIRECTOR. THANK YOU.

18 TELL US, WHEN WERE YOU RETAINED IN THIS
19 PARTICULAR CASE?

20 A I BELIEVE IT WAS 2014.

21 Q WHAT WAS -- WHAT WAS YOUR ASSIGNMENT AT THE
22 TIME OF YOUR RETENTION?

23 A SO I WAS BASICALLY SENT SEVEN BOXES OF
24 EVIDENCE, AND FOR ME TO REVIEW AND COME UP WITH MY
25 OPINIONS ON THE CASE.

26 Q AND AS PART OF WHAT YOU REVIEWED IN ORDER TO
27 COME UP WITH OPINIONS, COULD YOU BRIEFLY DESCRIBE WHAT
28 IT IS THAT YOU REVIEWED?

1 A SO I REVIEWED ALL THE DOCUMENTATION FROM THE
2 DEPARTMENT OF CHILDREN AND FAMILY SERVICES, INCLUDING
3 THE SERVICE LOGS WHERE THE SOCIAL WORKERS DOCUMENT
4 EVERYTHING, THE POLICIES, THE TRAINING. I REVIEWED THE
5 REPORTS FROM DR. YIM, DR. FEDDER, EAST LA REGIONAL
6 CENTER, NUTRITIONIST WENDY CRUMP, DR. EVANS FROM USC,
7 DR. EGGE FROM UCLA, DEPOSITIONS FROM THE SOCIAL
8 WORKERS, DEPOSITIONS FROM THE PLAINTIFF'S SIDE.
9 BASICALLY A COMBINATION OF ALL OF THAT.

10 Q DID YOU ALSO REVIEW DEPOSITIONS OF ANY EXPERTS
11 ON BEHALF OF MS. DUVAL?

12 A I DID.

13 Q AND WHAT EXPERTS' TESTIMONY OR OPINIONS DID
14 YOU REVIEW?

15 A I REVIEWED JERRY DOMINGUEZ, DR. ACHAR,
16 DR. WEINRAUB, DR. NELSON. THOSE ARE ALL THAT I CAN
17 REMEMBER RIGHT NOW.

18 Q IS THAT NIESEN OR NELSON?

19 A NIESEN.

20 MR. PRAGER: OBJECTION. LEADING.

21 THE COURT: OVERRULED.

22 BY MR. GUTERRES:

23 Q AND MR. DOMINGUEZ, HAD YOU HAD ANY DEALINGS
24 WITH MR. DOMINGUEZ BEFORE THE TIME OF YOUR REVIEW OF
25 HIS DEPOSITION?

26 A I KNEW HIM FROM THE DEPARTMENT, BUT NOT ON A
27 ONE-ON-ONE BASIS.

28 Q AND DO YOU HAVE AN UNDERSTANDING AS TO WHERE

1 HE STOOD AS FAR AS HIS POSITION AND TITLE RELATIVE TO
2 THE VARIOUS POSITIONS WITHIN THE DEPARTMENT?

3 MR. PRAGER: OBJECTION. VAGUE.

4 THE COURT: OVERRULED.

5 THE WITNESS: THE MAJORITY OF THE TIME HE WAS
6 A CHILDREN'S SERVICES WORKER. I BELIEVE AT THE END HE
7 BECAME A CSA, A CHILD'S SERVICES ADMINISTRATOR I, I
8 BELIEVE.

9 BY MR. GUTERRES:

10 Q AND IN REVIEWING ALL OF THE DOCUMENTS THAT
11 YOU'VE JUST DESCRIBED AND THE DEPOSITIONS, WERE YOU
12 ABLE TO FORMULATE CERTAIN OPINIONS REGARDING THE
13 ACTIONS OF THE SOCIAL WORKERS IN THIS PARTICULAR CASE?

14 A YES.

15 Q DID YOU ALSO, IN ADDITION TO FORMULATING
16 OPINIONS REGARDING THE ACTIONS OF THE SOCIAL WORKERS IN
17 THIS CASE, DID YOU HAVE ANY OPINIONS IN RESPONSE TO THE
18 OPINIONS RENDERED BY MR. DOMINGUEZ?

19 A YES, I DID.

20 Q WHY DON'T WE START WITH THE OPINIONS THAT
21 MR. DOMINGUEZ GAVE.

22 DID YOU HAVE ANY AGREEMENTS OR DISAGREEMENTS
23 WITH THE OPINIONS VOICED BY MR. DOMINGUEZ?

24 A I DISAGREED WITH PRETTY MUCH MOST OF
25 MR. DOMINGUEZ'S OPINIONS.

26 Q AND WHY IS THAT?

27 A MR. DOMINGUEZ WAS A CHILDREN'S SOCIAL WORKER,
28 AND WHEN HE STARTED OFF, HE WAS IN EMERGENCY RESPONSE.

1 AND IN HIS DEPOSITION, HE SAID HE HAD BEEN THERE FOR
2 18 MONTHS. AND DURING THAT TIME, HE SAID THAT HE HAD
3 ONLY DETAINED IN TWO CASES.

4 FOR AN EMERGENCY RESPONSE WORKER TO HAVE
5 18 MONTHS AND ONLY DETAIN TWO CASES, AND HE HAD TO HAVE
6 PROOF THAT THESE KIDS WERE AT HARM, THAT'S SO UNUSUAL.
7 I MEAN, IT'S VERY RARE. I'M CONCERNED ABOUT THE KIDS
8 THAT HE LEFT IN DANGER BECAUSE AS SOCIAL WORKERS, WE
9 DON'T HAVE TO PROVE, WE HAVE TO BELIEVE THAT IT
10 HAPPENED. AND IN BOTH OF THOSE CASES, I THINK THE
11 PARENTS BOTH ADMITTED THEY HAD ABUSED THEIR KIDS. SO
12 THAT CONCERNS ME REGARDING HIS JUDGMENT AND HIS CAUTION
13 AND WHAT KIDS DID HE LEAVE IN JEOPARDY.

14 MR. DOMINGUEZ SEEMED TO THINK THAT THE
15 ADMINISTRATORS IN ALL THE OFFICES ACTUALLY TOLD THE
16 SOCIAL WORKERS WHAT TO WRITE IN THEIR COURT REPORTS
17 LIKE GHOST WRITERS. AND THAT'S, YOU KNOW, JUST SO NOT
18 TRUE. WE HAVE ABOUT 5,000 SOCIAL WORKERS, AND IN ER WE
19 HAVE ABOUT MAYBE 900, MAYBE 1,000. AND THEY GET
20 REFERRALS EVERY SINGLE DAY, SO THAT THE DEPARTMENT, ON
21 AVERAGE, GETS ABOUT 15,000 CALLS A MONTH REPORTING
22 CHILD ABUSE. SO THOSE CALLS ARE REVIEWED AND SENT OUT
23 TO THE REGIONAL OFFICES. AND SO THEY'RE CONSTANTLY
24 GETTING REFERRALS ALL THE TIME.

25 SO HE HAD LIMITED, I THINK, EXPERIENCE IN THAT
26 HE DID NOT DETAIN A LOT OF KIDS, HE FELT THAT HE HAD TO
27 HAVE PROOF BEFORE HE DETAINED. SO I WAS VERY CONCERNED
28 ABOUT THAT. I WAS CONCERNED THAT HE FELT THAT SOCIAL

1 WORKERS DIDN'T HAVE ENOUGH ABILITY OR SKILLS IN THE
2 OFFICES TO WRITE COURT REPORTS FOR THEMSELVES, THAT
3 THEY WOULD HAVE TO LISTEN TO THEIR MANAGERS AND THEIR
4 MANAGERS WOULD TELL THEM. THE MANAGERS WOULDN'T HAVE
5 TIME TO DO THAT. I MEAN, THEY HAVE HUNDREDS OF CASES
6 THAT WE HAVE.

7 SO MANAGERS AND SUPERVISORS WOULD LOOK AT WHAT
8 WAS THERE, LOOK AT THE EVIDENCE AND SAY YES OR NO AS
9 FAR AS DO WE DETAIN, DO WE NOT DETAIN, YOU KNOW, HOW DO
10 WE SUPERVISE THIS FAMILY? BUT IT WOULDN'T BE UP TO
11 MANAGEMENT TO MAKE THIS DECISION UNLESS IT WAS A REALLY
12 UNUSUAL CASE AND THE SUPERVISOR OR THE WORKER SAID, YOU
13 KNOW, I'M JUST KINDA STUCK HERE, I'M NOT SURE WHAT TO
14 DO, CAN YOU GIVE ME SOME ADVICE? SO IN THAT RESPECT, I
15 CHALLENGED HIM.

16 I CHALLENGED HIM IN THAT THE WORKERS WEREN'T
17 FREE ENOUGH TO PUT THEIR OWN OPINIONS, THAT THEY HAD TO
18 PUT THE OPINIONS OF MANAGEMENT INVOLVED. I THINK THAT
19 WAS CHALLENGING TO HEAR BECAUSE THAT'S JUST NOT THE WAY
20 WE OPERATED. WE HAVE A UNION, AND IF THE UNION FELT
21 THAT MANAGEMENT WAS TELLING THEM WHAT TO DO ON A
22 REGULAR BASIS, EVERY SINGLE CASE, THE UNION WOULDN'T
23 TOLERATE THAT. I MEAN, THEY JUST WOULDN'T TOLERATE IT.

24 MR. PRAGER: ARE YOU DONE? I DON'T WANT TO
25 CUT YOU OFF. OKAY.

26 OBJECTION. NARRATIVE RESPONSE AFTER THE WORD
27 DANGER. CALLS FOR SPECULATION. LACKS FOUNDATION. AND
28 NONRESPONSIVE.

1 THE COURT: THE REASON I'M HESITATING IS I'M
2 LOOKING AT THE ANSWER AND SO FAR I HAVEN'T FOUND THE
3 WORD "DANGER." I'M NOT SAYING IT'S NOT THERE. I'LL
4 SCROLL BACK.

5 THE -- I'M -- THE OBJECTION IS OVERRULED
6 BECAUSE I DON'T FIND -- OH.

7 I DID FIND IT.

8 MR. PRAGER: THANK YOU, YOUR HONOR.

9 THE COURT: AND THE -- LET ME SEE COUNSEL FOR
10 JUST A MOMENT.

11 (THE FOLLOWING PROCEEDINGS WERE HELD AT
12 SIDEBAR.)

13 THE COURT: WE'RE AT SIDEBAR. COUNSEL ARE
14 PRESENT.

15 WE DID HAVE THE FACT THAT AN ANSWER IS
16 NARRATIVE IS NOT NECESSARILY A BASIS FOR SUSTAINING AN
17 OBJECTION, ALTHOUGH IT CAN BE. IN THIS INSTANCE, MY
18 BIGGEST CONCERN WAS THAT WE HAD A VERY BROAD-RANGING
19 DESCRIPTION OF A WITNESS OF WHY SHE DIDN'T AGREE. I
20 THINK THERE'S NO QUESTION THAT SHE'S ENTITLED TO TELL
21 US WHY SHE DOESN'T AGREE, AND SHE MAY CONSIDER HIS
22 OPINIONS TO BE LACKING VALIDITY BECAUSE OF WHAT SHE
23 VIEWS AS HIS LACK OF EXPERTISE.

24 BUT I THINK THAT IT'S ALMOST TIME TO QUIT FOR
25 THE DAY. I THINK WHAT WE NEED TO DO IS ADDRESS THESE
26 MORE THAN ONE -- MORE THAN -- BASICALLY ONE AT A TIME
27 AS TO WHAT HER OPINIONS ARE.

28 IT'S NOT FOR ME TO TELL YOU HOW TO GO ABOUT

1 QUESTIONING YOUR WITNESS.

2 MR. GUTERRES: I WILL TRY TO BE A LITTLE MORE
3 FOCUSED IN MY QUESTIONS SO I CAN GIVE GUIDANCE TO THE
4 WITNESS.

5 THE COURT: YEAH. SO I AM GOING TO SUSTAIN
6 THE OBJECTION, NOT BECAUSE I THINK THE REST OF THE
7 INFORMATION, THAT HE SHOULDN'T BE ENTITLED TO GIVE IT,
8 BUT IT WAS SUCH A LAUNDRY LIST WITHOUT FOCUS ON
9 PARTICULAR OPINIONS THAT I THINK THAT WOULD BE BETTER
10 FOR --

11 MR. GUTERRES: THE ENTIRE ANSWER?

12 THE COURT: WELL, FOR -- TO FIND ON
13 MS. RUSSELL'S OPINIONS.

14 MR. PRAGER: JUST AFTER PAGE 2 OF THE THESIS,
15 AFTER THE INTRODUCTION, BEFORE THE CONCLUDING.

16 THE COURT: THE ALTERNATIVE WOULD BE TO -- TO
17 DENY THE OBJECTION. BUT I'M NOT SURE THAT ALL OF THE
18 THINGS SHE STATED WOULD NECESSARILY COME IN. SO I'M
19 NOT LIMITING THE INQUIRY, BUT I AM SUSTAINING THE
20 OBJECTION, LEAVING IT TO YOU TO ASK HER WHATEVER HER
21 REASONS WERE FOR HER DISAGREEMENT, AND IF SHE FEELS ON
22 A PARTICULAR OPINION THAT HE LACKS SUFFICIENT
23 QUALIFICATION, THEN SHE CAN SAY SO.

24 MR. GUTERRES: ALL RIGHT. BUT IF I GET A
25 LEADING OBJECTION, I AM GOING TO REMIND EVERYONE OF
26 THIS CONVERSATION.

27 THE COURT: YOU ASK ONE QUESTION, YOU GET AN
28 OBJECTION IT'S VAGUE, AND THEN YOU ASK THE NEXT

1 QUESTION, YOU GET THE OBJECTION IT'S LEADING. SO I
2 UNDERSTAND. WE'LL JUST DEAL WITH THAT.

3 MR. PRAGER: CAN YOU DECLARE HOSTILE?

4 MR. MCMILLAN: BUT YOU CAN SAY LEADING.

5 THE COURT: HE DIDN'T LEAD HER ON THAT.

6 MR. PRAGER: I THINK SHE LED HIM.

7 MR. GUTERRES: UNDERSTOOD.

8 THE COURT: YES, I THINK SO.

9 I UNDERSTAND YOUR DILEMMA. WE'LL DEAL WITH
10 THOSE OBJECTIONS AS TO VAGUE AND LEADING AT THE TIME.

11 MR. GUTERRES: GIVEN THE TIME, SHOULD WE
12 JUST --

13 THE COURT: YES, WE'RE GOING TO CALL IT A DAY.

14 MR. GUTERRES: OKAY. THANK YOU.

15 (THE FOLLOWING PROCEEDINGS WERE HELD IN
16 OPEN COURT IN THE PRESENCE OF THE
17 JURY.)

18 THE COURT: WE'RE BACK ON THE RECORD. THE
19 OBJECTION IS SUSTAINED.

20 AND IS THAT A MOTION TO STRIKE, THEN, THE
21 NARRATIVE?

22 MR. PRAGER: YES, YOUR HONOR.

23 THE COURT: ALL RIGHT. THE MOTION TO STRIKE
24 IS GRANTED. ALL PORTIONS OF THE ANSWER AFTER THE WORD
25 "DANGER" ARE ORDERED STRICKEN, AND THE JURY WILL
26 DISREGARD IT.

27 AND IT'S ALSO TIME FOR US TO RECESS. AND SO
28 IN A MOMENT WE'RE GOING TO -- WHEN WE RETURN TOMORROW

1 MORNING, IT WILL BE AT 9:30 INSTEAD OF 9:00.

2 EVERYBODY UNDERSTAND?

3 SO WE'RE GOING TO RECESS AT THIS TIME. ALL
4 JURORS, PLEASE REMEMBER THE ADMONITION: NO CONTACT
5 WITH ANYBODY, WHETHER THEY INITIATE IT OR YOU DO. DO
6 NOT RECEIVE INFORMATION FROM ANYONE ABOUT ANY PERSON OR
7 SUBJECT OR ISSUE IN THIS CASE. DO NOT FORM ANY OPINION
8 ON ANY SUBJECT OR ISSUE IN THIS CASE.

9 WE ARE NOW IN RECESS. WE'LL SEE THE JURY BACK
10 AT 9:30.

11 (JURY EXCUSED)

12 THE COURT: ALL RIGHT. AND ON THE RECORD
13 OUTSIDE THE PRESENCE OF THE JURY, ALL JURORS HAVING
14 LEFT.

15 SO I'LL SEE COUNSEL AT 8:00.

16 AND MR. PRAGER, WE NEED TO HAVE THE VERDICT
17 FORM TOO FOR THE DISCRIMINATION CLAIMS.

18 AND WE NEED TO HAVE YOU ALL HAVE CONFERRED
19 BEFORE I SEE YOU AT 8:00 BECAUSE WE'VE GOT TO SETTLE
20 THAT ISSUE.

21 I ALSO EXPECT -- I'M HOPING TO HAVE A RULING,
22 THE WRITTEN RULING COMPLETED ON THE ISSUE OF LAW FOR
23 THE COURT THAT WE DISCUSSED PREVIOUSLY. I DON'T KNOW
24 THAT I'LL BE ABLE TO BECAUSE IT'S RATHER LENGTHY, BUT I
25 DO KNOW THE RULING, AND SO I WILL PROBABLY GIVE YOU THE
26 RULING AT THE TIME WHETHER OR NOT THE WRITTEN STATEMENT
27 OF THE RULING HAS BEEN COMPLETED.

28 AND THEN WE NEED TO HAVE THE DISCUSSION ON THE

1 ISSUE THAT WE DISCUSSED THIS MORNING ABOUT THE ISSUE OF
2 HARM RESULTING FROM DISCRIMINATORY CONDUCT. AND I KNOW
3 THAT THIS IS A LOT TO DO FOR EVERYBODY, BUT WE'RE
4 RUNNING OUT OF TIME. AND ONE OF THE PROBLEMS THAT WE
5 HAVE IS WE'RE GETTING CLOSE TO THE TIME WHEN I HAVE TO
6 START EXCUSING SOME OF THE JURORS. AND WE DON'T HAVE
7 THE LUXURY ANY LONGER OF BEING IN A POSITION TO BE ABLE
8 TO MAKE -- OR THE PARTIES TO PRESENT THEIR POSITION AND
9 FOR DECISIONS TO BE MADE ON THESE ISSUES. AND THAT'S
10 THE REASON I TOLD THE JURY TO COME IN AT 9:30. IT MAY
11 VERY WELL BE THAT THERE WILL BE A LITTLE MORE
12 DISCUSSION THAN WE COULD ACCOMPLISH BY HAVING THEM COME
13 IN EARLIER.

14 SO I'LL SEE YOU BACK IN THE MORNING, 8:00 A.M.

15 MR. MCMILLAN: THANK YOU, YOUR HONOR.

16 MR. GUTERRES: THANK YOU, YOUR HONOR.

17 (RECESS)

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19 (WHEREUPON, AT THE HOUR OF 4:32 P.M.,

20 THE PROCEEDING ADJOURNED.)

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(NEXT PAGE IS 9001.)