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M A S T E R I N D E X

OCTOBER 4, 2016

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M A S T E R I N D E X

OCTOBER 4, 2016

EXHIBITS

(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 TUESDAY, OCTOBER 4, 2016
4 DEPARTMENT: 89 HON. WILLIAM A. MACLAUGHLIN, JUDGE
5 APPEARANCES: (AS HERETOFORE NOTED.)
6 REPORTER: ALISIA PATRICIO, CSR NO. 13606
7 TIME: 8:32 A.M.
8

9 ---OOO---

10
11 THE COURT: WE ARE ON THE RECORD. COUNSEL ARE
12 PRESENT OUTSIDE THE PRESENCE OF THE JURY.

13 IT'S BEEN A PRETTY BUSY MORNING. AND I
14 RECEIVED A SECOND NOTICE OF REQUEST BY THE PLAINTIFF TO
15 MOVE CERTAIN EXHIBITS INTO EVIDENCE.

16 I'M ASSUMING THE DEFENSE HASN'T HAD A CHANCE
17 TO CONSIDER IT OTHER THAN TO SEE THAT IT'S BEEN FILED?

18 MS. SWISS: CORRECT, YOUR HONOR.

19 THE COURT: ALL RIGHT. WE ALSO HAVE A VERDICT
20 FORM ONE AND VERDICT FORM TWO, WHICH I WON'T HAVE A
21 CHANCE TO LOOK AT UNTIL LATER.

22 AND THEN I ALSO RECEIVED A BRIEF FROM THE
23 DEFENSE ON THE ISSUE OF THE REQUEST FOR ADMISSION
24 REGARDING DR. EGGE.

25 DO YOU HAVE A BRIEF ON THAT THIS MORNING,
26 MR. MCMILLAN?

27 MR. MCMILLAN: I HAVEN'T SEEN IT YET, YOUR
28 HONOR.

1 DO WE HAVE A BRIEF ON THAT?

2 I HAVEN'T HAD A CHANCE YET, YOUR HONOR, TO
3 TAKE A LOOK AT THIS.

4 THE COURT: ALL RIGHT.

5 MR. MCMILLAN: BUT I DID COMMUNICATE WITH MY
6 OFFICE YESTERDAY AFTER OUR DISCUSSION AND THEY ARE
7 WORKING ON A BRIEF. I'M EXPECTING SOMETHING UP HERE BY
8 E-MAIL THIS MORNING, AND I'LL HAVE IT PREPARED,
9 HOPEFULLY, TO FILE IN THE AFTERNOON SESSION.

10 THE COURT: ALL RIGHT. IS YOUR EXPERT
11 WITNESS, SAIFER, GOING TO BE HERE SHORTLY?

12 MR. MCMILLAN: I BELIEVE SO. WE'LL TRY TO
13 TEXT MR. KING RIGHT NOW AND SEE WHERE THEY ARE IN THAT
14 PROCESS.

15 THE COURT: THAT WILL BE FINE.

16 MR. GUTERRES: YOUR HONOR, WE -- WITH REGARD
17 TO JUDGE NASH, I HAVE ADVISED COUNSEL THAT JUDGE NASH
18 HAS A CONFLICT IN THE AFTERNOON. HE HAS TO GO ON THIS
19 MORNING. AND AS OF TOMORROW -- AND MR. MCMILLAN
20 ALREADY KNOWS THIS -- HE'S OUT OF TOWN, SO,
21 UNFORTUNATELY, THAT IS IT.

22 THE COURT: DO YOU KNOW WHAT TIME JUDGE NASH
23 WILL BE HERE?

24 MR. MCMILLAN: WE'RE GOING TO TRY TO HAVE HIM
25 ON THE STAND BY 10:30.

26 AND THERE'S A SIGNIFICANT CONFLICT IN THAT
27 MS. SAIFER ALSO -- SHE NEEDS TO BE OUT OF HERE BY
28 11:20. SO WE'RE GOING TO TRY TO BE VERY EFFICIENT WITH

1 THE TIME ON HER SO THAT WE CAN GET JUDGE NASH ON THE
2 STAND BEFORE -- AT OR BEFORE 10:30. AND THAT SHOULD BE
3 SUFFICIENT TIME TO GET DONE WHAT WE NEED TO GET DONE.

4 MR. GUTERRES: AND I'VE REPRESENTED TO
5 JUDGE NASH, AT MR. MCMILLAN'S REQUEST, IF HE COULD BE
6 HERE AT 10:30, IN LIGHT OF WHAT MR. MCMILLAN INDICATED.

7 THE COURT: ALL RIGHT.

8 WELL, LET ME -- LET ME ADDRESS WITH YOU IN
9 ADVANCE, THEN, ISSUES RELATING TO SAIFER'S OPINIONS.
10 AND I'M REFERRING TO THE OPINIONS AS THEY WERE
11 ENUMERATED IN THE LIST OF OPINIONS TO BE RENDERED BY
12 THE RETAINED EXPERTS, OF WHICH SHE HAS A TOTAL OF 14 IN
13 THAT DESIGNATION.

14 MY VIEW IS, IN LOOKING AT THESE, THAT THE
15 FOLLOWING OPINIONS ARE SIMPLY NOT RELEVANT TO ISSUES IN
16 THE CASE: NOS. 1, 2, 3, 5, 6, 7, 8, 9, 10.

17 I HAVE A QUESTION AS TO WHETHER THERE'S A
18 SUFFICIENT FOUNDATION FOR HER TO BE ABLE TO TESTIFY TO
19 THE OPINIONS IN NO. 4 AND 11. AND IN ANY EVENT,
20 THERE'S CERTAIN PARTS OF NO. 4 AND 11 WHICH WOULD NOT
21 BE PERMITTED, BUT THERE'S ALSO SUBSTANTIAL PARTS THAT
22 COULD BE DEPENDING ON THE BASIS.

23 AND THAT HER OPINIONS ON NOS. 12, 13, AND 14,
24 I DON'T HAVE ANY QUESTION ABOUT THE RELEVANCE OF THE
25 OPINIONS. AND AS TO 12 AND 13, I DON'T REALLY HAVE A
26 QUESTION ABOUT THE FOUNDATION FOR THOSE OPINIONS.
27 NO. 14, I NEED TO KNOW THE BASIS OF THE OPINION,
28 ALTHOUGH -- THAT IS, THE FOUNDATION FOR THE OPINION.

1 THESE ALL HAVE TO DO -- I KNOW YOU'RE
2 OPERATING, AT LEAST FOR THE MOMENT, ON MY MEMORY,
3 MR. MCMILLAN, AS TO WHAT THEY ARE BECAUSE -- YOUR
4 MEMORY MIGHT VERY WELL PERMIT YOU TO DO THAT.

5 MR. MCMILLAN: I DON'T HAVE THEM IN FRONT OF
6 ME.

7 THE COURT: NO, I DIDN'T SEE THEM IN FRONT OF
8 YOU, THAT'S WHY I'M SAYING. 12, 13, AND 14 HAVE TO DO
9 WITH LEARNING.

10 MR. MCMILLAN: WITH? I'M SORRY.

11 THE COURT: THEY HAVE TO DO WITH LEARNING.

12 12 SAYS:

13 "RESEARCH SHOWS THAT TRAINING
14 ALONE IS NOT ENOUGH TO ENSURE
15 RETENTION."

16 OKAY.

17 NO. 13 TALKS ABOUT 10 PERCENT OF LEARNING
18 COMES THROUGH TRAINING, ANOTHER 20 PERCENT FROM
19 MENTORING AND COACHING, AND 70 PERCENT COMES FROM
20 ON-THE-JOB ASSIGNMENTS AND PROJECTS. AND IF ON-THE-JOB
21 EXPERIENCE IS -- CONTRADICTS THE TRAINING RECEIVED, THE
22 TRAINING IS UNLIKELY TO HAVE ANY IMPACT. OKAY.

23 AND NO. 14 IS HER OPINION THAT THE TRAINING
24 THAT WAS DELIVERED TO THESE EMPLOYEES WAS INEFFECTIVE.
25 I DON'T KNOW HOW SHE CAN SAY THAT, BUT THAT'S WHY WE
26 HAVE THE 402 HEARING.

27 MR. MCMILLAN: YOUR HONOR, I DID HAVE ONE
28 QUESTION. AND I THINK IN LIGHT OF WHAT WE'RE TALKING

1 ABOUT RIGHT NOW, I PROBABLY NEED TO TALK AGAIN WITH
2 MS. SAIFER AND MR. KING.

3 AT THE -- I DON'T REMEMBER WHEN IT WAS, MAYBE
4 A WEEK OR -- IT'S ALL KIND OF A FOG. BUT WE SORT OF
5 ADDRESSED MS. SAIFER'S OPINIONS AT A HEARING EARLIER
6 DURING TRIAL, AND IN MY NOTES I HAD WRITTEN DOWN THAT
7 6, 9, 12, AND 13 WERE OKAY, THAT YOU DIDN'T HAVE A LOT
8 OF CONCERNS THERE, BUT THAT THE OTHER OPINIONS THERE
9 WERE SIGNIFICANT PROBLEMS WE WERE GOING TO NEED TO
10 ADDRESS. AND I DON'T RECALL THE RELEVANCE ISSUE COMING
11 UP, SO I REALLY DIDN'T FOCUS A LOT OF ATTENTION ON THAT
12 WITH RESPECT TO NOS. 6, 9, 12, AND 13.

13 THE COURT: ALL RIGHT. LET ME CHECK THAT.

14 ALL RIGHT. WELL, IN WHAT I TOLD YOU, I'D
15 ALREADY INDICATED 12 AND 13 APPEAR TO ME THE OPINIONS
16 THAT HAVE SOME RELEVANCE ISSUES IN THE CASE. LOOKING
17 AT 6 AND 9, I THINK ARGUABLY THEY CAN -- THEY ALSO
18 RELATE TO TRAINING AND THE EFFECT OF TRAINING.

19 I LOOKED FOR -- I'M NOT DOUBTING WHAT YOU'VE
20 SAID, BUT I LOOKED TO TRY TO FIND, EITHER IN MY NOTES
21 OR RULINGS MADE, ANYTHING THAT WOULD REFRESH MY MEMORY
22 OF HAVING TOLD YOU THAT, AND I HAVEN'T FOUND IT.

23 BUT IN LOOKING AT 6 AND 9, LIKE I SAID, THE
24 PROBLEM I HAVE WITH MOST OF THESE OPINIONS, SHE WANTS
25 TO TESTIFY ABOUT CULTURE. I DON'T KNOW HOW SHE'S GOING
26 TO POSSIBLY HAVE A FOUNDATION FOR DOING THAT. BUT MORE
27 IMPORTANTLY -- AND NOT SAYING SHE DOESN'T, I JUST DON'T
28 KNOW WHAT IT IS. BUT HAVING READ HER DEPOSITION, I SAW

1 IN HER DEPOSITION WHAT SHE -- MATTERS THAT SHE HAD
2 REFERRED TO, AND I DIDN'T THINK THAT WHAT SHE TALKED
3 ABOUT IN THERE WAS SUFFICIENT TO BE ABLE TO TALK ABOUT
4 CULTURE. BUT MOST IMPORTANTLY, I DON'T THINK CULTURE
5 REALLY HAS ANYTHING TO DO WITH THIS EXCEPT PERHAPS TO
6 THE EFFECT OF TRAINING THAT WAS GIVEN.

7 I MADE A LIST OF THE QUESTIONS THAT WOULD --
8 THAT REPRESENT THE ISSUES TO BE DECIDED BY THE JURY IN
9 FINDING FOR A POSSIBLE BASIS TO SUPPORT A MONELL CLAIM.
10 AND THEY...

11 ON THE ISSUE OF SEIZURES WITHOUT A WARRANT,
12 THE QUESTIONS THE JURY HAS TO DECIDE WAS, ONE, DID DCFS
13 HAVE AN OFFICIAL CUSTOM AND PRACTICE FOR SEIZURE OF
14 CHILDREN FROM THEIR PARENTS WITHOUT EXIGENCY? WELL,
15 HER OPINIONS AREN'T GOING TO ADDRESS THAT.

16 MR. MCMILLAN: RIGHT.

17 THE COURT: ALSO ANOTHER ISSUE, A BASIS OF
18 POTENTIAL MONELL LIABILITY FOR SEIZURE WITHOUT A
19 WARRANT, IS IN QUESTION NO. 9 IN WHAT WAS THE VERDICT
20 FORM THAT WE WERE LOOKING AT YESTERDAY. IT MAY BE A
21 DIFFERENT NUMBER BECAUSE YOU'VE GIVEN A NEW ONE TODAY,
22 BUT I THINK THE QUESTIONS WOULD BE THE SAME: DID DCFS
23 FAIL TO PROMULGATE POLICY? AND SO EITHER THEY HAD A
24 PRACTICE OF -- A CUSTOM AND PRACTICE OF SEIZING THEM OR
25 THEY DIDN'T HAVE ANY POLICY ON THE ISSUE AT ALL.

26 AND THEN THE NEXT QUESTION IS DID DCFS -- DID
27 IT KNOW OR SHOULD IT HAVE BEEN OBVIOUS TO IT THAT
28 EITHER ITS CUSTOM AND PRACTICE OR THE FAILURE TO HAVE A

1 POLICY WOULD RESULT IN UNWARRANTED SEIZURE? THERE'S
2 NOTHING THAT'S -- NONE OF THESE OPINIONS OF HERS ARE
3 GOING TO HELP DECIDE THAT ISSUE. SHE'S VERY
4 CRITICAL -- AND PERHAPS WITH GOOD CAUSE, FOR ALL I
5 KNOW -- SHE'S CRITICAL OF THE CULTURE IN DCFS, BUT THE
6 CULTURE DOESN'T HELP US ANSWER ANY OF THOSE QUESTIONS.

7 ON THE ISSUE OF TRAINING AND SUPERVISION, ONE
8 ISSUE WAS, WAS THE DCFS TRAINING PROGRAM AND/OR
9 SUPERVISION OF ITS EMPLOYEES INADEQUATE TO TRAIN OR
10 SUPERVISE THE EMPLOYEES TO PROPERLY HANDLE? WELL, THE
11 OPINIONS I'VE INDICATED THAT I THINK SHE COULD GIVE
12 ABOUT THE EFFECTIVENESS OF TRAINING AND SO ON WOULD
13 HAVE SOME RELEVANCE TO THAT SUBJECT, AND THAT'S WHY
14 I'VE INDICATED, AS TO THOSE, I WOULD PERMIT THEM.

15 NOW, THE NEXT QUESTION IS, IN THAT -- AND THIS
16 HAS TO DO WITH UNWARRANTED SEIZURES OF A CHILD -- DID
17 DCFS KNOW OR SHOULD IT HAVE BEEN OBVIOUS THAT ITS
18 INADEQUATE TRAINING PROGRAM WAS LIKELY TO RESULT IN THE
19 UNWARRANTED SEIZURE? AGAIN, THESE QUESTIONS ABOUT
20 CULTURE DON'T ANSWER THAT FOR US. WHAT ANSWERS THAT
21 FOR US IS EVIDENCE THAT THE -- THAT THE EVIDENCE YOU
22 HAVE SO FAR IS IT WAS A -- I'LL CALL IT A COMMON
23 OCCURRENCE, OR AT LEAST A -- THERE WERE REPEATED
24 OCCURRENCES OF DETENTION OF A CHILD WITHOUT A WARRANT.
25 AND IT DOESN'T MAKE ANY DIFFERENCE WHETHER SHE HAS AN
26 OPINION IN THERE THAT THERE'S A BULLYING ATMOSPHERE IN
27 DCFS. I DON'T THINK THAT'S SOMETHING SHE CAN TESTIFY
28 TO. IF SHE'S SAYING THAT -- FROM READING HER

1 DEPOSITION, SHE HAS NO BACKGROUND, IN MY OPINION, THAT
2 WOULD PERMIT HER TO SAY THAT. ALL SHE WOULD BE DOING
3 IS PARROTING WHAT SOMEONE ELSE HAD SAID. AND THAT IS A
4 FACT STATEMENT, AND SHE'S NOT A FACT WITNESS.

5 SO THE ADDITIONAL QUESTIONS, THEN, ON
6 DECEPTION, DID THEY HAVE AN OFFICIAL CUSTOM AND
7 PRACTICE OF, IN EFFECT, PERMITTING EMPLOYEES TO PRESENT
8 FALSE INFORMATION TO THE COURT? OR DID THEY FAIL TO
9 HAVE A POLICY ON IT? WELL, HER TESTIMONY ISN'T GOING
10 TO HELP US WITH EITHER OF THOSE.

11 DID THE DCFS, COUNTY, KNOW OR SHOULD HAVE IT
12 BEEN OBVIOUS THAT EITHER -- IS CUSTOM AND PRACTICE IN
13 PERMITTING IT -- DECEPTIVE INFORMATION -- OR FAILURE TO
14 PROMULGATE A POLICY PROHIBITING IT A VIOLATION? WELL,
15 EITHER THERE WAS A POLICY -- IN OTHER WORDS, HER
16 OPINION ON THIS, SHE DOESN'T EXPRESS AN OPINION ON
17 THAT. AND THE OTHER OPINIONS SHE'S OFFERING DON'T GIVE
18 US AN ANSWER TO THAT QUESTION. YOUR OTHER EVIDENCE
19 DOES; AT LEAST IT GIVES AN ANSWER. IT REMAINS TO BE
20 SEEN WHAT THE JURY FINDS THE FACTS TO BE.

21 SO THEN WE GET TO THE TRAINING AND SUPERVISION
22 IN DECEPTION. SHE HAS AN OPINION ABOUT THEIR TRAINING
23 WAS INADEQUATE, THAT'S THE FIRST QUESTION. OKAY. AND
24 I'VE INDICATED SHE CAN TESTIFY ABOUT THE EFFECTIVENESS
25 OF TRAINING.

26 GENERALLY, I DON'T KNOW WHETHER -- SHE
27 APPARENTLY HAS AN OPINION THAT THEIR ACTUAL TRAINING
28 WAS DECEPTIVE. I'M GOING TO HAVE TO FIND OUT WHAT THE

1 BASIS FOR THAT IS, IF THERE'S A FOUNDATION FOR THAT OR
2 IF THAT'S JUST SOMETHING THAT SHE HAS ASSUMED OR IS
3 STATING AN OPINION WITHOUT AN ADEQUATE FOUNDATION. BUT
4 THE TRAINING ISSUES ARE ONES IN WHICH, BY AND LARGE, I
5 WOULD PERMIT HER TO TESTIFY TO THESE OPINIONS.

6 AND SO THAT'S THE PROBLEM I HAVE WITH THIS
7 TESTIMONY. AND SO WHEN I ORIGINALLY TALKED TO YOU, AND
8 I ACCEPT -- I DON'T THINK FOR A MOMENT THAT YOU ARE
9 INACCURATE IN STATING WHAT I HAD PREVIOUSLY TOLD YOU
10 INFORMALLY AS TO 6, 9, 12, AND 13. BUT EVEN WITH 6 AND
11 9 -- I ALREADY INDICATED 12 AND 13 ABOUT TRAINING
12 SHOULD BE PERMITTED, PERHAPS AND 14 IF SHE CAN SHOW A
13 FOUNDATION FOR THOSE OPINIONS.

14 BUT 6 IS: WITH NO DISCIPLINE TO ENFORCE
15 TRAINING, HER -- THE OPINION IS NO CHANGE IN CULTURE
16 CAN HAPPEN. THAT'S NOT THE ISSUE. THE ISSUE IS: IF
17 YOU DON'T HAVE DISCIPLINE TO ENFORCE TRAINING, THE
18 TRAINING IS INEFFECTIVE. AND THAT'S ONE OF THE
19 OPINIONS THAT I SAY THAT SHE CAN EXPRESS.

20 MR. MCMILLAN: DO YOU --

21 THE COURT: AND THEN:

22 "TRAINING IN A VACUUM WITHOUT THE
23 CULTURE TO SUPPORT THE LEARNING BACK ON
24 THE JOB IS COMPLETELY WORTHLESS."

25 WELL, AGAIN, I'M REALLY HAVING DIFFICULTY WITH
26 HER OPINIONS ABOUT CULTURE. BUT CERTAINLY I WOULD
27 AGREE THAT AN OPINION TO THE EFFECT OF TRAINING WITHOUT
28 JOB EXPERIENCE WHICH ENFORCES THE TRAINING WOULD RENDER

1 THE TRAINING INEFFECTIVE. IN OTHER WORDS, THEY GET
2 TRAINED TO DO SOMETHING, BUT THEN WHEN THEY'RE ON THE
3 JOB, EVEN THOUGH THEY'VE BEEN TRAINED TO DO CERTAIN
4 THINGS OR REFRAIN FROM DOING CERTAIN THINGS, BUT THEIR
5 JOB EXPERIENCE IS THEY DON'T HAVE TO DO THOSE THINGS OR
6 DON'T HAVE TO REFRAIN FROM DOING THEM, THEN THE
7 TRAINING BECOMES INEFFECTIVE.

8 SO I THINK THAT A COUPLE OF THESE OPINIONS ON
9 THE ISSUES OF TRAINING DO HAVE SOME RELEVANCE TO IT AND
10 I THINK ARE PROPER SUBJECT FOR EXPERT OPINION. WHEN
11 THEY REALLY GO TO THE ISSUES OF TRAINING AND THE EFFECT
12 TRAINING WOULD HAVE OR NOT HAVE DEPENDING ON HOW IT IS
13 APPLIED ON THE JOB, OKAY. AND THAT'S WHAT I THINK SHE
14 CAN GIVE. BUT OTHER THAN THAT, I JUST DON'T SEE IT.

15 MR. MCMILLAN: AND YOUR HONOR, FIRST, WITH
16 RESPECT TO 6, 9, 12, AND 13, I DON'T RECALL THAT THAT
17 WAS A FORMALIZED RULING. I JUST --

18 THE COURT: I DON'T THINK IT WAS BECAUSE I
19 LOOKED BACK THROUGH THE MINUTE ORDERS AS TO THE RULINGS
20 THAT I'VE MADE ON VARIOUS ISSUES, INCLUDING OPINIONS,
21 AND I DON'T SEE IT. BUT I'M NOT DOUBTING YOUR
22 STATEMENT IN ANY WAY BECAUSE THE ONES THAT YOU'VE
23 MENTIONED, 12 AND 13 I'D ALREADY INDICATED TO YOU
24 BEFORE YOU MENTIONED THE PRIOR COMMENT, AND IN LOOKING
25 AT 6 AND 9, I THINK WORDED DIFFERENTLY THE OPINION
26 REMAINS THE SAME. AND THOSE OPINIONS HAVE TO DO WITH
27 THE EFFECTIVENESS OF TRAINING. AND SO WHAT YOU TELL ME
28 IS CONSISTENT WITH HOW I READ THESE AGAIN LAST NIGHT

1 AND THIS MORNING IN ORDER FOR US TO HAVE THIS
2 DISCUSSION NOW.

3 MR. MCMILLAN: I APPRECIATE THAT, YOUR HONOR.
4 WITH RESPECT TO HOW, I GUESS, DISCIPLINE AND
5 ENFORCEMENT OF TRAINING ON THE JOB INTERLACED WITH
6 TRAINING, THAT WAS THE INTENT THAT WE WERE LOOKING TO
7 CONVEY. AND, YOU KNOW, THE CULTURE THING, I COMPLETELY
8 UNDERSTAND WHERE YOUR HONOR IS COMING FROM, AND I'M
9 FAIRLY CONFIDENT THAT WE'VE ADDRESSED THAT ISSUE WITH
10 HER, BUT I HAVEN'T HAD A CHANCE TO TALK TO MR. KING YET
11 THIS MORNING TO SEE WHERE WE STAND.

12 THE COURT: ALL RIGHT. I ALSO INDICATED TO
13 YOU NO. 4 IS -- I HAD A QUESTION MARK ABOUT NO. 4 AND
14 NO. 11, AND I DIDN'T GIVE YOU -- I DIDN'T MENTION THOSE
15 TO YOU SPECIFICALLY AS BEING EITHER IRRELEVANT OR ONES
16 THAT I WOULD PERMIT.

17 NO. 4, THERE'S AN ASPECT OF NO. 4 WHICH I
18 THINK HAS RELEVANCE BUT I THINK IT'S COVERED BY THE
19 ONES I ALREADY INDICATED TO YOU THAT WOULD BE PERMITTED
20 ABOUT TRAINING. NO. 4, AS ITS EXPRESSED HERE IN THE
21 OPINIONS GIVEN, "THE BULLYING LEADERSHIP STYLE AND
22 LAISSEZ-FAIRE ATTITUDE TOWARD AND BY SUPERVISORY
23 MANAGEMENT," ET CETERA, AND THE LACK OF SPECIFIC
24 POLICIES ADDRESSING ERRANT BEHAVIOR, THAT -- THIS IS --
25 I KNOW SHE'S INTERPRETED THIS AS BULLYING, WHICH I'M
26 NOT GOING TO PERMIT AT ALL.

27 MR. MCMILLAN: RIGHT.

28 THE COURT: AND IT'S INTERESTING SHE SAYS IT'S

1 BULLYING, WHICH SHE DEFINES AS OVERBEARING AND, I
2 GUESS, UNREASONABLE ACTS BY THE LEADERS TOWARDS THE
3 EMPLOYEES, AND THEN ALSO CALLS IT LAISSEZ-FAIRE, WHICH
4 IS THE -- LAISSEZ-FAIRE IS HANDS-OFF AND REALLY JUST
5 LETTING THINGS GO ON AS THEY WILL. I FIND -- THIS
6 ISN'T THE REASON WHY I THINK IT SHOULDN'T BE PERMITTED,
7 BUT I FIND THAT TO BE SOMEWHAT CONTRADICTORY. EITHER
8 THEY'RE HANDS-ON OR THEY'RE HANDS-OFF. IF THEY'RE
9 HANDS-ON IN A BULLYING MANNER, THEN THAT'S -- IN HER
10 OPINION, AND I THINK MANY PEOPLE WOULD AGREE -- A BAD
11 FORM OF LEADERSHIP. AND SHE'S ALSO SAYING IT
12 HANDS-OFF, IN EFFECT, LAISSEZ-FAIRE, IS ON THE JOB,
13 THAT IF YOU'RE NOT ENFORCING THE TRAINING ON THE JOB,
14 THEN THE TRAINING BECOMES ESSENTIALLY MEANINGLESS.
15 WELL, THAT'S INCORPORATED, I THINK, IN THE OPINIONS
16 THAT I WOULD PERMIT. FOR HER TO SAY WHAT THE SPECIFIC
17 EFFECTS OF ALL THIS WOULD BE IS QUESTIONABLE IN MY
18 MIND.

19 AND THEN ON NO. 11, THIS ONE TALKS ABOUT THE
20 TESTIMONY OF LYNNE BOWLES CONDON. SHE SAYS IT SUGGESTS
21 THERE'S A MULTITUDE OF TRAINING CLASSES THAT WERE
22 EITHER MANDATORY OR AVAILABLE, HOWEVER, THE CULTURE OF
23 DCFS IS DRIVEN BY FUNDING AND SELF-PROTECTION ISSUES.

24 MR. MCMILLAN: WE'RE NOT CAUGHT UP WITH YOU
25 YET, YOUR HONOR.

26 THE COURT: OKAY. WELL, I'M JUST READING IT
27 TO YOU, NO. 11, UNDER HER OPINIONS. THIS IS ON PAGE 63
28 OF YOUR DESIGNATED OPINIONS.

1 MR. MCMILLAN: I HAVE A VAGUE RECOLLECTION,
2 YOUR HONOR.

3 THE COURT: OKAY. WELL, GO AHEAD.

4 AGAIN, SHE TALKS ABOUT THE CULTURE OF DCFS IS
5 DRIVEN BY FUNDING AND SELF-PROTECTION ISSUES. I DON'T
6 KNOW WHAT THE BASIS OF THAT IS. I'M AWARE THAT SHE HAD
7 READ SOME DEPOSITION -- I THINK IT WAS A DEPOSITION, OR
8 AT LEAST SOME TESTIMONY OF SOMEONE IN ORANGE COUNTY WHO
9 GAVE THE OPINION THAT IN ORANGE COUNTY THEIR CULTURE
10 WAS DRIVEN BY FUNDING. I GREATLY QUESTION HER ABILITY
11 TO EXPRESS THAT OPINION ABOUT DCFS IN THIS CASE.

12 BUT WHAT SHE SAYS BASICALLY HERE IS EVEN
13 THOUGH THESE CLASSES ARE CLASSES THAT'S AVAILABLE AND
14 APPARENTLY GIVEN -- OR TRAINING GIVEN TO THE EMPLOYEES,
15 THIS IS THE SAME THING. SHE GOES ON TO SAY THAT IN
16 PRACTICE, THE WAY THEY WORK, ANY POLICY THEY HAVE
17 SIMPLY ISN'T ENFORCED. AND SO IF HER OPINION IS LACK
18 OF APPLICATION OR ENFORCEMENT OF A POLICY AND TRAINING
19 ON THE JOB, HER OPINION IS THAT THE TRAINING BECOMES
20 ESSENTIALLY MEANINGLESS.

21 SO THIS IN NO. 11 GOES BACK TO WHAT I THINK
22 THE CORE IS OF WHAT I THINK SHE CAN TESTIFY TO, ABOUT
23 EITHER THE EFFECT OF LACK OF TRAINING, MEANING YOU'VE
24 LEFT PEOPLE -- OR LACK OF POLICY AND/OR LACK OF
25 TRAINING IN THE POLICY LEAVES EMPLOYEES REALLY ON THEIR
26 OWN TO BE MAKING DECISIONS WITHOUT -- I'LL CALL IT
27 SUFFICIENT INFORMATION AS TO HOW BEST TO PERFORM THAT
28 JOB, OKAY.

1 BUT EVEN WHEN TRAINING HAS BEEN PROVIDED AND
2 EVEN IF YOU HAVE A POLICY ON SOMETHING, IF, ON THE JOB,
3 THE POLICY AND/OR TRAINING ISN'T FOLLOWED, THEN EITHER
4 THE POLICY OR THE TRAINING REALLY BECOMES ESSENTIALLY
5 MEANINGLESS. NOW, THAT I THINK CAN GO TO SOME OF THESE
6 ISSUES ABOUT POTENTIAL MONELL LIABILITY REALLY ON THIS
7 ISSUE OF TRAINING AND APPLICATION OF THE TRAINING.

8 SO 4 AND 11, WHILE I HAD A QUESTION MARK IN
9 IT, IT'S REALLY BECAUSE THERE'S PARTS OF IT I WOULDN'T
10 WANT HER TESTIFYING TO. BUT THE PART ABOUT THAT EITHER
11 A LACK -- SHE INDICATES THERE IS TRAINING, BASED ON
12 CONDON'S TESTIMONY. AND I THINK WHAT HER OPINION IS,
13 IF YOU HAVE TRAINING, GOOD, BUT IF IT'S NOT ENFORCED BY
14 ON-THE-JOB -- NOT FOLLOWED ON THE JOB, IT BECOMES
15 MEANINGLESS AND YOU'RE GOING TO HAVE PEOPLE DOING
16 THINGS THEY SHOULDN'T DO.

17 MR. MCMILLAN: RIGHT. AND I BELIEVE THAT IS
18 HER TESTIMONY.

19 THE COURT: OKAY. WELL, TO THAT EXTENT -- AND
20 I HAVEN'T HEARD YET FROM MR. GUTERRES; I'M TELLING YOU
21 WHAT MY PRELIMINARY VIEW OF THIS IS.

22 BUT BEFORE WE GO ANY FURTHER, I THINK THAT
23 EITHER -- I'M NOT SURE IF MR. GUTERRES OR MS. SWISS
24 WILL WANT TO RESPOND ON THIS, BUT I'VE INDICATED THAT
25 THERE'S JUST A SMALL AREA ON ALL THESE OPINIONS THAT I
26 THINK COULD BE PERMITTED.

27 MS. SWISS: YOUR HONOR, WITH REGARD TO
28 OPINIONS 6, 9, 12, AND 13, IN MY NOTES, THE COURT HAD

1 MADE THOSE INDICATIONS ON SEPTEMBER 19TH, IF THAT HELPS
2 THE COURT LOOK AT IT. THAT'S WHAT I FOUND. SO I AGREE
3 WITH MR. MCMILLAN THAT THERE WAS A PRIOR DISCUSSION
4 ABOUT THAT.

5 THE COURT: I'M NOT DOUBTING YOUR WORD.
6 NOW YOU TELL ME IT WAS ON SEPTEMBER 19TH, WAS
7 IT?

8 MS. SWISS: I DON'T EVEN KNOW HOW LONG AGO
9 THAT WAS.

10 THE COURT: NOW I RECALL.

11 MS. SWISS: PERFECT. DOES THAT REFRESH YOUR
12 RECOLLECTION, YOUR HONOR?

13 THE COURT: OKAY. WELL, AT LEAST WHAT I
14 WORKED ON LAST NIGHT AND THIS MORNING IS FAIRLY
15 CONSISTENT WITH WHAT I SAID AT THE TIME.

16 MS. SWISS: SO -- BUT I DO RECALL THAT
17 RECOLLECTION.

18 THE COURT: OKAY. THANK YOU.

19 MS. SWISS: SO WE'RE ALL SORT OF ON THE SAME
20 PAGE WITH THAT.

21 WITH REGARD TO MS. SAIFER'S TESTIMONY, THE
22 DEFENDANTS WOULD STILL ARGUE THAT THE TESTIMONY IS
23 EITHER NOT RELEVANT AND THERE IS JUST NO BASIS FOR HER
24 OPINIONS. WITH REGARD TO THE SPECIFIC ISSUE OF WHETHER
25 THE TRAINING WAS EFFECTIVE, THE BASIS FOR MS. SAIFER'S
26 OPINION THAT SHE TESTIFIED TO IN DEPOSITION WAS BASED
27 ON READING THE DEPOSITION OF DONNIE COX, WHO TESTIFIED
28 THAT HE RECEIVES 30 CALLS PER DAY FROM POTENTIAL

1 CLIENTS SAYING THAT THEIR CHILDREN HAVE BEEN TAKEN FROM
2 THEM WRONGFULLY. AND ALSO THE BASIS FOR HER OPINION
3 WAS THE CONVERSATION WITH MR. MCMILLAN.

4 SHE DOES NOT KNOW THE SPECIFIC STATISTICS OF
5 HOW MANY CHILDREN ARE DETAINED PER YEAR WITHIN THE
6 COUNTY OF DCFS, THE REASONS FOR THOSE DETENTIONS. SHE
7 HAS NOT READ ANY OF THE DEPOSITIONS OF ANY OF THE
8 INDIVIDUAL DEFENDANTS, EXCEPT FOR KIMBERLY ROGERS, TO
9 BE ABLE TO EXPLAIN HOW THEY WERE -- HOW THE TRAINING
10 THAT THEY DID RECEIVE WAS NOT EFFECTIVE IN THIS
11 PARTICULAR CASE. AND THE BASIS FOR HER OPINION IS
12 ESSENTIALLY FROM READING ONE DEPOSITION OF AN ATTORNEY
13 WHO'S STATING HIS OWN LIMITED OPINION ON HIS OWN
14 ANECDOTAL EXPERIENCE AND A CONVERSATION WITH COUNSEL.

15 SO WE HAVE STRONG OBJECTION TO THE BASIS FOR
16 ANY OF HER OPINIONS REGARDING THE EFFECTIVENESS OF
17 TRAINING.

18 THE COURT: WELL, I DIDN'T INDICATE IN WHAT I
19 SAID THAT SHE CAN TESTIFY THAT IT WAS INEFFECTIVE
20 BECAUSE I DON'T THINK THERE'S A FOUNDATION FOR THAT AT
21 ALL, THAT IT ACTUALLY WAS. I THINK SHE CAN TESTIFY IS
22 THAT IT CAN BECOME INEFFECTIVE IF NOT APPLIED ON THE
23 JOB. AND -- AND I THINK THIS DOES GO TO SOME OF THE
24 QUESTIONS THIS JURY WOULD HAVE TO DECIDE OVER POTENTIAL
25 MONELL LIABILITY.

26 AND I UNDERSTAND WHAT YOU'RE SAYING, AND I DID
27 READ THAT IN THE DEPOSITION, WHICH IS WHY I QUESTIONED
28 FROM THE VERY BEGINNING WHETHER THERE WAS A FOUNDATION

1 FOR MANY OF THESE OPINIONS. BUT THE REASON I THINK SHE
2 CAN'T, FOR EACH ONE OF THESE INDIVIDUALS, I DON'T THINK
3 THERE'S ANY BASIS FOR HER TO BE ABLE TO SAY THAT THE
4 TRAINING WAS INEFFECTIVE AS TO THE INDIVIDUALS,
5 SPECIFIC INDIVIDUALS. NOW, THE JURY MAY DECIDE THAT
6 ISSUE, WHETHER IT WAS INEFFECTIVE FOR THESE.

7 BUT FOR MONELL LIABILITY, THE MONELL LIABILITY
8 IS OF A MORE GENERAL NATURE, AND IT REALLY IS THE
9 LIABILITY THAT ARISES WHEN AN EMPLOYEE HAS DONE
10 SOMETHING BAD. IN ESSENCE, THE EMPLOYER SHOULD HAVE
11 KNOWN THAT THE TRAINING WASN'T GOING TO BE EFFECTIVE.
12 AND I THINK SHE CAN EXPRESS OPINIONS ON WHEN TRAINING
13 DOES NOT BECOME EFFECTIVE. THE THINGS THAT HAPPEN ON
14 THE JOB ARE NOT APPLIED AND SUPERVISED AND SO ON, THAT
15 IT CAN BECOME INEFFECTIVE.

16 BUT I'M NOT GOING TO LET HER EXPRESS AN
17 OPINION THAT THE TRAINING MS. PENDER RECEIVED WAS
18 INEFFECTIVE AS TO HER. I DON'T THINK THERE'S ANY BASIS
19 THAT SHE CAN EXPRESS THAT OPINION. IT'S FOR THE JURY
20 TO DECIDE WHAT MS. PENDER DID OR DIDN'T DO, BUT NOT FOR
21 THIS EXPERT TO BE ABLE TO SAY THE REASON WHY SHE DID OR
22 DIDN'T DO SOMETHING.

23 SO I'M MAKING A DISTINCTION THAT I DON'T
24 NECESSARILY EXPECT YOU TO AGREE WITH. BUT I DO INTEND
25 TO LIMIT THE TESTIMONY TO WHAT HAPPENS WHEN THERE IS --
26 IF THERE'S NO TRAINING. I DON'T THINK IT'S VERY
27 CONTROVERSIAL TO SAY IF THERE'S NO TRAINING AT ALL,
28 IT -- THAT THAT CAN BE A BASIS OF MONELL LIABILITY.

1 BUT WHAT SHE REALLY CAN TESTIFY TO, I BELIEVE, IS
2 THAT -- YOU KNOW, HOW PEOPLE LEARN, LIKE MANY OF YOU
3 PERHAPS HAD THAT TRAINING. I KNOW I HAVE.

4 AND SOME OF THOSE OPINIONS SHE MENTIONED IN
5 HERE ABOUT HOW WE RETAIN INFORMATION, WHAT IS -- I
6 WOULDN'T CALL IT COMMON KNOWLEDGE, OTHERWISE YOU
7 WOULDN'T NEED AN EXPERT. BUT CERTAINLY I BELIEVE AN
8 EXPERT CAN TESTIFY AS TO EFFECTIVENESS OF TRAINING,
9 HOW -- YOU KNOW, WHAT DO WE NEED IN ORDER FOR THE
10 TRAINING TO BE ABLE TO GUIDE US IN OUR CONDUCT? AND
11 SHE'S INDICATING THAT BASICALLY YOU'VE GOT TO HAVE THE
12 TRAINING APPLIED AND ENFORCED IN THE WORKPLACE FOR IT
13 TO BE MEANINGFUL. OKAY.

14 YOU KNOW, I THINK THIS DOES GO TO A COUPLE OF
15 THE QUESTIONS ABOUT MONELL LIABILITY, BUT I DON'T
16 INTEND IT TO GO BEYOND THAT FOR HER TO BE ABLE TO
17 TESTIFY AS TO ANY INDIVIDUAL, AS TO WHAT THEY DID OR
18 DIDN'T DO.

19 MS. SWISS: AND WITH REGARD TO THE MONELL
20 LIABILITY, THERE IS NO BASIS FOR HER OPINION TO TESTIFY
21 AGAINST THE COUNTY IN GENERAL. SHE'S NOT WORKED WITH
22 ANY MUNICIPALITIES OR COUNTIES OR OTHER GOVERNMENTS, NO
23 DCFS OFFICES, NO SOCIAL SERVICES OFFICES.

24 THE COURT: THAT'S TRUE.

25 MS. SWISS: SO SHE CAN TESTIFY IN GENERAL.
26 AND I WOULD ARGUE THAT THE TESTIMONY IS EITHER
27 IRRELEVANT OR DOESN'T NEED TO BE BROUGHT IN THROUGH AN
28 EXPERT WITNESS. SHE'S NEVER QUALIFIED AS AN EXPERT

1 WITNESS IN ANY OTHER CASE; SHE'S NEVER TESTIFIED
2 BEFORE. AND THE IMPLICATION OF HER TESTIMONY WOULD BE
3 THAT IT DIRECTLY IMPACTS THE COUNTY AND HER ANALYSIS OF
4 THE COUNTY, AND THAT WOULD BE PREJUDICIAL TO MY CLIENT
5 BECAUSE SHE DOESN'T HAVE A BASIS TO TESTIFY REGARDING
6 THE TRAINING OR THE CULTURE OR THE EFFECTIVENESS WITHIN
7 THE COUNTY. SHE JUST HASN'T READ EVEN THE INFORMATION
8 THAT HAS BEEN AVAILABLE IN THE CASE TO MAKE THAT
9 OPINION.

10 THE COURT: ALL RIGHT. I UNDERSTAND THE
11 ARGUMENT.

12 MS. SWISS: THANK YOU, YOUR HONOR.

13 THE COURT: AND I'M NOT DISMISSING IT IN ANY
14 WAY OTHER THAN TO EXPRESS THAT I DON'T AGREE THAT
15 THAT'S A BASIS FOR KEEPING OUT THE LIMITED AMOUNT OF
16 TESTIMONY THAT I WOULD PERMIT. AND THE SUBJECT MATTER
17 IS ONE OF EXPERTISE. THIS ISN'T SOMETHING THAT'S
18 COMMONLY KNOWN. AND I THINK IT DOES PERTAIN -- IT
19 IS -- I THINK IT'S SOMETHING THAT CAN BE CONSIDERED IN
20 A JURY DECIDING CERTAIN QUESTIONS OF THE MONELL
21 LIABILITY.

22 MS. SWISS: UNDERSTOOD.

23 THE COURT: SO AGAIN, AS I SAID, I'M NOT
24 EXPECTING YOU -- I'M NOT EXPECTING EITHER SIDE TO AGREE
25 WITH WHAT I'M DOING, BY THE WAY, OR AT LEAST WHAT I'M
26 INDICATING MY INTENT TO DO, BUT I'M -- THAT IS WHAT --
27 WHAT I'VE EXPRESSED TO YOU IS WHAT I'M GOING TO DO.

28 MS. SWISS: UNDERSTOOD, THANK YOU.

1 MR. MCMILLAN: THANK YOU, YOUR HONOR.

2 THE COURT: OKAY. SO IS SHE HERE?

3 MR. PRAGER: YES, YOUR HONOR.

4 MR. MCMILLAN: SHE IS, IN FACT, HERE.

5 THE COURT: ALL RIGHT.

6 NOW, AS TO -- IT DEPENDS ON WHAT PART OF
7 NO. 14 YOU WANT TO QUESTION HER ABOUT. AND THIS IS ON
8 PAGE 65, IF YOU HAVE YOUR DESIGNATION OF OPINIONS.
9 IT'S MR. KING, WHO SEEMS TO HAVE CUSTODY OF THAT
10 DOCUMENT.

11 MR. KING: I WISH IT WAS IN A BINDER, BUT I'VE
12 GOT THEM.

13 THE COURT: YEAH, I KNOW.

14 THE OPINION IS THAT THE TRAINING THEY
15 DELIVERED WAS INEFFECTIVE. I DON'T KNOW THAT THAT'S
16 THE CASE. BUT THE REST OF THE OPINION COINCIDES --
17 WHEN YOU GET OVER TO THE NEXT PAGE, YOU TALK ABOUT THE
18 FAILURE TO ENFORCE POLICIES AND TRAINING THROUGH
19 DISCIPLINE AND ALSO THROUGH SUPERVISION ON THE JOB,
20 AND -- RENDERING THE TRAINING INEFFECTIVE. THIS AGAIN
21 IS JUST, I THINK, A DIFFERENT WAY OF SAYING MUCH THE
22 SAME THING. IF YOU WANT TO LIMIT YOUR QUESTIONS TO
23 THAT -- OR HER OPINIONS TO THAT, THEN I DON'T NEED TO
24 DO THE 402 HEARING.

25 IF YOU WANT TO HAVE HER DELIVER AN OPINION
26 THAT THE TRAINING THAT WAS DELIVERED WAS INEFFECTIVE,
27 THAT IS MORE SPECIFIC IN THIS CASE THAN IF SHE -- THERE
28 SHE'S SAYING IN THIS CASE THE TRAINING THESE EMPLOYEES

1 GOT WAS INEFFECTIVE. THEN WE WOULD HAVE TO HAVE A 402
2 HEARING OVER THAT ISSUE BECAUSE I HAVE SUBSTANTIAL
3 QUESTIONS THAT -- KNOWING WHAT SHE DID READ, FROM WHAT
4 SHE HAS PERHAPS RELIED ON AS EXPRESSED IN HER
5 DEPOSITION -- THAT THERE'S ANY BASIS THERE TO BE ABLE
6 TO SAY THAT THIS TRAINING THAT ANY ONE OF THESE
7 INDIVIDUALS RECEIVED WAS INEFFECTIVE.

8 FURTHERMORE, WE DO HAVE -- I FORGET HOW
9 MANY -- WE HAVE SEVEN OR EIGHT INDIVIDUAL DEFENDANTS.
10 I DON'T THINK WE'D MAKE A GENERAL STATEMENT AS TO EVERY
11 ONE OF THEM. AND I DON'T BELIEVE THAT THERE'S ANY
12 BASIS FOR HER SAYING THE TRAINING WAS INEFFECTIVE AS TO
13 MS. PENDER, IT WAS INEFFECTIVE AS TO ROGERS, IT WAS
14 INEFFECTIVE AS TO SCHEELE, IT WAS INEFFECTIVE AS TO
15 SMITH, BECAUSE I DON'T THINK SHE HAS ANY INFORMATION,
16 AT LEAST FROM HER DEPOSITION, THAT WOULD PERMIT HER TO
17 RENDER THAT OPINION.

18 SO THERE'S PART OF THAT NO. 14 WHICH TIES INTO
19 THE REST OF IT THAT I THINK IS PERMISSIBLE AND IS
20 PROPER EXPERT TESTIMONY.

21 SO I'LL LEAVE IT UP TO YOU AS TO WHAT YOU WANT
22 TO DO.

23 MR. MCMILLAN: I THINK WE'RE OKAY. WE'LL GO
24 AHEAD AND LIMIT HER TESTIMONY TO STAY OUT OF THE
25 SPECIFICS THAT APPLY TO THE INDIVIDUAL DEFENDANTS IN
26 THIS CASE WITH THE SPECIFIC TRAINING ISSUES IN THIS
27 CASE.

28 THE COURT: YEAH. AND THIS DOES GO, THEN, TO

1 CERTAIN OF THOSE ISSUES THAT OVER -- FOR MONELL
2 LIABILITY, IT'S EITHER WHAT A COUNTY KNOWS OR SHOULD
3 KNOW, THAT WAS OBVIOUS TO THEM. AND THERE ARE
4 ARGUMENTS THAT CAN BE MADE, FOR EXAMPLE, THAT BY
5 EXPERIENCE IT SHOULD HAVE BEEN OBVIOUS TO THEM THAT THE
6 TRAINING HADN'T -- WASN'T BEING APPLIED IN THE
7 WORKPLACE. SO -- OKAY.

8 SO IF YOU'RE GOING TO LIMIT IT, AS I'VE
9 INDICATED, THEN I THINK WE DON'T NEED THE 402 HEARING.

10 BUT WE'RE GETTING CLOSE TO THE TIME FOR THE
11 JURORS TO BE HERE. AND SHE IS HERE?

12 MR. MCMILLAN: SHE IS HERE, YOUR HONOR.

13 AND WE'LL GO AHEAD AND LIMIT THE TESTIMONY AS
14 YOUR HONOR HAS INDICATED.

15 THE COURT: ALL RIGHT.

16 MR. MCMILLAN: COULD WE HAVE A FEW MINUTES,
17 YOUR HONOR, BEFORE WE GET STARTED?

18 THE COURT: YES, YOU'LL HAVE A FEW MINUTES.

19 LET ME JUST SAY THAT MS. SWISS HAS STATED THE
20 DEFENDANT'S POSITION ON THIS. AND I CONSIDER THAT THE
21 OBJECTIONS HAVE BEEN MADE -- WHICH THEY HAVE, FIRST OF
22 ALL, IN THE DOCUMENT SETTING FORTH THE OPINIONS, AND
23 THEN AS EXPRESSED JUST A FEW MINUTES AGO BY MS. SWISS
24 ON THE RECORD -- THAT THE OBJECTIONS HAVE BEEN MADE AND
25 THAT NO FURTHER OBJECTION ON THE BASES THAT HAVE BEEN
26 RAISED NEED BE MADE TO PROTECT YOUR RIGHTS. IT MAY BE
27 THAT A QUESTION WOULD GO BEYOND IT, WHAT YOU WOULD --
28 WHAT I'VE ALREADY INDICATED WOULD BE PERMISSIBLE, AND

1 CERTAINLY THEN AN OBJECTION SHOULD BE MADE, OR
2 SOMETHING ELSE ABOUT THE QUESTION ITSELF AS OPPOSED TO
3 WHAT I'VE ALREADY COVERED. BUT I DEEM YOU TO HAVE
4 OBJECTED TO ALL OF THIS TESTIMONY. AND SO IT WON'T BE
5 NECESSARY TO VOICE FURTHER OBJECTION TO THIS SUBJECT
6 MATTER UNLESS THE QUESTIONS GO BEYOND THE SUBJECT
7 MATTER OR THERE'S SOME OTHER BASIS FOR OBJECTION TO THE
8 QUESTION ITSELF.

9 MS. SWISS: UNDERSTOOD. THANK YOU.

10 THE COURT: AND ARE YOU THE ONE WHO WILL BE
11 DOING IT, MS. SWISS?

12 MS. SWISS: YES, YOUR HONOR.

13 THE COURT: OKAY. WELL, LET'S TAKE A FEW
14 MINUTES FOR EVERYBODY TO GET THEMSELVES PREPARED.

15 MR. MCMILLAN: THANK YOU, YOUR HONOR.

16 MR. GUTERRES: THANK YOU, YOUR HONOR.

17 (RECESS)

18 MR. GUTERRES: YOUR HONOR, WE HAD THE NOTE
19 FROM I BELIEVE THE JUROR NO. 3 ABOUT HER PHYSICAL
20 THERAPY, AND I'M UNCLEAR WHETHER OR NOT THE ONLY DAY
21 SHE WANTED TO FINISH EARLY WAS LAST WEEK ON THURSDAY OR
22 WHETHER THAT WAS A CONTINUING THING OR WHETHER IT'S
23 TUESDAYS AND THURSDAYS?

24 THE COURT: YEAH. I UNDERSTOOD IT TO BE A
25 CONTINUING REQUEST.

26 MR. GUTERRES: IT'S MS. SALINAS. MAYBE THAT'S
27 JUROR NO. 4.

28 THE COURT: SHE WAS -- ON ALL THE PAPERS I

1 HAVE HERE, I'M NOT FINDING IT. BUT SHE WANTED ON
2 THURSDAYS TO BE ABLE TO RECESS AT ABOUT 20 MINUTES
3 EARLIER, ABOUT 4:10, INDICATING A NEED FOR SOME
4 CONTINUING TREATMENT.

5 MR. GUTERRES: OKAY. SO I ASSUME, THEN, THIS
6 COMING THURSDAY WE'LL PROBABLY BE ENDING AROUND 4:10 OR
7 A LITTLE EARLIER?

8 THE COURT: RIGHT.

9 MR. GUTERRES: OKAY. THANK YOU.

10 THE COURT: THE COURT ATTENDANT INDICATED AS
11 OF A FEW MINUTES AGO THAT WE'RE MISSING TWO JURORS.

12 MR. MCMILLAN: OH, TWO? OKAY.

13 (PAUSE IN PROCEEDINGS)

14 MS. CHUNG: YOUR HONOR, MAY I ASK, ON FRIDAY,
15 ARE WE ALL DARK OR JUST JURY DARK?

16 THE COURT: THE JURY WILL NOT BE HERE BUT
17 COUNSEL WILL BE BECAUSE WE HAVE A LOT OF WORK TO DO ON
18 A NUMBER OF THESE ISSUES.

19 I HAVE SOME OTHER MATTERS SET ON THAT MORNING
20 WHICH I WILL HEAR, BUT I INTEND TO PUT YOU ALL TO WORK
21 ON THE JURY FORMS, INSTRUCTIONS, PERHAPS OTHER ISSUES
22 WE HAVEN'T RESOLVED, WHICH COULD INCLUDE REQUESTS FOR
23 ADMISSIONS. IT COULD ALSO INCLUDE THE EXHIBITS, THAT
24 WE HAVE SEVERAL REQUESTS AND WE'RE GOING TO HAVE TO
25 GIVE THE DEFENSE SUFFICIENT TIME TO BE ABLE TO REVIEW
26 ALL OF THOSE SO WE CAN DECIDE WHAT TO DO. SO WE HAVE A
27 LOT OF THINGS TO DO.

28 MS. CHUNG: OKAY. THANK YOU, YOUR HONOR.

1 MR. GUTERRES: YOUR HONOR, IF I MAY ASK, FOR
2 FRIDAY, IS IT POSSIBLE TO ASK FOR A 9:00 START TIME? I
3 HAVE A 7:30 MEETING I'D LIKE TO ATTEND.

4 THE COURT: YES.

5 MR. GUTERRES: THANK YOU.

6 THE COURT: YES.

7 MR. MCMILLAN: SO 9:00 A.M. IS WHEN WE SHOULD
8 ALL PLAN ON BEING HERE, THEN?

9 I'LL LET MR. DANER KNOW.

10 THE COURT: MS. SAIFER IS AVAILABLE?

11 MR. MCMILLAN: I BELIEVE SO.

12 THE COURT: OKAY.

13 (PAUSE IN PROCEEDINGS)

14 (JURY PRESENT)

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

17 MR. KING, I BELIEVE YOU'LL BE CALLING THE NEXT
18 WITNESS, WHO HEARD THE CALL AND IS ALREADY HERE. BUT
19 TELL US WHO THE WITNESS IS, THEN WE'RE GOING TO HAVE
20 HER STAND, RAISE YOUR RIGHT-HAND TO BE SWORN BY THE
21 CLERK.

22

23

ALANDRIA SAIFER,

24

WAS CALLED AS A WITNESS AND, HAVING BEEN FIRST DULY

25

SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

26

27

THE CLERK: FOR THE RECORD, PLEASE STATE YOUR

28

NAME AND SPELL YOUR FIRST AND LAST NAME.

1 THE WITNESS: DR. ALANDRIA SAIFER,
2 A-L-A-N-D-R-I-A, LAST NAME S-A-I-F-E-R.

3 THE COURT: THANK YOU.

4 GO AHEAD, MR. KING.

5

6 DIRECT EXAMINATION

7 BY MR. KING:

8 Q GOOD MORNING, DR. SAIFER.

9 A GOOD MORNING.

10 Q WHAT TYPE OF DOCTOR ARE YOU?

11 A I HAVE A DOCTORATE IN INDUSTRIAL AND
12 ORGANIZATIONAL PSYCHOLOGY.

13 Q WHAT IS INDUSTRIAL AND ORGANIZATIONAL
14 PSYCHOLOGY?

15 A INDUSTRIAL AND ORGANIZATIONAL PSYCHOLOGY IS
16 ACTUALLY SORT OF A TWO-PART DEGREE.

17 THE INDUSTRIAL SIDE IS THE PSYCHOMETRIC SIDE,
18 THE MEASUREMENT AND TEST THAT YOU MIGHT APPLY TO AN
19 ORGANIZATION. IT COULD BE AN IQ TEST. IT COULD BE A
20 MYERS-BRIGGS TEST. IT COULD ALSO BE A FULL ASSESSMENT
21 OF THE ORGANIZATION.

22 AND THE O SIDE, OR THE ORGANIZATION SIDE, IS
23 THE BEHAVIORAL SIDE, SO HOW PEOPLE FIT INTO THE
24 ORGANIZATION AND HOW THE ORGANIZATION CAN HAVE AN
25 IMPACT ON THOSE PEOPLE AS WELL.

26 THE COURT: BEFORE YOU ASK YOUR NEXT QUESTION,
27 SO DR. SAIFER, YOU'LL BE MORE EFFICIENT FOR US IF YOU
28 SLOW DOWN.

1 THE WITNESS: OKAY. I'M A LITTLE NERVOUS. I
2 APOLOGIZE.

3 THE COURT: THAT'S UNDERSTANDABLE. BUT
4 EVERYONE -- THE TRUTH IS EVERYONE IS WHEN THEY'RE ON
5 THE STAND. BUT WE HAVE TO MAKE SURE THAT OUR COURT
6 REPORTER SURVIVES THIS EXPERIENCE.

7 THE WITNESS: THANK YOU.

8 THE COURT: ALL RIGHT. GO AHEAD, MR. KING.

9 MR. KING: THANK YOU, YOUR HONOR.

10 BY MR. KING:

11 Q HOW LONG HAVE YOU BEEN DOING THIS TYPE OF
12 WORK?

13 A 24 YEARS.

14 Q CAN YOU TELL US A LITTLE BIT ABOUT YOUR
15 EDUCATION IN THIS FIELD?

16 A YES. I RECEIVED MY DEGREE, BOTH AS A MASTER'S
17 OF SCIENCE AS WELL AS A DOCTORATE, MANY YEARS AGO. AND
18 THAT DEGREE INCLUDES BOTH RESEARCH AS WELL AS
19 APPLICATION. SO THE PHD, THE DOCTORAL DEGREE, IS A
20 RESEARCH DEGREE. AND THE EDUCATION THAT I RECEIVED WAS
21 THE APPLICATION, THEN, OF THAT RESEARCH.

22 Q SO HOW DO YOU APPLY THIS KNOWLEDGE IN THE
23 DAY-TO-DAY WORK THAT YOU DO?

24 A WELL, I WORK WITH A LARGE NUMBER OF CLIENTS,
25 AND I CONTRACT OR SUBCONTRACT WITH A LARGE NUMBER OF
26 CONSULTING FIRMS AS WELL.

27 Q OKAY. DO YOU HAVE YOUR OWN FIRM?

28 A I DO.

1 Q WHERE DO YOU WORK?

2 A ALL OVER THE WORLD.

3 Q SO TELL US HOW IT IS SPECIFICALLY THAT YOU
4 HELP THE ORGANIZATIONS THAT YOU WORK WITH?

5 A WELL, IT'S VERY SITUATIONAL. IT DEPENDS ON
6 WHAT KIND OF A RELATIONSHIP, WHAT KIND OF A CONTRACT
7 I'M WORKING ON. BUT IT COULD BE ANYTHING FROM AN
8 ORGANIZATION-WIDE ASSESSMENT TO AN INDIVIDUAL COACHING
9 ENGAGEMENT.

10 Q WHEN YOU SAY "ASSESSMENTS," DO YOU DO
11 ASSESSMENTS FOR ORGANIZATIONS IN THE AREA OF TRAINING?

12 A YES.

13 Q COULD YOU TELL US ABOUT THAT?

14 A ABSOLUTELY. QUITE OFTEN I'M ASKED TO COME IN
15 ON EITHER THE FRONT END OR THE BACK END ON A TRAINING
16 SITUATION.

17 ONE MAY BE TO COME IN AND ASSESS AN
18 ORGANIZATION FOR WHAT KIND OF TRAINING THEY NEED AND
19 THEN HELP THEM TO DEVELOP THAT AND IMPLEMENT IT.

20 AND THE OTHER SIDE MAY BE THAT I COME IN AND
21 DELIVER A TRAINING PROGRAM THAT'S ALREADY BEEN
22 DEVELOPED BY ONE OF THE OTHER CONSULTING FIRMS I WORK
23 WITH.

24 Q CAN YOU GIVE US AN EXAMPLE?

25 A SURE. CURRENTLY, I HAVE A VERY LARGE CONTRACT
26 WITH EDWARD JONES, WHICH IS A FINANCIAL SERVICES
27 INDUSTRY. AND WHAT I DO WITH THEM IS DO AN ASSESSMENT
28 FOR THE PURPOSE OF HIRING. THEY'RE TRYING TO FILL

1 OFFICES ALL ACROSS THE COUNTRY WITH NEW FINANCIAL
2 ADVISORS. AND SO I HELP THEM BY ASSESSING THEIR
3 CANDIDATES AS TO WHETHER OR NOT THEY WOULD BE EFFECTIVE
4 AS FINANCIAL ADVISORS.

5 Q ARE YOU ABLE TO MEASURE THE OUTCOME OF THE
6 TRAINING PROGRAMS THAT YOU IMPLEMENT?

7 A YES.

8 Q HOW SO?

9 A WELL, ONE ASPECT IS WE USE A COMPETENCY MODEL
10 TO DEFINE WHAT WE'RE LOOKING FOR. SO SAY WE'RE TRYING
11 TO HIRE SOMEONE FOR A PARTICULAR JOB. WE'RE NOT JUST
12 SAYING DO THEY HAVE THE SKILL SET, BUT DO THEY HAVE THE
13 COMPETENCY THAT WE'VE IDENTIFIED AS KEY TO SUCCESS IN
14 THAT ROLE? SO THERE'S A MEASUREMENT UP-FRONT. AND
15 THEN WE ALSO MEASURE, ONCE THEY'RE IN THE ROLE, THEIR
16 SUCCESS IN THAT ROLE. ARE THEY ACHIEVING THEIR GOALS?

17 Q ARE YOU ABLE TO DO ASSESSMENTS WITH REGARDS TO
18 TRAINING?

19 A YES.

20 Q AND HOW IS THAT?

21 A THAT IS -- THERE'S, AGAIN, A MULTITUDE OF
22 WAYS, DEPENDING ON THE SITUATION. ONE SITUATION MIGHT
23 BE A TRAINING PLAN THAT WE IMPLEMENTED AS AN
24 ORGANIZATION, AND I'LL COME BACK TO CONTINUE TO GUIDE
25 AND COACH THE FOLKS THAT I WORKED WITH THROUGH THE
26 TRAINING PROGRAM. AND THEN WE DO A FOLLOW-UP
27 ASSESSMENT -- IT COULD BE THREE MONTHS, SIX MONTHS,
28 NINE MONTHS, A YEAR LATER -- TO SEE WHETHER OR NOT WHAT

1 THEY LEARNED HAS BOTH STUCK, AS WE SAY IN OUR LANGUAGE,
2 BUT ALSO IT'S LED TO SOME OUTCOMES THAT WE CAN MEASURE.

3 Q DO YOU DO ANY SORT OF ASSESSMENT TO SEE IF THE
4 TRAINING IS ACTUALLY BEING FOLLOWED BY THE ORGANIZATION
5 IN ITS POLICY?

6 A WE DO. BECAUSE THERE'S A DIRECT LINK BETWEEN
7 LOOKING AT AN ORGANIZATION'S TRAINING PROGRAM AND
8 LOOKING AT THEIR POLICIES. IF AN ORGANIZATION'S
9 TRAINING PROGRAM DOESN'T MATCH UP WITH THEIR POLICIES,
10 IT BECOMES VERY OBVIOUS IN THOSE POST MEASUREMENTS. WE
11 LOOK THREE MONTHS, SIX MONTHS, A YEAR DOWN THE ROAD,
12 AND THE TRAINING IS NOT STICKING, PEOPLE ARE NOT
13 FOLLOWING IT BECAUSE THERE ISN'T A POLICY IN PLACE THAT
14 ACTUALLY SUPPORTS THEM.

15 Q DO YOU EVER EVALUATE ORGANIZATIONS WHERE
16 THERE'S A POLICY BUT THE POLICY IN PRACTICE IS NOT
17 BEING FOLLOWED?

18 A YES.

19 Q COULD YOU GIVE US AN EXAMPLE OF THAT?

20 A ABSOLUTELY. THERE ARE MANY TIMES WHERE YOU'LL
21 SEE THAT AN ORGANIZATION HAS VERY GOOD GOALS, YOU KNOW,
22 THEY -- INTENTIONS, I THINK IS A BETTER WORD. THEY
23 INTEND TO FOLLOW THEIR POLICIES AND THEIR PROCEDURES,
24 BUT THEY DON'T ALIGN THEIR TRAINING PROGRAMS WITH THOSE
25 POLICIES AND PROCEDURES.

26 AND SO IT BECOMES VERY CHALLENGING TO HAVE
27 PEOPLE REALLY UNDERSTAND WHAT'S EXPECTED OF THEM AS A
28 RESULT OF THAT TRAINING PROGRAM WHEN THOSE POLICIES AND

1 PROCEDURES DON'T MATCH.

2 Q HAVE YOU EVER WORKED WITH ANY PUBLIC ENTITIES?

3 A I HAVE.

4 Q WHICH ONES?

5 A THE BUREAU OF INDIAN AFFAIRS, THE DEPARTMENT
6 OF -- OR, SORRY, NOT THE DEPARTMENT. THE -- MAY I LOOK
7 AT MY CV? NOW I'M GETTING SHAKEN. SORRY.

8 THE DISTRICT ATTORNEY'S OFFICE OF SAN DIEGO,
9 THE BUREAU OF INDIAN AFFAIRS, THE PORT OF SAN DIEGO,
10 AND THERE'S ONE OTHER THAT'S NOT COMING TO MIND.

11 Q HAVE YOU PROVIDED SERVICES FOR ANY SOCIAL
12 AGENCIES?

13 A I HAVE NOT.

14 Q OKAY. THE TRAINING AND THE WORK THAT YOU DO,
15 DOES IT APPLY TO A BROAD ARRAY OF ORGANIZATIONS, SUCH
16 AS SOCIAL AGENCIES?

17 A ABSOLUTELY.

18 Q NOW, WHAT'S THE PROCESS FOR DEVELOPING A
19 TRAINING PROGRAM?

20 A THE INITIAL STEPS ARE ALWAYS TO FIND OUT WHAT
21 THE NEEDS OF THE ORGANIZATION REALLY ARE. QUITE OFTEN
22 AN ORGANIZATION MAY SAY, "I NEED X; COME IN AND DESIGN
23 A PROGRAM FOR ME THAT WILL FULFILL THAT NEED." YET,
24 WHEN YOU GO INTO THE ORGANIZATION, IT TURNS OUT WHAT
25 THEY NEED IS NOT NECESSARILY X. THEY NEED Y. AND SO
26 DEVELOPING A TRAINING PROGRAM AROUND WHAT THEIR REAL
27 NEEDS ARE IS THE IDEAL SITUATION.

28 IT'S NOT ALWAYS WHAT HAPPENS. QUITE OFTEN,

1 YOU CONTRACT WITH THEM TO DEVELOP X, YOU DEVELOP X FOR
2 THEM. YOU DON'T GET TO CHANGE WHAT YOU WOULD SUGGEST
3 THAT THEY WOULD ACTUALLY DO. BUT THAT'S THE INITIAL
4 STEP.

5 Q IS IT IMPORTANT FOR THE TRAINING PROGRAM TO BE
6 CONSISTENT WITH THE ON-THE-JOB PERFORMANCE?

7 A ABSOLUTELY. ON-THE-JOB PERFORMANCE
8 EXPECTATIONS, YES. BECAUSE IF YOU DON'T HAVE THE
9 EXPECTATION THAT WHAT THEY LEARN DURING THE TRAINING
10 PROGRAM WILL BE APPLIED ON THE JOB, THEN WHY DO THE
11 TRAINING?

12 Q COULD YOU SAY MORE ABOUT THAT?

13 A ABSOLUTELY.

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

15 THE COURT: SUSTAINED.

16 BY MR. KING:

17 Q WHEN YOU SAY THAT IF THE EMPLOYEES DON'T HAVE
18 AN EXPECTATION THAT ON THE JOB THEIR PRACTICE SHOULD BE
19 CONSISTENT WITH THE TRAINING IN THEIR POLICIES, DOES
20 THAT CAUSE ANY SORT OF DISCONNECT?

21 A ABSOLUTELY. IT CAN CAUSE GREAT CONFUSION.

22 WHEN THERE'S AN EXPECTATION -- SO MY
23 ORGANIZATION HAS GIVEN ME THE OPPORTUNITY TO GO TO A
24 TRAINING PROGRAM. I GO. I LEARN SOMETHING THAT I
25 THINK IS NEW AND INTERESTING. I GO BACK ON THE JOB AND
26 THERE IS NO SUPPORT FOR IT, WHETHER IT'S A POLICY, A
27 PROCEDURE, MY SUPERVISOR, WHATEVER THE SITUATION MAY
28 BE. WHAT AM I SUPPOSED TO DO WITH WHAT I JUST LEARNED?

1 IT CREATES A GREAT DEAL OF CONFUSION IN THE
2 LEARNER, BUT IT ALSO CREATES A GREAT DEAL OF DISCONNECT
3 IN THE ORGANIZATION, ESPECIALLY IF A LOT OF PEOPLE GO
4 THROUGH THE TRAINING BUT THEN THERE'S NO SUPPORT ON THE
5 JOB FOR IT. THE TENDENCY IS THEN I'M GOING TO GO BACK
6 AND DO WHAT I USED TO DO, SINCE NOBODY'S HOLDING ME
7 ACCOUNTABLE FOR DOING THIS NEW THING, AND THERE DON'T
8 SEEM TO BE ANY CONSEQUENCES IF I DON'T DO THIS NEW
9 THING. SO I'M GOING TO DO WHAT I'M USED TO, WHAT I'M
10 COMFORTABLE WITH.

11 Q AND WHEN YOU SAY GO BACK TO DOING WHAT YOU'RE
12 COMFORTABLE WITH, THAT'S EVEN IF IT'S AGAINST TRAINING
13 AND SPECIFIC POLICIES?

14 A CORRECT.

15 Q AND IS THAT BECAUSE OF THE LACK OF
16 IMPLEMENTATION OF THE TRAINING?

17 MS. SWISS: OBJECTION. LEADING.

18 THE COURT: SUSTAINED.

19 BY MR. KING:

20 Q WHAT KIND OF REINFORCEMENT IS MOST EFFECTIVE
21 WITH REGARDS TO TRAINING?

22 A THERE'S A WHOLE SORT OF SERIES OF
23 REINFORCEMENTS THAT CAN BE EFFECTIVE. INITIALLY, IF
24 YOU HAVE WITHIN THE TRAINING PROGRAM ROLE PLAYS, FOR
25 EXAMPLE, SO YOU'RE ACTUALLY PRACTICING THE NEW BEHAVIOR
26 WHILE YOU'RE STILL IN THE TRAINING PROGRAM, THAT CAN BE
27 AN INCREDIBLE REINFORCEMENT.

28 EVEN BETTER, THOUGH, IS THE ON-THE-JOB

1 EXPERIENCE. THERE'S A LEARNING PYRAMID THAT I LEVERAGE
2 QUITE OFTEN THAT SAYS ABOUT 10 PERCENT OF RETENTION OF
3 LEARNING COMES FROM TRAINING, ABOUT 20 PERCENT COMES
4 FROM COACHING AND MENTORING, AND THEN A FULL 70 PERCENT
5 OF LEARNING AND RETENTION OF THAT LEARNING ACTUALLY
6 COMES FROM THE ON-THE-JOB EXPERIENCE. AND THAT IS THE
7 MOST IMPORTANT PART OF A TRAINING PROGRAM IS THAT THERE
8 IS THIS FOLLOW-ON PIECE, THAT THERE'S NOT JUST AN
9 ASSUMPTION THAT YOU'VE BEEN THROUGH THE TRAINING, YOU
10 SHOULD KNOW WHAT TO DO. AND THAT WOULD BE TRUSTING
11 THAT SOMEONE HAD LEARNED THEIR LESSON FROM THE TRAINING
12 AS OPPOSED TO DETERMINING WHETHER OR NOT THAT
13 INSTRUCTION STUCK.

14 Q SO WHERE WE HAVE THIS LACK OF CONTINUITY
15 BETWEEN THE ON-THE-JOB PERFORMANCE AND THE INITIAL
16 TRAINING, DOES THAT RENDER THE INITIAL TRAINING
17 INEFFECTIVE?

18 A IT CAN. THERE'S STILL -- I WOULD HOPE WHEN
19 THE TRAINING WAS DEVELOPED THERE WAS STILL A REASON FOR
20 IT; IT WAS STILL CONSIDERED EFFECTIVE. THE HARD PART
21 IS, IS IF THERE IS NO REINFORCEMENT, IF THERE IS NO
22 MEASUREMENT OF SUCCESS, IF THERE ARE NO PENALTIES FOR
23 THE LACK OF LEVERAGING THAT NEW TRAINING, THEN THERE'S
24 NO WAY TO KNOW THAT IT'S BEEN EFFECTIVE.

25 MS. SWISS: OBJECTION. MOTION TO STRIKE
26 EVERYTHING AFTER "IT CAN."

27 THE COURT: OVERRULED. MOTION TO STRIKE IS
28 DENIED.

1 BY MR. KING:

2 Q I BELIEVE YOU MENTIONED CONSEQUENCES.

3 HOW CAN CONSEQUENCES BE IMPORTANT IN
4 REINFORCING TRAINING?

5 A CONSEQUENCES FOR THE LACK OF FOLLOW-THROUGH ON
6 TRAINING. SO SOMEBODY GOES THROUGH A TRAINING PROGRAM,
7 THEY LEARN SOMETHING NEW. THERE IS AN EXPECTATION THAT
8 THEY'RE GOING TO FOLLOW THROUGH ON WHAT THEY'VE
9 LEARNED. IF THERE ARE THEN NO CONSEQUENCES, THERE'S NO
10 PUNISHMENT, THERE'S NO DISCIPLINE FOR NOT HAVING
11 FOLLOWED THROUGH, THEN AGAIN IT RAISES THAT QUESTION,
12 AND I'M SORRY I KEEP DOING THIS, BUT IT RAISES THAT
13 QUESTION: WHY DID I GO TO TRAINING IN THE FIRST PLACE
14 IF NO ONE CARES WHETHER OR NOT I'VE ACTUALLY LEARNED
15 SOMETHING?

16 Q AND IN THE ORGANIZATION AS A WHOLE, I MEAN,
17 SHOULD THERE -- THERE SHOULD BE CLUES OR SOME WAY THAT
18 THE ORGANIZATION UNDERSTANDS THAT THERE'S THIS SORT OF
19 DISCONNECT?

20 MS. SWISS: OBJECTION. LEADING.

21 THE COURT: OVERRULED. GO AHEAD.

22 THE WITNESS: SORRY, CAN YOU ASK THE QUESTION
23 AGAIN?

24 MR. KING: CAN WE HAVE THE COURT REPORTER READ
25 IT, YOUR HONOR?

26 THE COURT: YES.

27 (THE PREVIOUS QUESTION WAS READ BACK BY
28 THE COURT REPORTER AS FOLLOWS:

1 "QUESTION: AND THE ORGANIZATION
2 AS A WHOLE, THERE SHOULD BE CLUES OR
3 SOME WAY THAT THE ORGANIZATION
4 UNDERSTANDS THAT THERE'S THIS SORT OF
5 DISCONNECT?")

6 THE WITNESS: YES. THERE SHOULD -- AGAIN,
7 WHETHER IT'S A MEASUREMENT SYSTEM THAT'S PUT IN PLACE
8 OR A REVIEW OF PROGRESS MADE SINCE THE TRAINING WAS
9 APPLIED, THERE IS AN EXPECTATION WHEN YOU IMPLEMENT A
10 TRAINING PROGRAM THAT THERE WAS A REASON FOR IT. AN
11 ORGANIZATION DOESN'T WANT TO SPEND MONEY ON A PROGRAM
12 THAT THEN DOESN'T GO ANYWHERE. THEY DON'T WANT TO HAVE
13 PUT THEIR PEOPLE THROUGH TRAINING THAT THEY THINK IS
14 IMPORTANT AND HAVE IT NOT, AGAIN, STICK, SO THAT
15 THEY'RE NOT LEVERAGING THAT TRAINING.

16 BY MR. KING:

17 Q IS IT INCUMBENT UPON THE ORGANIZATION TO DO
18 CHECKUPS OR REINFORCEMENT OF TRAININGS IN ORDER TO
19 ENSURE THAT, IN FACT, THE TRAINING IS BEING ADHERED TO
20 IN THE POLICIES?

21 A LET ME ANSWER IT SORT OF FROM THE OPPOSITE
22 DIRECTION OF WHAT HAPPENS WHEN THEY DON'T, AS OPPOSED
23 TO SAYING IT'S INCUMBENT UPON THEM.

24 WHEN AN ORGANIZATION DOES NOT FOLLOW UP AND
25 LOOK TO SEE WHETHER OR NOT THEIR TRAINING HAS BEEN
26 EFFECTIVE, WHETHER OR NOT PEOPLE ARE ACTUALLY
27 LEVERAGING THE TRAINING, WHETHER THEY'RE FOLLOWING THE
28 NEW INSTRUCTIONS OR FOLLOWING THE NEW DIRECTION THAT

1 THEY'VE BEEN GIVEN, THE TRAINING HAS NO PURPOSE.
2 THERE'S NO VALUE TO IT. AND THE WORST THING THAT COMES
3 OUT OF THAT IS AN UTTER STATE OF CONFUSION.

4 AND THE CONCERN WHEN YOU HAVE A STATE OF
5 CONFUSION WITHIN AN ORGANIZATION IS THAT, AS WE SAID
6 BEFORE, PEOPLE GO BACK TO DOING WHAT THEY DID BEFORE.
7 AND IF YOUR WHOLE GOAL IN IMPLEMENTING A NEW TRAINING
8 PROGRAM IS TO CORRECT BEHAVIOR OR TEACH THEM A NEW
9 DIRECTION, AND NOW ALL THEY'RE DOING IS YOU'VE ALMOST
10 REINFORCED THEM GOING BACK -- "THEY" BEING THE
11 EMPLOYEES -- GOING BACK TO DOING WHAT THEY DID BEFORE,
12 THEN YOU'VE DEFEATED YOUR TRAINING PROGRAM RIGHT THERE.

13 Q IN YOUR EXPERIENCE, WOULD THAT AFFECT ANY SORT
14 OF CHECKS AND BALANCES BY THE ORGANIZATION, TO ENSURE
15 THAT INDIVIDUALS AT EACH LEVEL ARE, IN FACT, DOING WHAT
16 THEY ARE SUPPOSED TO BE DOING?

17 A WELL, IF WE'RE SPEAKING SORT OF HYPOTHETICALLY
18 TO SAY THAT THERE ARE NO CHECKS AND BALANCES IN PLACE,
19 THAT AT WHATEVER LEVEL IN THE ORGANIZATION WE ARE AT --
20 AND WE'RE TALKING ABOUT AT THIS POINT IN TIME -- THAT
21 NO ONE, FROM THE PERSON WHO'S BEEN THROUGH THE
22 TRAINING, TO THEIR SUPERVISOR, TO THEIR SUPERVISOR IS
23 LOOKING TO SEE WHETHER OR NOT THEY'RE FOLLOWING
24 THROUGH, THEN ABSOLUTELY THAT THERE IS A CONCERN THERE.

25 Q HOW SO?

26 A WELL, AGAIN, IT GOES TO -- FROM MY PERSPECTIVE
27 AS AN INDUSTRIAL AND ORGANIZATIONAL PSYCHOLOGIST WHO
28 BELIEVES IN THE VALUE OF TRAINING -- WHY ARE WE DOING

1 THIS? WHY IN THE WORLD WOULD YOU IMPLEMENT A TRAINING
2 PROGRAM WHERE YOU HAVE NO FOLLOW-UP, YOU HAVE NO
3 FOLLOW-THROUGH, THERE ARE NO CONSEQUENCES, THE OUTCOME
4 IS ALMOST IRRELEVANT? IT'S A WASTE OF MONEY. IT'S A
5 WASTE OF TIME. IT'S A WASTE OF EFFORT.

6 AND I APOLOGIZE. I KNOW I'M GOING QUICKLY.
7 SORRY. I GET PASSIONATE.

8 AND THEN ON THE OTHER SIDE OF THAT WE ALSO
9 HAVE THE ISSUE OF, FROM THE ORGANIZATION'S PERSPECTIVE,
10 IF THE POINT OF THE TRAINING IS TO SERVE A PARTICULAR
11 NEED, HOW DO YOU KNOW WHETHER OR NOT THAT NEED IS BEING
12 SERVED IF YOU'RE NOT REINFORCING THE TRAINING, IF THERE
13 ARE NO CONSEQUENCES FOR NOT FOLLOWING THROUGH, IF
14 THERE'S NOT SOME KIND OF MEASUREMENT OR FOLLOW-UP TO
15 FIGURE OUT WHETHER OR NOT IT'S BEING EFFECTIVE?

16 Q SO THERE'S SORT OF A TRUST-BASED TYPE OF
17 APPROACH?

18 A YEAH. BASICALLY THAT'S WHAT IT COMES DOWN TO
19 IS, OKAY, I'M AT THE ORGANIZATION, I'M IMPLEMENTING A
20 TRAINING PROGRAM --

21 THE COURT REPORTER: I'M SORRY. IT COMES DOWN
22 TO?

23 THE WITNESS: I'M THE ORGANIZATION NOW.

24 SORRY, I USE MY HANDS TOO MUCH.

25 I'M NOW SPEAKING AS THE ORGANIZATION. AND
26 I -- SORRY.

27 NOW I'VE FORGOTTEN WHAT YOUR QUESTION WAS. I
28 GET TOO EXCITED. I'M SO SORRY.

1 BY MR. KING:

2 Q THIS TRUST-BASED APPROACH.

3 A RIGHT. I'M SORRY.

4 SO I AM THE ORGANIZATION NOW, SPEAKING THAT
5 WAY. I HAVE IMPLEMENTED A TRAINING PROGRAM. AND
6 BECAUSE I'M NOT DOING ANY OF THOSE THINGS THAT I LISTED
7 ABOUT FOLLOWING UP, REINFORCING, DOING THE ON-THE-JOB
8 TRAINING PIECE OF IT, I TRUST THAT THE PEOPLE WHO HAVE
9 BEEN THROUGH THIS PROGRAM HAVE LEARNED SOMETHING, AND I
10 TRUST THAT THEY'RE GOING TO TAKE WHAT THEY'VE LEARNED
11 AND THEY'RE GOING TO IMPLEMENT IT. AND I TRUST THAT
12 THEIR IMPLEMENTATION IS GOING TO BE CORRECT, THAT THEY
13 WILL HAVE INTERPRETED THE TRAINING AS I INTENDED IT,
14 THAT THEY WILL APPLY THE TRAINING AS IT WAS INTENDED.
15 AND I JUST INHERENTLY TRUST THAT.

16 I'M NOT TAKING CONTROL OF IT. I'M NOT HOLDING
17 ANYONE ACCOUNTABLE FOR IT. I AM JUST TRUSTING THAT
18 THEY WILL DO WHAT'S RIGHT.

19 Q AND BASED ON YOUR TRAINING AND EXPERIENCE, IS
20 THAT SOMETHING THAT IS ADVISABLE?

21 A THERE'S TWO ANSWERS TO THAT QUESTION.

22 ONE IS YES, IF YOU HAVE AN ORGANIZATION THAT
23 IS ALREADY FULLY COGNIZANT, TOTALLY UNDERSTANDS THE
24 STRATEGY, THE MISSION, THE VISION, THEY HAVE A VERY
25 COHERENT PICTURE OF EXACTLY WHERE THEY'RE GOING AND HOW
26 THAT TRAINING FITS INTO THAT PLAN.

27 IF, HOWEVER, YOU DON'T HAVE THOSE PIECES IN
28 PLACE -- THERE ISN'T A COHERENT MESSAGE, THERE'S NOT A

1 STRONG STRATEGY THAT EVERYONE IS ALIGNED WITH, THERE'S
2 NOT A CLEAR MISSION OR VISION THAT THEY'RE FOLLOWING --
3 THEN NO.

4 Q WHAT SHOULD AN ORGANIZATION DO IN ORDER TO
5 DETERMINE IF IT HAS THE STRONG INNER STRENGTH AS YOU
6 JUST EXPLAINED IT?

7 A MY FIRST INSTINCT IS TO SAY SOMETHING
8 FACETIOUS, AND I'LL TRY NOT TO -- HIRE ME TO HELP
9 FIGURE IT OUT. BUT THAT'S NOT WHAT I'M HERE FOR.
10 SORRY.

11 BUT TO DO -- I'M SORRY, NOW I'M GOING TO BE
12 OFF TRACK AGAIN.

13 TO DO SOME KIND OF AN ASSESSMENT TO THE
14 EFFECTIVENESS OF THAT TRAINING IS REALLY A BOTTOM-LINE
15 STARTING POINT: LET'S FIGURE OUT WHETHER OR NOT THE
16 TRAINING THAT WE DEVELOPED ACTUALLY ADDRESSES THE
17 ISSUE; AND THEN LET'S FIGURE OUT WHETHER OR NOT THERE
18 ARE POLICIES AND PROCEDURES IN PLACE THAT SUPPORT THAT
19 TRAINING; AND THEN LET'S FIGURE OUT, IF THOSE POLICIES
20 AND PROCEDURES ARE IN PLACE THAT SUPPORT THAT TRAINING,
21 WHETHER OR NOT PEOPLE ARE ACTUALLY FOLLOWING THE NEW
22 TRAINING.

23 Q AND DOES YOUR OPINION EQUALLY APPLY TO PUBLIC
24 ENTITIES AS WELL AS PRIVATE?

25 A ABSOLUTELY.

26 MS. SWISS: OBJECTION. CALLS FOR SPECULATION.

27 THE COURT: OVERRULED.

28 ///

1 BY MR. KING:

2 Q SHOULD THE ENTITY KNOW OF THE REQUIREMENT TO
3 FOLLOW UP AND REINFORCE TRAINING?

4 A AGAIN, I WANT TO COME AT THAT QUESTION FROM
5 THE BACKSIDE, IS WHAT HAPPENS IF THEY DON'T. BECAUSE
6 IT'S HARD TO SAY THAT SOMEONE SHOULD KNOW SOMETHING. I
7 MEAN, TO ME, IT'S OBVIOUS, BUT I COME FROM A BACKGROUND
8 OF LOOKING AT, STUDYING, DEVELOPING, AND IMPLEMENTING
9 TRAINING. SO TO SAY THAT AN ORGANIZATION SHOULD KNOW,
10 I WOULD SAY ABSOLUTELY, OF COURSE, YES. BUT THAT'S
11 BECAUSE I HAVE THAT BACKGROUND AND KNOWLEDGE.

12 BUT I GO BACK TO THAT IDEA OF IF WE COME AT IT
13 FROM THE OTHER SIDE AND SAY IF THEY DON'T KNOW, IF THEY
14 DON'T RECOGNIZE THAT VALUE, WHY ARE THEY DOING THE
15 TRAINING? AND I KNOW I SOUND LIKE A BIT OF A BROKEN
16 RECORD AT THIS POINT, SAYING THAT OVER AND OVER AGAIN,
17 BUT THAT'S THE OBVIOUS PIECE, FROM MY PERSPECTIVE.

18 Q SO BASED ON YOUR TRAINING AND EXPERIENCE, AN
19 ORGANIZATION SHOULD KNOW?

20 A YES, ABSOLUTELY, THEY SHOULD KNOW.

21 Q THANK YOU.

22 MR. KING: NOTHING FURTHER, YOUR HONOR.

23 THE COURT: MS. SWISS?

24 MS. SWISS: THANK YOU, YOUR HONOR.

25

26 CROSS-EXAMINATION

27 BY MS. SWISS:

28 Q GOOD MORNING, DR. SAIFER.

1 A GOOD MORNING.

2 Q IS TODAY YOUR FIRST TIME TESTIFYING IN COURT?

3 A YES.

4 Q AND THIS IS THE FIRST TIME YOU'VE EVER BEEN AN
5 EXPERT ON A CASE?

6 A THAT IS CORRECT.

7 Q AND MR. KING WAS ASKING YOU SOME QUESTIONS
8 ABOUT YOUR OPINIONS IN TRAINING FOR YOUR CLIENTS. SO
9 I'M GOING TO ASK YOU A FEW FOLLOW-UPS.

10 A OKAY.

11 Q SO ONE OF THE EXAMPLES OF YOUR CLIENTS THAT
12 YOU GAVE WAS EDWARD JONES; CORRECT?

13 A YES.

14 Q AND WHEN YOU GO IN TO A CLIENT LIKE EDWARD
15 JONES, YOU DO A THOROUGH, COMPREHENSIVE ASSESSMENT OF
16 WHAT THEIR TRAINING CURRENTLY WOULD BE?

17 A NOT PARTICULARLY WITH EDWARD JONES, BUT YES,
18 THAT WOULD BE THE IDEAL SITUATION, IS TO HAVE ACCESS TO
19 THE FULL ORGANIZATION TO BE ABLE TO ASSESS WHAT THEIR
20 TRAINING NEEDS ARE.

21 Q OKAY. AND BY "FULL ACCESS," WHAT DO YOU MEAN?

22 A SO THAT WOULD BE ACCESS TO THE HR FOLKS WHO
23 ARE INTERESTED IN IMPLEMENTING THE TRAINING; IT WOULD
24 BE FULL ACCESS TO THE INCUMBENTS IN THE POSITION THAT
25 MAY BE BEING TRAINED FOR; IT WOULD BE FULL ACCESS
26 POTENTIALLY TO ANY OTHER STAKEHOLDERS THERE MAY BE IN
27 THE OUTCOMES OF THAT TRAINING.

28 Q AND YOU TALKED ABOUT YOU WOULD HAVE TO LOOK AT

1 THEIR POLICIES?

2 A UH-HUH.

3 Q YES?

4 A YES.

5 Q AND YOU WOULD LOOK AT THE CURRENT TRAINING
6 PROGRAM THAT'S GOING ON?

7 A YES.

8 Q AND WOULD YOU ALSO FIND IT IMPORTANT TO LOOK
9 AT THE PERSONNEL STRUCTURE, MEANING THE DISCIPLINARY
10 STRUCTURE?

11 A I'M NOT SURE I UNDERSTAND WHAT YOU MEAN.

12 Q WELL, YOU TALKED WITH MR. KING ABOUT HOW, IF
13 THE TRAINING WAS NOT REINFORCED WITH SOME DISCIPLINARY
14 MEASURES, THEN YOU DON'T KNOW IF IT'S GOING TO STICK,
15 SO TO SPEAK?

16 A CORRECT.

17 Q SO WHEN YOU COME IN TO DO AN ASSESSMENT,
18 WOULDN'T YOU WANT TO KNOW HOW THOSE -- THE CURRENT
19 POLICIES AND TRAINING ARE BEING REINFORCED?

20 A YES.

21 Q AND SO YOU WOULD LOOK AT, POTENTIALLY, THE
22 DISCIPLINARY STRUCTURE, THAT KIND OF THING, ALREADY --

23 A YES.

24 Q -- IN PLACE?

25 OKAY. AND WOULD YOU ACTUALLY COME IN TO YOUR
26 CLIENTS AND ACTUALLY ATTEND SOME OF THE TRAININGS THAT
27 ARE CURRENTLY BEING GIVEN?

28 A YES.

1 Q AND YOUR PURPOSE IS TO REALLY GET TO KNOW YOUR
2 CLIENT FROM KIND OF THE INSIDE OUT; RIGHT?

3 A CORRECT.

4 Q BECAUSE YOU WANT TO BE ABLE TO MAKE GOOD
5 DECISIONS FOR THAT PARTICULAR CLIENT; RIGHT?

6 A CORRECT.

7 Q AND THAT'S IMPORTANT BECAUSE OTHERWISE YOU'D
8 BE GIVING THE SAME ADVICE TO EVERY SINGLE CLIENT;
9 RIGHT?

10 A WELL, THERE ARE SITUATIONS WHERE AN
11 OFF-THE-SHELF PROGRAM IS PERFECTLY ACCEPTABLE. THERE
12 MAY BE A TRAINING PROGRAM THAT'S ALREADY BEEN DEVELOPED
13 THAT WOULD BE APPROPRIATE FOR A PARTICULAR CLIENT.
14 LIKE I HAVE A NUMBER OF CLIENTS IN THE FINANCIAL
15 INDUSTRY, SO IT MAY BE THAT THE TWO DIFFERENT
16 ORGANIZATIONS, TWO DIFFERENT CLIENTS ACTUALLY NEED THE
17 SAME LEARNING OPPORTUNITIES. AND SO TAKING SOMETHING
18 OFF THE SHELF AND PERHAPS MAYBE TWEAKING IT A LITTLE
19 BIT, CHANGING THE LANGUAGE SO IT'S CONSISTENT WITH THAT
20 OTHER CLIENT'S NEEDS, COULD ACTUALLY BE EFFECTIVE.

21 Q BUT IT'S IMPORTANT THOUGH, IF YOU CAN'T USE AN
22 OFF-THE-SHELF, YOU NEED TO KNOW WHAT YOUR ORGANIZATION
23 IS GOING THROUGH SO THAT YOUR OPINIONS WOULD BE
24 EFFECTIVE; CORRECT?

25 A YES, IT WOULD DEFINITELY BE HELPFUL.

26 Q OKAY. AND YOU TESTIFIED THAT THE PUBLIC
27 ENTITIES YOU WORKED WITH BEFORE, THAT WAS THE BUREAU OF
28 INDIAN AFFAIRS?

1 A CORRECT.

2 Q AND THE PORT OF SAN DIEGO?

3 A CORRECT.

4 Q AND THE DA'S OFFICE IN SAN DIEGO?

5 A CORRECT.

6 Q NOW, YOU HAVEN'T HAD ANY EXPERIENCE WORKING
7 FOR THE COUNTY OF LOS ANGELES; CORRECT?

8 A THAT IS CORRECT.

9 Q AND NONE OF ITS DEPARTMENTS?

10 A CORRECT.

11 Q OKAY. AND YOU HAVE NOT HAD ANY EXPERIENCE
12 BEING HIRED BY ANY MUNICIPALITIES OF ANY SORT; CORRECT?

13 A NO, THAT IS CORRECT. I HAVE WORKED WITH A
14 MUNICIPALITY BEFORE BUT NOT BEING HIRED BY THEM.

15 Q CORRECT. AND THAT WAS FOR A LIMITED RESEARCH
16 PROJECT?

17 A CORRECT.

18 Q OKAY. AND YOU'VE NEVER BEEN HIRED BY ANY
19 SPECIFIC CITY; CORRECT?

20 A CORRECT.

21 Q ALL RIGHT. AND MR. KING ASKED YOU ABOUT -- I
22 DON'T KNOW THE WORD HE USED -- SOCIAL AGENCIES? YOU'VE
23 NEVER WORKED FOR A SOCIAL AGENCY; CORRECT?

24 A CORRECT.

25 Q AND SPECIFICALLY, YOU'VE NEVER WORKED FOR ANY
26 CHILD PROTECTIVE SERVICES AGENCY; CORRECT?

27 A THAT IS CORRECT.

28 Q YOU'VE NEVER WORKED FOR ANY DEPARTMENT OF

1 CHILDREN AND FAMILY SERVICES FOR ANY COUNTY; CORRECT?

2 A THAT IS CORRECT.

3 Q AND YOU'VE NEVER PROVIDED TRAINING
4 SPECIFICALLY FOR SOCIAL WORKERS; CORRECT?

5 A THAT IS CORRECT.

6 Q SO THE OPINIONS THAT YOU GAVE TODAY TO
7 MR. KING, THOSE WOULD BE KIND OF YOUR OUT-OF-THE-BOX
8 STATEMENTS FOR ANY CLIENT?

9 A I'M NOT SURE WHAT YOU MEAN BY THAT.

10 Q WELL, THE OPINIONS YOU GAVE REGARDING TRAINING
11 AND EFFECTIVENESS, ET CETERA, THOSE WOULD JUST BE YOUR
12 OUT-OF-THE-BOX STATEMENTS?

13 A I STILL DON'T KNOW WHAT YOU MEAN BY
14 "OUT-OF-THE-BOX."

15 Q WELL, YOUR -- KIND OF YOUR CANNED PROGRAMS,
16 WHAT WOULD BE EFFECTIVE FOR ANY GENERAL ORGANIZATION.

17 A THEY WOULD BE GENERAL STATEMENTS ABOUT
18 TRAINING, YES.

19 Q OKAY. AND THEY'RE NOT SPECIFIC TO ANY CHILD
20 PROTECTIVE SERVICE AGENCY BECAUSE YOU DON'T HAVE ANY
21 EXPERIENCE WITH THAT; CORRECT?

22 A THEY WOULD APPLY TO ANY ORGANIZATION, WHETHER
23 PUBLIC, PRIVATE, LARGE, OR SMALL.

24 MS. SWISS: NO FURTHER QUESTIONS.

25 THE COURT: ANYTHING FURTHER, MR. KING?

26 MS. SWISS: OH, I'M SORRY, I HAVE ONE
27 QUESTION.

28 THE COURT: ALL RIGHT.

1 BY MS. SWISS:

2 Q DR. SAIFER, MR. MCMILLAN'S OFFICE DID HIRE YOU
3 AS AN EXPERT IN THIS CASE; CORRECT?

4 A CORRECT.

5 Q AND YOU'RE BEING PAID FOR YOUR TESTIMONY
6 TODAY?

7 A CORRECT.

8 Q WHAT IS YOUR PAY FOR YOUR TESTIMONY TODAY?

9 A TODAY IS \$600 AN HOUR.

10 Q AND THAT INCLUDES YOUR TRAVEL FROM SAN DIEGO?

11 A NO, THAT'S A DIFFERENT HOURLY RATE.

12 Q AND HOURLY RATE FOR YOUR TRAVEL?

13 A \$150 AN HOUR.

14 Q AND YOU ARE COMING FROM SAN DIEGO; CORRECT?

15 A THAT IS CORRECT.

16 Q AND THEN WHAT HAVE YOU BEEN PAID TO DATE FOR
17 YOUR WORK ON THIS CASE?

18 A I ACTUALLY BROUGHT THAT WITH ME.

19 DO YOU MIND IF I LOOK IT UP?

20 Q SURE.

21 A SO TO DATE, NOT INCLUDING LAST NIGHT OR TODAY,
22 \$7,540.50.

23 Q AND THEN YOU'D BE PAID AN ADDITIONAL \$600 AN
24 HOUR FOR LAST NIGHT AND TODAY?

25 A NO. \$600 AN HOUR FOR BEING HERE TODAY, AND
26 THEN \$150 AN HOUR FOR LAST NIGHT, MY TRAVEL. AND MY
27 TRAVEL HOME.

28 Q THANK YOU.

1 MS. SWISS: NO FURTHER QUESTIONS.

2 THE COURT: ALL RIGHT. MR. KING?

3 MR. KING: YES.

4

5

REDIRECT EXAMINATION

6

BY MR. KING:

7

Q HOW MANY HOURS MAKE UP THE \$7,540 THAT YOU'VE
8 BILLED SO FAR?

9

A 49.39 HOURS.

10

Q AND WHAT DID YOU DO FOR 49 HOURS IN THIS CASE?

11

A I READ A LOT OF DOCUMENTS, PROBABLY SEVERAL
12 THOUSAND PAGES OF DEPOSITIONS; I REVIEWED RESEARCH
13 ARTICLES RELEVANT TO MY FIELD THAT I THOUGHT WOULD COME
14 IN AND BE RELEVANT; ALSO MET WITH YOURSELF,
15 MR. MCMILLAN; IN ADDITION, CREATED MY DECLARATION;
16 PROVIDED MY DEPOSITION, WHICH ISN'T INCLUDED IN THAT.

17

GOSH, WHAT ELSE? HOPEFULLY THAT COVERS IT.

18

Q DID YOU FAMILIARIZE YOURSELF WITH THE
19 ORGANIZATIONAL STRUCTURE OF THE DEFENDANTS IN THIS
20 CASE?

21

MS. SWISS: OBJECTION. VAGUE.

22

THE COURT: OVERRULED.

23

BY MR. KING:

24

Q AS PART OF THE HOURS THAT YOU SPENT ON THIS
25 CASE, DID YOU MAKE EFFORT TO REVIEW THE ORGANIZATIONAL
26 STRUCTURE OF THE DEFENDANTS IN THIS CASE?

27

A I TOOK WHAT I COULD GET FROM THE DEPOSITIONS
28 THAT I READ, YES.

1 Q AND YOU MENTIONED YOU DID YOUR OWN RESEARCH?

2 A YES.

3 Q WERE YOU CAREFUL TO ENSURE THAT THE
4 ORGANIZATIONAL CONCEPTS THAT YOU'RE AWARE OF AND THAT
5 YOU'VE BEEN -- FOR OVER 24 YEARS NOW -- IMPLEMENTING
6 INTO DIFFERENT BUSINESS STRUCTURES, WERE YOU CAREFUL TO
7 ENSURE THAT THAT LARGE ORGANIZATIONAL STRUCTURE WOULD
8 EQUALLY APPLY TO THE DEFENDANTS IN THE CASE?

9 MS. SWISS: OBJECTION. VAGUE AS TO CAREFUL.

10 THE COURT: OVERRULED.

11 I'M NOT SURE YOU'LL UNDERSTAND, BUT...

12 THE WITNESS: I THINK -- TRY AND REPHRASE IT.

13 THE COURT: IF YOU WANT ME TO SUSTAIN THE
14 OBJECTION --

15 THE WITNESS: I THINK I KNOW WHAT YOU'RE
16 ASKING, BUT...

17 BY MR. KING:

18 Q WHAT DID YOU DO DURING THOSE HOURS TO MAKE
19 SURE THAT YOUR TESTIMONY HERE TODAY IS JUST AS RELEVANT
20 TO THE DEFENDANTS AS IT WOULD BE TO ANY OTHER
21 ORGANIZATION THAT YOU'VE WORKED WITH?

22 A I'M GOING TO ACTUALLY ANSWER THAT ONE A LITTLE
23 BIT BACKWARDS AS WELL.

24 WITH 24 YEARS OF HISTORY -- AND I ACTUALLY
25 JUST WENT THROUGH MY CV BEFORE I CAME IN HERE -- IS A
26 MINIMUM, FROM WHAT I CAN RECALL THAT'S ON MY CV,
27 75 COMPANIES THAT I'VE WORKED WITH, BOTH PUBLIC,
28 PRIVATE, LARGE, SMALL. THE THEORIES OF INDUSTRIAL AND

1 ORGANIZATIONAL PSYCHOLOGY CAN APPLY TO ANY OF THEM,
2 INCLUDING MY OWN ORGANIZATION OF ONE.

3 Q IN FACT, YOU'VE WORKED FOR PUBLIC ENTITIES;
4 CORRECT?

5 A I HAVE.

6 Q HAVE YOU HAD CLIENTS IN THE COUNTY OF
7 LOS ANGELES?

8 MS. SWISS: OBJECTION. ASKED AND ANSWERED ON
9 DIRECT. AND OUTSIDE THE SCOPE.

10 THE COURT: OVERRULED.

11 BY MR. KING:

12 Q HAVE YOU HAD ANY CLIENTS IN THE COUNTY OF
13 LOS ANGELES?

14 A YES.

15 Q AND YOU'VE WORKED WITH A DISTRICT ATTORNEY'S
16 OFFICE?

17 A YES, IN SAN DIEGO.

18 Q AND I THINK YOU JUST TOLD US THIS, BUT THE
19 RULES THAT APPLY TO THE ORGANIZATIONS THAT YOU HAVE HAD
20 PERSONAL EXPERIENCE WITH, SAME RULES THAT APPLY TO THE
21 DEFENSE?

22 A YES.

23 MS. SWISS: OBJECTION. ASKED AND ANSWERED.

24 THE COURT: OVERRULED.

25 MR. KING: NOTHING FURTHER, YOUR HONOR.

26 MS. SWISS: NO QUESTIONS.

27 THE COURT: ALL RIGHT.

28 MS. SAIFER, WE'VE COMPLETED YOUR TESTIMONY.

1 ARE YOU NERVOUS STILL?

2 THE WITNESS: YES. IT'LL TAKE A COUPLE OF
3 HOURS TO WEAR OFF.

4 THE COURT: WELL, I'M GOING TO HELP YOU WITH
5 THAT. YOU'RE NOW EXCUSED.

6 THE WITNESS: THANK YOU VERY MUCH, YOUR HONOR.

7 THE COURT: YOU'RE WELCOME.

8 LET ME SEE COUNSEL FOR JUST A MOMENT, SIDEBAR.

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

11 THE COURT: ALL RIGHT. WE'RE AT SIDEBAR AND
12 COUNSEL ARE PRESENT.

13 I'M JUST THINKING ABOUT SCHEDULING. SO
14 JUDGE NASH IS TO BE HERE AT 10:30?

15 MR. MCMILLAN: I THINK SO.

16 MR. GUTERRES: THAT'S CORRECT.

17 THE COURT: SO WHAT I'M WONDERING IS --

18 MR. GUTERRES: HE IS HERE.

19 THE COURT: HE IS HERE?

20 MR. GUTERRES: YEAH.

21 THE COURT: OKAY. WELL, MAYBE THE BEST THING
22 FOR US TO DO IS TAKE A RECESS NOW AND WE'LL JUST TELL
23 THE JURY WHY WE HAVE A WITNESS THAT WE'LL COMMENCE WITH
24 AT 10:30 THAT WE DO NEED TO FINISH THIS MORNING. SO
25 WE'LL TAKE A RECESS NOW, ABOUT TEN MINUTES, THEN START
26 WITH JUDGE NASH.

27 MR. GUTERRES: OKAY.

28 THE COURT: OKAY. GOOD.

1 (THE FOLLOWING PROCEEDINGS WERE HELD IN
2 OPEN COURT IN THE PRESENCE OF THE
3 JURY.)

4 THE COURT: DOES ANYONE NEED THEIR CAR
5 SERVICED? DEANNA TAKES CARE OF EVERYTHING.

6 NOW, LET ME TELL YOU WHAT WE'RE GOING TO DO
7 ABOUT THAT. WE'RE GOING TO TAKE A RECESS NOW AND IT'S
8 GOING TO BE TEN MINUTES. AND THE REASON FOR THIS --
9 IT'S A LITTLE EARLIER THAN I NORMALLY WOULD, BUT WE
10 HAVE OUR -- OUR NEXT WITNESS IS SCHEDULED -- WAS
11 SCHEDULED TO BE HERE AT 10:30, AND WILL BE HERE.
12 BECAUSE OF TIME CONSTRAINTS, WE NEED TO FINISH WITH
13 THAT WITNESS BY NO LATER THAN NOON.

14 SO WHAT I WANT TO DO IS TAKE A SHORT RECESS
15 NOW AND DO WHATEVER YOU NEED TO DO, INCLUDING REFILLING
16 YOUR COFFEE OR WHATEVER IT MIGHT BE, SO WE CAN GO
17 STRAIGHT THROUGH WITH THE WITNESS TO MAKE SURE WE GET
18 THAT WITNESS COMPLETED. SO WE'RE GOING TO TAKE A
19 RECESS NOW, ABOUT TEN MINUTES. PLEASE REMEMBER THE
20 ADMONITION.

21 (JURY EXCUSED)

22 THE COURT: WE'LL TAKE THE APPROXIMATE
23 TEN MINUTES, THEN WE'LL GET JUDGE NASH HERE.

24 MR. MCMILLAN: THANK YOU, YOUR HONOR.

25 (RECESS)

26 THE COURT: ALL RIGHT. LET'S GET THE JURORS
27 IN, PLEASE.

28 (JURY PRESENT)

1 THE COURT: EVERYONE MAY BE SEATED. WE'RE ON
2 THE RECORD. EVERYBODY IS PRESENT.

3 MR. MCMILLAN, DO YOU WANT TO CALL YOUR NEXT
4 WITNESS, PLEASE.

5 MR. MCMILLAN: YOUR HONOR, PLAINTIFF WOULD
6 CALL JUDGE MICHAEL NASH.

7 THE COURT: UP OVER HERE, JUDGE NASH.

8

9 MICHAEL NASH,
10 WAS CALLED AS A WITNESS AND, HAVING BEEN FIRST DULY
11 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

12

13 THE CLERK: FOR THE RECORD, PLEASE STATE YOUR
14 FULL NAME AND SPELL YOUR FIRST AND LAST NAME.

15 THE WITNESS: MICHAEL NASH, M-I-C-H-A-E-L,
16 N-A-S-H.

17 THE COURT: THANK YOU.

18 GO AHEAD, MR. MCMILLAN.

19 MR. MCMILLAN: THANK YOU, YOUR HONOR.

20

21 DIRECT EXAMINATION

22 BY MR. MCMILLAN:

23 Q JUDGE NASH, FIRST OF ALL, THANK YOU FOR COMING
24 OUT HERE TODAY. I APPRECIATE IT.

25 A SURE.

26 Q CAN YOU PLEASE, FOR THE JURY, GIVE US A BRIEF
27 RUNDOWN OF YOUR BACKGROUND, TRAINING, AND EXPERIENCE?

28 A CURRENTLY, I SERVE AS THE EXECUTIVE DIRECTOR

1 OF THE OFFICE OF CHILD PROTECTION FOR LOS ANGELES
2 COUNTY.

3 PRIOR TO THAT, I SERVED AS A JUDGE IN
4 LOS ANGELES COUNTY FROM 1985 TO 2015. 1985 TO 1989, I
5 WAS ON THE LOS ANGELES MUNICIPAL COURT. I WAS
6 APPOINTED TO THE SUPERIOR COURT OF LOS ANGELES 1989.
7 AND FROM 1990 THROUGH MY RETIREMENT IN 2015, I WAS A
8 JUVENILE COURT JUDGE. FROM 1995 UNTIL MY RETIREMENT IN
9 2015, I SERVED AS EITHER THE SUPERVISING JUDGE OF THE
10 JUVENILE DEPENDENCY COURT OR PRESIDING JUDGE OF THE
11 ENTIRE JUVENILE COURT.

12 Q THANK YOU FOR THAT.

13 WHEN YOU WERE SERVING AS THE SUPERVISING JUDGE
14 OF THE JUVENILE COURT, WHAT WAS THE TIME PERIOD FOR
15 THAT AGAIN?

16 A I SERVED AS SUPERVISING JUDGE FROM -- OR 1995
17 AND 1996, AND THEN AGAIN FROM THE BEGINNING OF 2000 TO
18 THE LATTER PART OF 2001.

19 Q THANK YOU. AND IN THE INTERIM, AM I CORRECT
20 THAT AT SOME POINT BETWEEN THE '96 AND 2000 YOU WERE
21 THE SUPERVISING JUDGE OF THE ENTIRE JUVENILE COURT
22 SYSTEM?

23 A RIGHT. THAT'S CALLED THE PRESIDING JUDGE.

24 Q PRESIDING JUDGE, SORRY. THANK YOU.

25 AND THEN AT SOME POINT AFTER TWO-THOUSAND- --
26 WAS IT IMMEDIATELY AFTER 2001 THAT YOU WERE BACK AS
27 PRESIDING JUDGE FOR THE WHOLE SYSTEM?

28 A THAT WAS THE LATTER PART OF 2001.

1 Q AND THAT CONTINUED THEN UNTIL 2015?

2 A CORRECT.

3 Q AS PRESIDING JUDGE OF THE ENTIRE JUVENILE
4 COURT SYSTEM, JUST GENERALLY SPEAKING, WHAT WERE YOUR
5 DUTIES, JOB DUTIES?

6 A ESSENTIALLY, I HAD ADMINISTRATIVE
7 RESPONSIBILITY FOR THE ENTIRE JUVENILE COURT SYSTEM,
8 AND I WAS IN A SUPERVISORY CAPACITY OVER THE JUDICIAL
9 OFFICERS IN THAT SYSTEM.

10 Q AND WHEN YOU SAY "IN THAT SYSTEM," THAT
11 INCLUDED BOTH THE JUVENILE DEPENDENCY COURTS AND THE
12 JUVENILE DELINQUENCY COURTS?

13 A YES.

14 Q ARE THERE ANY OTHER JUVENILE COURTS THAT YOU
15 WOULD HAVE HAD THE ADMINISTRATIVE MANAGEMENT
16 RESPONSIBILITY FOR?

17 A YES. UNTIL 2012, THERE WAS ANOTHER SYSTEM
18 CALLED THE INFORMAL JUVENILE AND TRAFFIC COURT. I HAD
19 SUPERVISORY RESPONSIBILITY OVER THAT AS WELL.

20 Q FOCUSING JUST FOR THE MOMENT ON THE JUVENILE
21 DEPENDENCY COURT, DURING THE TIME THAT YOU WERE THE
22 PRESIDING JUDGE -- WE CAN RESTRICT IT, LET'S SAY FROM
23 2008 TO 2013, SORT OF A FIVE-YEAR WINDOW -- HOW MANY
24 JUVENILE DEPENDENCY COURTS DID YOU OVERSEE?

25 A DURING THAT PERIOD OF TIME, THERE WERE
26 20 DEPENDENCY COURTS. MIGHT HAVE BEEN 21, BUT I THINK
27 IT WAS 20.

28 Q AND AS PART OF THE ADMINISTRATIVE, THE

1 MANAGEMENT FUNCTION THAT YOU WERE PERFORMING, DID THAT
2 ALSO INCLUDE CERTAIN BUSINESS OPERATION
3 RESPONSIBILITIES?

4 A I'M NOT SURE WHAT YOU MEAN BY THAT.

5 Q WELL, LIKE STAFFING OR TRACKING OF STATISTICS,
6 DATA THAT IS GENERATED BY THE COURT, THAT SORT OF
7 THING.

8 A YES.

9 Q OKAY. DID YOU KEEP TRACK OF -- BACK DURING
10 THAT TIME PERIOD, THAT FIVE-YEAR WINDOW FROM 2008 TO
11 ABOUT 2013 -- GENERALLY THE NUMBER OF CHILDREN THAT
12 WERE GOING THROUGH THAT COURT SYSTEM, THE JUVENILE
13 COURT SYSTEM?

14 A YES.

15 Q OKAY. AND ABOUT -- JUST ON AVERAGE, ABOUT HOW
16 MANY A YEAR?

17 A I'M NOT SURE IT WAS QUANTIFIED THAT WAY.

18 DURING THAT PERIOD OF TIME, THERE WERE
19 SOMEWHERE BETWEEN, OH, I WOULD GUESS -- I WOULD SAY
20 24,000 TO 27,000 CHILDREN WHO WERE UNDER THE
21 JURISDICTION OF THE DEPENDENCY COURT.

22 Q AND WHEN YOU SAY "UNDER THE JURISDICTION,"
23 WHAT DOES THAT MEAN?

24 A MEANS THEY HAD CASES IN THE DEPENDENCY COURT.

25 Q AND THAT WAS SPREAD OUT -- WAS THAT MORE OR
26 LESS EVENLY OVER THE 20 COURTROOMS?

27 A MORE OR LESS.

28 Q SO, ROUGHLY, WOULD THAT BE SOMEWHERE BETWEEN

1 1,000 TO 1,500 CHILDREN PER COURTROOM DURING THAT
2 PERIOD OF TIME?

3 A I MEAN, THAT'S A ROUGH -- THAT'S PROBABLY
4 WITHIN THE RANGE, YES.

5 Q OKAY. AND AS PART OF THE MANAGEMENT OR
6 ADMINISTRATIVE RESPONSIBILITY, DID YOU FREQUENTLY
7 COMMUNICATE WITH THE -- WHAT DO YOU CALL THE JUDGES --
8 YOU'RE PRESIDING JUDGE. WHAT DO YOU CALL THE -- HOW DO
9 YOU REFER TO THE JUDGES THAT YOU'RE SUPERVISING?

10 A YOUR HONOR. NO, I'M JUST KIDDING.

11 THE COURT: JUDGE.

12 THE WITNESS: JUST, YOU KNOW, WE'RE
13 COLLEAGUES. JUDGE, COMMISSIONER, REFEREE, DEPENDING ON
14 WHAT THEIR STATUS WAS.

15 BY MR. MCMILLAN:

16 Q OKAY. SO YOUR COLLEAGUES; WOULD THAT WORK?

17 A YES, THEY WERE COLLEAGUES.

18 Q OKAY. WHEN YOU WERE THE PRESIDING JUDGE --
19 AND AGAIN, JUST IN THAT FIVE-YEAR PERIOD FROM 2008 TO
20 2013, AS PART OF YOUR ADMINISTRATIVE OR SUPERVISORY
21 DUTIES, DID YOU FREQUENTLY COMMUNICATE WITH YOUR
22 COLLEAGUES ABOUT THE GOINGS-ON, GENERALLY, IN THE
23 COURTROOM?

24 A YES, WE HAD REGULAR MEETINGS.

25 Q AND ALSO AS PART OF YOUR MANAGEMENT FUNCTION
26 AS THE PRESIDING JUDGE, DID YOU COMMUNICATE FREQUENTLY
27 WITH REPRESENTATIVES FROM THE COUNTY?

28 A YES.

1 Q OF LOS ANGELES?

2 A YES.

3 Q WHAT SORTS OF REPRESENTATIVES?

4 A COUNTY COUNSEL, DCFS.

5 Q ANY OTHERS?

6 A WELL, THOSE ARE THE PRIMARY COUNTY ENTITIES IN
7 THE COURT. THERE WERE ALSO REPRESENTATIVES FROM THE
8 DEPARTMENT OF MENTAL HEALTH IN THE COURTHOUSE.

9 THERE WERE OTHER ENTITIES IN THE COURTHOUSE
10 BUT THEY REALLY WEREN'T COUNTY ENTITIES; THEY WERE THE
11 ENTITIES THAT REPRESENT CHILDREN AND PARENTS IN THE
12 COURT. THERE'S ALSO THE COURT-APPOINTED SPECIAL
13 ADVOCATE PROGRAM KNOWN AS CASA; THEY WERE LOCATED IN
14 THE COURTHOUSE. AND I HAD CONTACT WITH ALL OF THEM.

15 Q LET'S RESTRICT, JUST FOR THE MOMENT, YOUR
16 CONTACT WITH COUNTY COUNSEL AND DCFS.

17 AT SOME POINT IN TIME DURING THAT WINDOW FROM
18 2008 TO 2013, DID IT COME TO YOUR ATTENTION THAT DCFS
19 WAS NOT REGULARLY OBTAINING REMOVAL WARRANTS WHEN THERE
20 WERE QUESTIONS ABOUT WHETHER OR NOT THEY SHOULD HAVE?

21 A I WOULD SAY YES.

22 Q OKAY. CAN YOU TELL US A LITTLE MORE ABOUT
23 THAT?

24 A AS BEST AS I CAN RECALL, THERE WAS -- BASED
25 UPON THE LAW, THE FEDERAL LAW COMING DOWN FROM THE 9TH
26 CIRCUIT, THERE WAS -- I GUESS THERE BECAME A MANDATE
27 THAT THE AGENCY NEEDED TO SEEK A WARRANT IN ORDER TO
28 DETAIN A CHILD IN THE ABSENCE OF WHAT ARE REFERRED TO

1 AS EXIGENT CIRCUMSTANCES.

2 Q THE CASE THAT YOU'RE REFERENCING THAT CAME
3 DOWN FROM THE 9TH CIRCUIT, CREATED THIS MANDATE, DO YOU
4 RECALL THE NAME OF THAT CASE?

5 A THERE WERE A NUMBER OF THEM.

6 Q LET ME SEE IF I CAN HELP A LITTLE BIT.

7 IF YOU CAN -- THERE'S A BINDER RIGHT THERE IN
8 FRONT OF YOU, IF YOU CAN TURN TO EXHIBIT NO. 181. AND
9 IN THE UPPER RIGHT-HAND CORNER OF EXHIBIT 181 ON EACH
10 PAGE THERE'S A BATES NUMBER. IF I CAN GET YOU TO TURN
11 TO BATES NO. 002517.

12 A OKAY.

13 Q AND IF YOU COULD JUST REVIEW THAT DOCUMENT FOR
14 A MOMENT.

15 A YES.

16 Q AND LET ME KNOW WHEN YOU'RE DONE.

17 A READY.

18 Q OKAY. DO YOU RECOGNIZE THAT DOCUMENT?

19 A YES.

20 Q WHAT IS THAT DOCUMENT?

21 A IT'S A MEMO THAT ARTICULATES A PROCEDURE FOR
22 DCFS TO OBTAIN WHAT WE CALL REMOVAL ORDERS, BASICALLY
23 WARRANTS TO -- THAT WILL ENABLE THEM TO DETAIN A CHILD.

24 Q OKAY. AND JUST FOR, YOU KNOW, I GUESS OUR
25 EDIFICATION, WHAT ARE WE TALKING ABOUT WHEN WE TALK
26 ABOUT OBTAINING A WARRANT?

27 A IT MEANS THAT THE AGENCY PRESENTS A DOCUMENT
28 TO THE COURT THAT ARTICULATES SPECIFIC FACTS THAT

1 CONSTITUTE WHAT IS KNOWN AS PROBABLE CAUSE FOR THE
2 AGENCY TO REMOVE A CHILD FROM HIS OR HER PARENTS OR
3 LEGAL GUARDIANS.

4 Q AND WHEN YOU SAY "SPECIFIC FACTS," WHAT DOES
5 THAT MEAN?

6 A I DON'T KNOW HOW TO PUT IT ANY OTHER WAY.
7 IT'S A "HERE ARE SOME CIRCUMSTANCES THAT CURRENTLY
8 EXIST THAT WOULD SUGGEST THAT THIS CHILD IS IN
9 POTENTIAL DANGER OF PHYSICAL OR EMOTIONAL HARM."

10 Q AND WHEN WE'RE LOOKING AT THIS MEMO -- FIRST
11 OF ALL, I UNDERSTAND -- WELL, CORRECT ME IF I'M WRONG,
12 BUT YOU HAD A GROUP OF YOUR COLLEAGUES WORKING WITH YOU
13 ON PUTTING TOGETHER THIS MEMO?

14 A YES, I DELEGATED THIS TASK TO OTHERS.

15 Q OKAY. BUT ULTIMATELY, WHEN THE MEMO WAS
16 CREATED, YOU HAD INPUT DIRECTLY INTO THE SUBSTANCE OF
17 THE MEMO?

18 A YES, I APPROVED IT.

19 Q OKAY. AND THEN AT SOME POINT DID YOU GO AHEAD
20 AND DIRECT THAT THE MEMO BE ISSUED TO JUVENILE
21 DEPENDENCY -- OR DEPENDENCY JUDICIAL OFFICERS AND THE
22 DEPARTMENT OF CHILDREN AND FAMILY SERVICES?

23 A YES.

24 Q DO YOU RECALL ROUGHLY WHEN IT WAS THAT YOU DID
25 THAT?

26 A WELL, LOOKING AT THE MEMO, IT SAYS
27 NOVEMBER 19, 2010.

28 Q OKAY. SO THAT WAS ACTUALLY THE DATE OF THE

1 ISSUANCE OF THE MEMO?

2 A IT HAD TO BE ON OR ABOUT THAT DATE.

3 Q NOW, I LOOKED THROUGH THIS MEMO AND IT HAS
4 SOME FAIRLY DETAILED PROCEDURES IN IT. AND WHAT I'M
5 WONDERING IS HOW LONG BEFORE THE ISSUANCE OF THIS MEMO
6 WAS IT, IF YOU RECALL, THAT YOU ACTUALLY STARTED
7 WORKING ON THE PROJECT OF PUTTING TOGETHER THIS NEW
8 PROCEDURE?

9 A I'M SORRY, BUT I DON'T RECALL THAT
10 SPECIFICALLY.

11 Q OKAY. IF WE LOOK AT THE FIRST PARAGRAPH OF
12 THE MEMO, IT SAYS:

13 "IT IS THE POLICY OF THE
14 DEPARTMENT OF CHILDREN AND FAMILY
15 SERVICES TO SEEK INVESTIGATIVE WARRANTS
16 WHEN A SOCIAL WORKER HAS REASONABLE
17 CAUSE TO BELIEVE THE CHILD IS IN DANGER
18 OF ABUSE AND WHERE THERE IS AN ABSENCE
19 OF CONSENT AND EXIGENT CIRCUMSTANCES."
20 FIRST, DID I READ THAT CORRECTLY?

21 A YES, SIR.

22 Q WHAT IS AN INVESTIGATIVE WARRANT?

23 A IT ESSENTIALLY IS A WARRANT THAT WOULD PERMIT
24 THE AGENCY TO ENTER A HOME TO DETERMINE -- TO
25 INVEST- -- OR DETERMINE WHETHER OR NOT THERE IS A CHILD
26 WHO IS THE SUBJECT OF ABUSE OR NEGLECT.

27 Q OKAY. AND THAT'S DISTINGUISHED FROM A REMOVAL
28 WARRANT; CORRECT?

1 A YES.

2 Q JUST TO MAKE SURE I'M UNDERSTANDING, AN
3 INVESTIGATIVE WARRANT, THE COUNTY AND THE COURT HAD
4 BEEN ISSUING THOSE FOR A LONG PERIOD OF TIME BEFORE
5 NOVEMBER 2010; CORRECT?

6 A THAT'S CORRECT.

7 Q AND THE PURPOSE OF THOSE WARRANTS WAS TO ALLOW
8 A SOCIAL WORKER TO ENTER A HOME TO INVESTIGATE?

9 A YES.

10 Q NOT TO REMOVE?

11 A WELL, SOMETIMES THE WARRANT WOULD POINT OUT
12 THAT IF -- THAT THEY WOULD ALSO HAVE THE AUTHORITY TO
13 DO THAT --

14 Q BUT THAT --

15 A -- I BELIEVE.

16 Q SORRY. BUT THAT WOULD BE AFTER THE
17 INVESTIGATION, IF DURING THE INVESTIGATION PURSUANT TO
18 THE WARRANT IT WAS DISCOVERED THAT THERE WERE
19 CIRCUMSTANCES THAT GIVE RISE TO AN IMMEDIATE DANGER TO
20 THE CHILD, THEN THEY WOULD REMOVE?

21 A YES.

22 Q OKAY. SO THE WARRANT IN AND OF ITSELF DIDN'T
23 PERMIT THE REMOVAL OF THE CHILD WITHOUT AN
24 INVESTIGATION?

25 A CORRECT.

26 Q YOU NOTE -- AND CORRECT ME IF I'M WRONG -- BUT
27 THOSE INVESTIGATIVE WARRANTS, THERE WAS A PROCESS, AND
28 THOSE HAD BEEN ISSUED FOR YEARS PRIOR?

1 A THAT'S CORRECT.

2 Q OKAY. HOW LONG, HOW LONG, IN YOUR EXPERIENCE,
3 WOULD IT TYPICALLY TAKE, IF A SOCIAL WORKER WANTED TO
4 GET AN INVESTIGATIVE WARRANT TO GO INVESTIGATE CHILD
5 ABUSE, HOW LONG WOULD IT TAKE FOR THE COURT TO GO AHEAD
6 AND ISSUE THAT ORDER?

7 A GENERALLY, THE WARRANT WOULD BE BROUGHT TO THE
8 COURT. I BELIEVE OUR PROCESS WAS THAT IT WOULD EITHER
9 COME TO THE SUPERVISING JUDGE OR THE PRESIDING JUDGE,
10 AND WE WOULD USUALLY RULE ON IT ALMOST ON THE SPOT.

11 Q SO WITHIN MINUTES, MAYBE?

12 A YEAH, I MEAN, THERE MIGHT BE A FEW -- A SHORT
13 WAITING TIME BUT IT WOULDN'T -- THAT ASPECT OF THE
14 PROCESS DIDN'T TAKE LONG.

15 Q AND WAS THERE ALSO THE AVAILABILITY OR THE
16 ABILITY FOR A SOCIAL WORKER TO ACTUALLY CALL IN A
17 REQUEST FOR A WARRANT TO THE COURT, GET TELEPHONE
18 WARRANTS, THAT SORT OF THING?

19 A I BELIEVE SO.

20 Q AND THEN AFTER THEY MAKE THE CALL, AT SOME
21 LATER POINT IN TIME AFTER THE WARRANT HAD ISSUED, THEY
22 WOULD HAVE TO SUBMIT AN AFFIDAVIT ACTUALLY IN WRITING
23 OR SOMETHING LIKE THAT?

24 A YES.

25 Q AND WITH RESPECT TO THOSE TELEPHONE WARRANTS,
26 ROUGHLY HOW LONG DID THOSE TAKE TO PROCESS?

27 A AS LONG AS IT TOOK FOR THE SOCIAL WORKER OR
28 WHOEVER WAS ON THE OTHER END OF THE PHONE TO

1 SPECIFICALLY STATE WHAT THE FACTS WERE.

2 Q OKAY. SO, FOR EXAMPLE, I'M A SOCIAL WORKER;
3 I'M OUT IN THE FIELD; I'M KNOCKING ON A DOOR WITH A
4 REFERRAL. THE PARENT REFUSES TO GRANT ME ACCESS TO
5 INVESTIGATE.

6 COULD I, AT THAT POINT, GET ON MY PHONE AND
7 CALL THE COURT TO GET A WARRANT TO ENTER?

8 MR. GUTERRES: OBJECTION. SPECULATION. NO
9 FOUNDATION.

10 THE COURT: OVERRULED.

11 THE WITNESS: I THINK THAT TYPICALLY THE
12 SOCIAL WORKER WOULD WORK THROUGH COUNTY COUNSEL. SO
13 THEY WOULDN'T CALL THE COURT DIRECTLY, THEY WOULD CALL
14 THEIR COUNSEL FIRST OR THE SUPERVISOR OR BOTH.

15 BY MR. MCMILLAN:

16 Q SO THEY'D CONTACT THEIR ATTORNEY OR THEIR
17 SUPERVISOR AND THEN EITHER THE ATTORNEY OR THE
18 SUPERVISOR WOULD MAKE THE CALL TO THE COURT?

19 A COULD BE ONE OR MORE OF THOSE PERSONS. IT
20 COULD BE THE ATTORNEY AND THE SOCIAL WORKER, DEPENDING
21 ON WHO WAS GOING TO BE THE WHAT THEY CALL THE AFFIANT,
22 THE PERSON SPECIFYING WHAT THE FACTS WERE TO SUPPORT
23 THE REQUESTED ACTION.

24 Q OKAY. SO THE PERSON WHO'S GIVING THE FACTS
25 NEEDS TO BE THE PERSON THAT KNOWS THE FACTS; IS THAT
26 RIGHT?

27 A YES.

28 Q NOW, GOING FORWARD TO THE NEXT SENTENCE IN THE

1 FIRST PARAGRAPH IN THIS MEMO, THE NOVEMBER 19, 2010,
2 MEMO, IT SAYS:

3 "HOWEVER, DCFS HAS NOT SOUGHT
4 ORDERS TO DETAIN A CHILD, INSTEAD
5 RELYING ON THE SOCIAL WORKER'S
6 ASSESSMENT OF WHETHER THE CHILD FALLS
7 UNDER WELFARE AND INSTITUTIONS CODE
8 SECTION 300."

9 FIRST, DID I READ THAT CORRECTLY?

10 A YES.

11 Q AND WHEN IT SAYS HERE "RELYING ON THE SOCIAL
12 WORKER'S ASSESSMENT," AM I CORRECT IN UNDERSTANDING
13 THAT, IN THAT CIRCUMSTANCE, THE SOCIAL WORKER IS NOT
14 CALLING IN TO A COURT OR FILING AN AFFIDAVIT TO GET A
15 WARRANT; THE SOCIAL WORKER IS MAKING THEIR OWN
16 ASSESSMENT IN THE FIELD AS TO WHETHER OR NOT THE
17 CHILD'S IN DANGER?

18 A YES.

19 Q OKAY. THE NEXT PARAGRAPH SAYS:

20 "CALIFORNIA'S REMOVAL STATUTES DO
21 NOT REQUIRE COURT APPROVAL PRIOR TO THE
22 REMOVAL OF A CHILD."

23 AND THAT REFERENCES WELFARE AND INSTITUTION
24 CODE SECTIONS 305 AND 306. IT SAYS:

25 "RATHER, THE PROCEDURE AT ISSUE IS
26 A RESPONSE TO SEVERAL CASES OVER THE
27 LAST DECADE IN THE REALM OF JUVENILE
28 AND CIVIL LAW WHICH HAVE MANDATED THAT

1 A WARRANTLESS, NON-EMERGENCY SEIZURE OF
2 AN ALLEGED VICTIM OF CHILD ABUSE FROM
3 HIS OR HER HOME VIOLATES THE 4TH
4 AMENDMENT."

5 FIRST, DID I READ THAT CORRECTLY?

6 A YES, SIR.

7 Q AND THEN YOU CITE TWO CASES HERE: ONE IS
8 *BURKE VS. COUNTY OF ALAMEDA* AND THE OTHER IS *WALLIS VS.*
9 *CITY OF ESCONDIDO*?

10 A YES.

11 Q DO YOU RECALL IN *WALLIS VS. CITY OF ESCONDIDO*
12 THAT THAT IS WHERE THE 9TH CIRCUIT FIRST ENUNCIATED
13 THIS CONCEPT THAT, UNDER THE 4TH AND 14TH AMENDMENTS, A
14 WARRANT IS REQUIRED TO SEIZE A CHILD FROM ITS PARENT IN
15 NONEXIGENT CIRCUMSTANCES?

16 A I BELIEVE THAT'S THE CASE, ALTHOUGH I HAVEN'T
17 READ THAT CASE IN MANY, MANY YEARS.

18 Q I UNDERSTAND.

19 IF WE LOOK AT THE CITATION HERE, THOUGH,
20 *WALLIS VS. CITY OF ESCONDIDO*, AND THEN THERE'S SOME
21 PARENTHESES THERE, IT SAYS:

22 "1999, 202 F 3D 1126."

23 I WANT TO DRAW YOUR ATTENTION JUST TO THE
24 PARENTHESES, 1999.

25 CAN YOU EXPLAIN FOR US WHAT THAT MEANS, THE
26 YEAR THERE?

27 A I BELIEVE THAT WAS THE YEAR THAT THE CASE WAS
28 PUBLISHED.

1 Q OKAY. AND WHEN YOU WERE TALKING ABOUT THE
2 MANDATE EARLIER, THE MANDATE THAT SOCIAL SERVICES
3 AGENCIES GET WARRANTS BEFORE THEY SEIZE CHILDREN IN
4 NONEXIGENT CIRCUMSTANCES, WOULD 1999 HAVE BEEN THE YEAR
5 THAT THAT MANDATE CAME DOWN FROM THE 9TH CIRCUIT?

6 A CERTAINLY POTENTIALLY.

7 Q DO YOU HAVE ANY UNDERSTANDING WHY IT WOULD
8 HAVE TAKEN THE COUNTY OF LOS ANGELES TEN YEARS TO START
9 GETTING REMOVAL WARRANTS?

10 MR. GUTERRES: OBJECTION. NO FOUNDATION.
11 SPECULATION.

12 THE COURT: SUSTAINED.

13 BY MR. MCMILLAN:

14 Q LET'S GO BACK. AS PART OF THE PROCESS, ONCE
15 YOU PUT THIS MEMO TOGETHER, YOU DID PUT -- THE COURT
16 DID PUT A PROCEDURE IN PLACE MANDATING THAT THESE
17 WARRANTS COME THROUGH THE COURT AND FOLLOW A SPECIFIC
18 PROCEDURE TO GET EITHER ISSUED OR DENIED; IS THAT
19 RIGHT?

20 A CORRECT.

21 Q AND AS PART OF THAT PROCESS, DID YOU REQUEST
22 OF YOUR ADMINISTRATIVE STAFF THAT THEY KEEP TRACK OF
23 THE DATA, THAT IS, HOW MANY WARRANT APPLICATIONS WERE
24 COMING IN AND HOW MANY WERE BEING GRANTED, DENIED, THAT
25 SORT OF THING?

26 A I DON'T RECALL THAT I SPECIFICALLY REQUESTED
27 IT, BUT THEY DID IT.

28 Q THEY DID KEEP TRACK OF THAT DATA?

1 A YES.

2 Q DID THEY PROVIDE YOU THAT DATA AS YOU WERE
3 MONITORING THE PROGRESS OF THIS NEW WARRANT POLICY?

4 A PERIODICALLY.

5 Q OKAY. AND WHAT WAS THE REASON THAT YOU WERE
6 MONITORING THAT DATA?

7 A WELL --

8 MR. GUTERRES: OBJECTION. LACKS FOUNDATION.

9 THE COURT: OVERRULED.

10 THE WITNESS: JUST TO DETERMINE THE WORKLOAD
11 IMPLICATIONS OF THE PROCESS.

12 BY MR. MCMILLAN:

13 Q "WORKLOAD IMPLICATIONS OF THE PROCESS," CAN
14 YOU EXPLAIN TO US WHAT YOU MEAN BY THAT?

15 A WELL, OBVIOUSLY, WE WANT TO MAKE SURE THAT WE
16 HAVE THE RESOURCES TO BE ABLE TO RULE ON THESE IN A
17 TIMELY MANNER. AND SO WE KEPT TRACK OF IT TO DETERMINE
18 WHETHER OR NOT WE NEEDED TO PROVIDE MORE RESOURCES TO
19 COMPLETE THIS PROCESS.

20 Q DID YOU ALSO KEEP TRACK OF THE DATA IN PART TO
21 DETERMINE HOW EFFECTIVE YOUR NEW POLICY WAS IN ACTUALLY
22 GETTING THOSE WARRANTS?

23 A I'M NOT SURE WHAT YOU MEAN BY THAT.

24 Q WELL, LET'S FOCUS ON WORKLOAD FOR A MOMENT.
25 MAYBE WE CAN LOOP BACK TO IT A LITTLE LATER.

26 BUT FOR WORKLOAD PURPOSES, CAN YOU EXPLAIN TO
27 US WHAT THE WORKLOAD IMPLICATIONS WERE ONCE THIS NEW
28 WARRANT PROCESS WAS IN PLACE?

1 A WELL, WHEN THE PROCESS FIRST STARTED, I THINK
2 THERE WERE -- AND I DON'T REMEMBER EXACTLY -- BUT THERE
3 WERE PROBABLY A COUPLE OF JUDGES OR JUDICIAL OFFICERS
4 WHO WOULD HANDLE THESE REQUESTS. AS THE NUMBERS
5 INCREASED, WE HAD TO ULTIMATELY MODIFY THE PROCEDURES
6 SO THAT THERE WERE MORE JUDICIAL OFFICERS AVAILABLE TO
7 HANDLE THESE REQUESTS SO THEY CAN GET DONE IN A TIMELY
8 MANNER.

9 Q OKAY. SO AM I CORRECT IN UNDERSTANDING, THEN,
10 THAT AS THIS NEW REMOVAL WARRANT PROCESS CAME INTO
11 PLAY, THE JUDICIAL WORKLOAD EXPANDED?

12 A YES.

13 Q AND THE REASON THAT YOU WERE KEEPING TRACK OF
14 THE DATA IS SO THAT YOU COULD DETERMINE HOW BEST TO
15 UTILIZE THE COURT'S RESOURCES IN DEALING WITH THESE --
16 THIS NEW PROCESS EFFECTIVELY?

17 A YES.

18 Q AND EFFICIENTLY?

19 A YES.

20 Q AM I CORRECT THAT FROM THE FIRST MONTH THAT
21 THIS WARRANT PROCESS WAS IMPLEMENTED TO -- OUR
22 FIVE-YEAR WINDOW -- 2013, THAT YOU SAW A TENFOLD
23 INCREASE IN THE NUMBER OF WARRANTS BEING SOUGHT?

24 MR. GUTERRES: OBJECTION. RELEVANCE.

25 THE COURT: SUSTAINED.

26 BY MR. MCMILLAN:

27 Q WELL, LET ME ASK YOU THIS: LEADING UP TO THE
28 ISSUANCE OF THIS POLICY -- WAS THIS A MANDATE TO THE

1 COUNTY, THAT THEY NEEDED TO FOLLOW THIS POLICY TO GET
2 THE WARRANTS?

3 A YES.

4 Q OKAY. SO LET'S -- LEADING UP TO THE ISSUANCE
5 OF THIS MANDATE TO THE COUNTY, DID YOU HAVE ANY
6 WORKLOAD ISSUES WITH RESPECT TO RESOLVING WARRANT
7 APPLICATIONS BEFORE JANUARY 1ST OF 2010?

8 A NOT THAT I'M AWARE OF.

9 Q OKAY. AND THAT'S SOMETHING THAT AS IT WAS
10 HAPPENING FREQUENTLY, A STATISTICALLY SIGNIFICANT
11 AMOUNT OF TIMES, THAT'S SOMETHING THAT AS PRESIDING
12 JUDGE YOU WOULD KEEP TRACK OF BECAUSE IT WOULD AFFECT
13 THE WORKLOAD OF YOUR COLLEAGUES AND THE COURT STAFF?

14 A PRESUMABLY.

15 Q AM I CORRECT THAT PRIOR TO JANUARY 1ST OF 2010
16 THERE WAS NO DISCERNIBLE STATISTICAL IMPACT ON YOUR
17 COURTS?

18 A I THINK THAT'S FAIR TO SAY.

19 Q OKAY. AND IN PART IS THAT BECAUSE THERE WAS
20 NO REMOVAL -- OR REGULARLY ESTABLISHED PRACTICE OF
21 SEEKING REMOVAL WARRANTS BEFORE SEIZING CHILDREN WHERE
22 THERE WAS NO EXIGENT CIRCUMSTANCE?

23 MR. GUTERRES: OBJECTION. FOUNDATION.
24 SPECULATION.

25 THE COURT: OVERRULED.

26 THE WITNESS: YES.

27 BY MR. MCMILLAN:

28 Q NOW, ONE OF THE THINGS THAT WE -- WELL, LET ME

1 ASK YOU THIS FIRST: YOU AND I, WE WERE ABLE TO MEET
2 LAST WEEK ON THURSDAY AND SIT DOWN TOGETHER AND HAVE A
3 CONVERSATION ABOUT THESE SUBJECTS.

4 DO YOU REMEMBER THAT?

5 A YES.

6 Q AND YOU REMEMBER WE TALKED A LITTLE BIT ABOUT
7 TWO SORT OF BROAD CATEGORIES: ONE RELATED TO WARRANTS
8 AND THE OTHER RELATED TO COURT REPORTING AND SOME OF
9 THE PROBLEMS THAT MAY ARISE OUT OF COURT REPORTING.

10 DO YOU RECALL THAT?

11 A YES.

12 Q FOCUSING FOR A MOMENT ON THE WARRANT
13 REQUIREMENTS, CAN YOU EXPLAIN TO US WHY IT IS
14 IMPORTANT -- FROM THE JUDICIAL PERSPECTIVE, WHY IT'S
15 IMPORTANT THAT GOVERNMENT ADHERE TO WARRANT
16 REQUIREMENTS?

17 MR. GUTERRES: OBJECTION. RELEVANCE.

18 THE COURT: OVERRULED.

19 THE WITNESS: I'M NOT SURE WHAT YOU MEAN,
20 IMPORTANT TO "ADHERE TO WARRANT REQUIREMENTS." IF
21 YOU'RE TALKING ABOUT MAKING SURE THAT THE WARRANT IS --
22 YOU KNOW, HAS COMPLETE AND ACCURATE INFORMATION, THEN I
23 WOULD SAY YES, THAT'S VERY IMPORTANT BECAUSE YOU WANT
24 TO ENSURE THAT THE JUDGE HAS, OR THE JUDICIAL OFFICER
25 HAS ENOUGH INFORMATION BEFORE HIM OR HER TO MAKE A
26 DECISION.

27 BY MR. MCMILLAN:

28 Q WOULD YOU CONSIDER THE WARRANT REQUIREMENTS

1 THAT ARISE UNDER THE 4TH AND 14TH AMENDMENTS TO BE A
2 LEGAL SAFEGUARD THAT PROTECTS PARENTS AND CHILDREN?

3 A IT PROTECTS EVERYBODY.

4 Q AND THAT REQUIREMENT THAT THE INFORMATION
5 CONTAINED IN THE WARRANT AFFIDAVIT BE TRUTHFUL,
6 ACCURATE, COMPLETE, DOES THAT SATISFY THE SAME PURPOSE?

7 A YES.

8 Q AND CARRYING THAT CONCEPT OVER TO COURT
9 REPORTS, LET'S TALK ABOUT THAT A LITTLE BIT, IN THE
10 JUVENILE DEPENDENCY SYSTEM.

11 WHAT'S THE ROLE THAT SOCIAL WORKERS PLAY IN
12 THE COURT PROCESS IN THAT SYSTEM -- COUNTY SOCIAL
13 WORKERS, GOVERNMENT SOCIAL WORKERS?

14 A WELL, SOCIAL WORKERS DO A NUMBER OF THINGS.
15 THEY OBVIOUSLY HAVE THE ABILITY TO GO OUT AND
16 INVESTIGATE REPORTS OF ABUSE OR NEGLECT. THEY HAVE THE
17 LEGAL ABILITY TO POTENTIALLY REMOVE A CHILD FROM THE
18 HOME. THEY -- AND THEY ALSO WORK WITH FAMILIES TO LINK
19 THEM TO SERVICES THAT WOULD HOPEFULLY BE NECESSARY AND
20 APPROPRIATE SO THAT THAT FAMILY COULD REMOVE ITSELF, IF
21 YOU WILL, FROM GOVERNMENT INTERVENTION IN THEIR LIVES.

22 Q SO IS IT CORRECT THAT, IN A PERFECT WORLD, THE
23 CONCEPT OF A SOCIAL WORKER IS A VERY VALUABLE THING?

24 A ABSOLUTELY.

25 Q BECAUSE THEY CAN -- THEY HAVE THE POWER TO
26 HELP PEOPLE AND HELP FAMILIES?

27 A YES.

28 Q BUT THERE'S ANOTHER THING THAT YOU MENTIONED,

1 AND THAT'S REMOVAL.

2 SO AM I CORRECT THAT THEY ALSO HAVE THE POWER,
3 UNDER CERTAIN CIRCUMSTANCES, TO TAKE FAMILIES APART?

4 A YES.

5 Q AM I CORRECT THAT THE REASON THAT WE HAVE
6 THESE SAFEGUARDS IN PLACE TO SORT OF CIRCUMSCRIBE AND
7 LIMIT THE EXERCISE OF THAT POWER IS TO PROTECT PARENTS
8 AND CHILDREN, FAMILIES, FROM UNWARRANTED GOVERNMENT
9 INTERVENTION?

10 A THAT'S CORRECT.

11 Q AND THAT'S IMPORTANT TO YOU AS A JUDGE?

12 A YES.

13 Q WHY IS THAT?

14 A WELL, IF WE -- WE HAVE A SYSTEM THAT IS
15 DESIGNED TO SERVE THE PEOPLE, TO SERVE THE PEOPLE IN AN
16 APPROPRIATE WAY. AND WE WANT TO MAKE SURE THAT WHEN WE
17 DO THAT, WE'RE DOING THAT IN THE BEST WAY POSSIBLE.

18 Q IN THE BEST WAY POSSIBLE.

19 ONE OF THE THINGS THAT YOU'D MENTIONED THAT
20 GOVERNMENT SOCIAL WORKERS DO, ONE OF THEIR AREAS OF
21 RESPONSIBILITY, IS TO INVESTIGATE ALLEGATIONS OF ABUSE?

22 A YES.

23 Q ARE THEY ALSO THEN REQUIRED TO REPORT TO THE
24 COURT REGARDING THE RESULTS OF THEIR INVESTIGATION?

25 A THEY ARE WHEN THEY FILE A CASE.

26 Q WHEN THEY FILE A CASE.

27 SO ONLY IF THERE'S A CASE ACTUALLY FILED IN
28 DEPENDENCY COURT, THEN THE DUTY TO REPORT SORT OF COMES

1 TO THE FLOOR?

2 A YES.

3 Q WE TALKED A LITTLE BIT LAST WEEK ABOUT
4 DETENTION REPORTS; DO YOU REMEMBER THAT CONVERSATION?

5 A I REMEMBER WE TALKED ABOUT IT.

6 Q CAN YOU EXPLAIN FOR THE JURY THE FUNCTION THAT
7 A DETENTION REPORT PLAYS IN THE COURT'S DECISION, THE
8 FIRST HEARING OF THE CASE.

9 A IN THE EVENT THAT A CHILD IS REMOVED FROM HIS
10 OR HER PARENTS, WITHIN 72 HOURS, THE DEPARTMENT IS
11 REQUIRED TO PROVIDE A REPORT TO THE COURT. THAT REPORT
12 DOES A NUMBER OF THINGS.

13 NUMBER ONE, IT INFORMS THE PARENTS AND
14 EVERYBODY, ACTUALLY, EVERYBODY INVOLVED IN THE PROCESS
15 ABOUT THE NATURE OF THE ALLEGATIONS. IN OTHER WORDS,
16 THIS IS WHAT WE'RE SAYING IS THE ABUSE OR NEGLECT THAT
17 WE'RE TALKING ABOUT.

18 AND SECONDLY, IT SHOULD STATE FACTS THAT WOULD
19 SUPPORT THE ACTION THEY TOOK, WHICH IS TO REMOVE THE
20 CHILD FROM THE HOME.

21 Q AND WHEN YOU SAY "IT SHOULD STATE FACTS THAT
22 SUPPORT THE ACTION THAT THEY TOOK," I'M WONDERING --
23 BECAUSE "SUPPORT THE ACTION THEY TOOK," DOES THAT MEAN
24 THEY ONLY STATE THE FACTS THAT WOULD JUSTIFY WHAT THEY
25 DID?

26 A YES, I WOULD THINK SO.

27 Q IS THERE ANY -- LET ME ASK YOU THIS FIRST:
28 THE DETENTION REPORT, AM I CORRECT THAT THAT IS THE

1 PRIMARY EVIDENTIARY DOCUMENT THAT THE JUVENILE COURT
2 WILL RELY ON WHEN DECIDING WHETHER OR NOT THERE'S A
3 PRIMA FACIE CASE STATED?

4 A YES, AT THE VERY FIRST HEARING THAT IS THE
5 DOCUMENT THAT THE COURT RELIES ON TO SATISFY THE BURDEN
6 OF PROOF THAT THE LAW REQUIRES.

7 Q OKAY. AND AT THE DETENTION HEARING, WHAT IS
8 THAT BURDEN OF PROOF?

9 A IT'S CALLED A PRIMA FACIE CASE; IT'S ACTUALLY
10 THE LOWEST BURDEN OF PROOF THAT THE LAW REQUIRES.

11 Q AND WHEN THE COURT IS LOOKING AT THE DETENTION
12 REPORT TO MEET THIS LOW BURDEN, THE PRIMA FACIE BURDEN,
13 IS THE COURT RELYING ON THE SOCIAL WORKER TO BE
14 TRUTHFUL, ACCURATE, AND COMPLETE IN THAT REPORT?

15 A YES.

16 Q WHY IS THAT?

17 A BECAUSE WE HAVE A SYSTEM OF LAWS THAT IS BASED
18 UPON THE NOTION THAT WE MAKE DECISIONS BASED UPON
19 ACCURATE, TRUTHFUL, AND RELIABLE EVIDENCE.

20 Q AND PART OF THE REASON FOR THAT IS BECAUSE IN
21 OUR SYSTEM, OUR SYSTEM OF JUSTICE AND JURISPRUDENCE,
22 THERE'S THIS CONCEPT ABOUT FUNDAMENTAL FAIRNESS AND DUE
23 PROCESS.

24 ARE YOU FAMILIAR WITH THAT?

25 A YES.

26 Q CAN YOU GIVE US JUST A BRIEF EXPLANATION -- IN
27 THE CONTEXT OF THIS DETENTION REPORT, THIS DETENTION
28 HEARING, WHAT DOES THAT MEAN IN TERMS OF THE SOCIAL

1 WORKER'S REPORTING OBLIGATIONS?

2 A IT MEANS THAT THE SOCIAL WORKER SHOULD PROVIDE
3 A REPORT THAT NOTIFIES EVERYBODY AS TO THE NATURE OF
4 THE ALLEGATIONS AND THE BASIS FOR THE ACTION THAT THEY
5 HAVE TAKEN FOR WHICH THEY ARE SEEKING COURT APPROVAL.

6 Q AND THE DETENTION REPORT, AT LEAST IN THE
7 COUNTY OF LOS ANGELES, DO YOU KNOW WHETHER OR NOT
8 THAT'S SIGNED UNDER PENALTY OF PERJURY?

9 A I BELIEVE IT IS.

10 Q DO YOU HAVE ANY UNDERSTANDING AS TO WHY IT IS
11 THAT THE SOCIAL WORKER, WHEN THEY FILE THAT REPORT, ARE
12 REQUIRED TO SIGN IT UNDER PENALTY OF PERJURY?

13 A WELL, IT'S JUST A FURTHER ATTESTATION TO THE
14 VERACITY BEHIND THE DOCUMENT.

15 Q IT'S ANOTHER ONE OF THOSE SAFEGUARDS?

16 A YES.

17 Q AND IT'S ONE OF THE REASONS THAT -- AS A JUDGE
18 REVIEWING A DETENTION REPORT AND MAKING THESE IMPORTANT
19 DECISIONS ABOUT A FAMILY, IS IT ONE OF THE REASONS THAT
20 YOU MIGHT FEEL YOU'RE ABLE TO RELY ON THAT, THE
21 INFORMATION IN THAT DETENTION REPORT?

22 A YES.

23 Q NOW, WHEN THE SOCIAL WORKER IS PUTTING
24 TOGETHER ONE OF THESE DETENTION REPORTS, ARE THEY
25 REQUIRED TO INCLUDE IN IT EXCULPATORY EVIDENCE?

26 A ONCE AGAIN, THE SOCIAL WORKER NEEDS TO PROVIDE
27 EVIDENCE THAT SUPPORTS THE ACTION THAT'S BEING TAKEN,
28 AND TO THE EXTENT THAT THERE IS EVIDENCE THAT SUGGESTS

1 THAT THE ACTION SHOULDN'T BE TAKEN, IT SHOULD BE IN THE
2 REPORT.

3 Q SO THAT THE JUDGE CAN MAKE A FULLY-INFORMED,
4 WELL-REASONED DECISION?

5 A YES.

6 Q A FAIR DECISION?

7 A YES.

8 Q IS IT APPROPRIATE FOR THE SOCIAL WORKER TO
9 EVER MAKE UP FACTS?

10 A NO.

11 Q FOR EXAMPLE, IF A SOCIAL WORKER SAYS IN HER
12 DETENTION REPORT THAT SHE SIGNED UNDER PENALTY OF
13 PERJURY THAT "I SPOKE TO A DOCTOR" -- LET'S SAY
14 DR. GILL FOR EXAMPLE -- "AND THE DOCTOR TOLD ME THAT
15 MOM IS REFUSING TO FOLLOW MY INSTRUCTIONS ABOUT HOW TO
16 FEED A CHILD, AND IT'S EVIDENT TO ME THAT THIS COULD BE
17 CAUSING THE PROBLEM."

18 NOW, IT TURNS OUT THAT'S NOT TRUE, THE SOCIAL
19 WORKER NEVER SPOKE TO THE DOCTOR. THAT'S A
20 HYPOTHETICAL.

21 WOULD THAT SORT OF STATEMENT IN A DETENTION
22 REPORT BE APPROPRIATE IN ANY CIRCUMSTANCE?

23 A NOT IF IT DIDN'T OCCUR.

24 Q AND ONE OF THE REASONS FOR THAT, AGAIN, IS
25 BECAUSE WE'RE LOOKING AGAIN AT THIS CONCEPT OF
26 FUNDAMENTAL FAIRNESS; RIGHT?

27 A YES.

28 Q AND WE WANT TO TREAT THE FAMILIES THAT COME IN

1 FRONT OF THE JUVENILE COURT FAIRLY AND CONSISTENTLY AND
2 EQUALLY UNDER THE LAW?

3 A YES.

4 Q IT'S HARD TO DO THAT IF THE COURT CAN'T TRUST
5 WHAT THE SOCIAL WORKERS ARE SAYING; RIGHT?

6 MR. GUTERRES: OBJECTION. LEADING.

7 THE COURT: SUSTAINED.

8 BY MR. MCMILLAN:

9 Q LET ME ASK IT THIS WAY: WHAT DOES IT DO --
10 FROM THE JUDICIAL PERSPECTIVE, WHAT DOES IT DO TO THE
11 INTEGRITY OF THE ENTIRE SYSTEM IF WE DON'T ADHERE TO
12 THESE CONCEPTS OF FUNDAMENTAL FAIRNESS AND HONESTY IN
13 REPORTING?

14 MR. GUTERRES: OBJECTION. OVERBROAD.

15 THE COURT: OVERRULED.

16 THE WITNESS: ULTIMATELY, IT WOULD UNDERMINE
17 PUBLIC CONFIDENCE IN THE SYSTEM, IN THE INTEGRITY OF
18 THE SYSTEM.

19 BY MR. MCMILLAN:

20 Q NOW, THE COURTS, AND THIS IS NO ASPERSION ON
21 THE COURTS, BUT THE COURTS HAVE LIMITED RESOURCES.

22 AM I RIGHT ABOUT THAT?

23 A RESOURCES --

24 MR. GUTERRES: OBJECTION. RELEVANCE.

25 THE COURT: CAN I ANSWER THAT QUESTION?

26 OVERRULED.

27 THE WITNESS: RESOURCES TO DO WHAT?

28 ///

1 BY MR. MCMILLAN:

2 Q WELL, FINANCIAL RESOURCES, LIMITED -- FOR
3 EXAMPLE -- I'LL GIVE YOU A SPECIFIC EXAMPLE.

4 AS A JUDGE IN ONE OF THOSE JUVENILE DEPENDENCY
5 COURTS THAT YOU WERE THE PRESIDING JUDGE OVER, AM I
6 CORRECT THAT THE COURT DIDN'T HAVE ITS OWN STAFF OR
7 RESOURCES FOR ITS OWN STAFF TO GO OUT AND VISIT EACH OF
8 THESE THOUSAND FAMILIES AND FIGURE OUT WHAT'S GOING ON
9 WITH THEM?

10 A WELL, YES. BUT THAT WOULD BE INAPPROPRIATE.

11 Q WOULD IT BE INAPPROPRIATE BECAUSE UNDER THE
12 LAW THE COURT RELIES ON THE SOCIAL WORKER TO PERFORM
13 THAT FUNCTION?

14 A THE COURT RELIES ON THE PARTIES TO PRESENT
15 FACTS TO THE COURT UPON WHICH THE COURT OR THE JURY
16 MAKES A DECISION ABOUT WHAT DID OR DID NOT HAPPEN.

17 Q OKAY. AND I'M CORRECT THAT IF -- LET'S FOCUS
18 JUST ON THE DETENTION HEARING FOR A MOMENT.

19 AM I CORRECT THAT THE DETENTION HEARING,
20 GENERALLY SPEAKING, IS NOT CONTESTED?

21 A I WOULD SAY THAT'S TRUE.

22 Q AND IN FACT, I THINK THE WORD THAT YOU USED
23 LAST WEEK WAS SOMETHING ALONG THE LINES OF "VERY
24 SELDOM."

25 DOES THAT SOUND RIGHT?

26 A YES.

27 Q SO WHAT'S HAPPENING THERE AT THE DETENTION
28 HEARING, THEN, THE ONLY INFORMATION THAT'S ATTESTED TO

1 UNDER PENALTY OF PERJURY THAT THE COURT IS RELYING ON
2 TO DECIDE WHETHER OR NOT THERE'S EVEN A CASE IS WHAT
3 THE SOCIAL WORKER SAID.

4 IS THAT RIGHT?

5 A MOSTLY.

6 Q WHAT DO YOU MEAN WHEN YOU SAY "MOSTLY"?

7 A WELL, TWO THINGS.

8 NUMBER ONE, THE PARTIES DO, UNDER THE LAW,
9 HAVE THE OPPORTUNITY TO HAVE A FULL-BLOWN EVIDENTIARY
10 HEARING WITHIN A COUPLE OF DAYS IF THEY SO DESIRE.

11 SECONDLY, AT THAT HEARING, IN AN INFORMAL WAY,
12 THE COURT DOES QUITE OFTEN HEAR FROM BOTH SIDES. THEY
13 HEAR FROM BOTH SIDES ABOUT THE WEIGHT THAT SHOULD BE
14 GIVEN TO THE INFORMATION IN THE REPORT. SO, FOR
15 EXAMPLE, THE PARENTS' ATTORNEY MAY SAY THE FACTS HERE
16 DO NOT JUSTIFY THE ACTION; THE OTHER SIDE WILL SAY THE
17 FACTS DO. AND THE CHILD ALSO HAS AN ATTORNEY WHO MAY
18 WEIGH IN ON THAT AS WELL.

19 IN ADDITION -- ONCE AGAIN, INFORMALLY --
20 EVIDENCE OR FACTS DO GET PRESENTED TO THE COURT. SO
21 FOR EXAMPLE, I CAN RECALL CASES WHERE A MOTHER CAME IN
22 WITH HER PRIEST AND HE SAID, "LOOK, I CAN ATTEST, YOU
23 KNOW, TO THE -- I CAN VOUCH FOR THIS PARENT, AND, YOU
24 KNOW, SHE'LL DO WHATEVER THE COURT SAYS TO MAKE SURE
25 THAT HER CHILD REMAINS SAFE." AND SOMETIMES THOSE WILL
26 HAVE AN IMPACT ON WHAT THE COURT DOES AT THAT HEARING.

27 SO IT'S NOT A FORMAL HEARING, WHERE THE PRIEST
28 IS -- OR WHOEVER THE WITNESS IS -- IS PUT ON THE

1 WITNESS STAND AND PUT UNDER OATH, BUT THE PEOPLE DO
2 HAVE AN OPPORTUNITY TO PRESENT SOME FACTS TO SUPPORT
3 THEIR CONTENTION.

4 Q AT THE DETENTION HEARING?

5 A YES.

6 Q AND HOW LONG AFTER THE SEIZURE OF A CHILD,
7 TYPICALLY, DOES IT TAKE BEFORE THERE'S A DETENTION
8 HEARING?

9 A NEEDS TO BE WITHIN 72 HOURS.

10 Q AND WHEN WE'RE TALKING ABOUT THAT SORT OF
11 BRIGHT LINE BETWEEN THE SEIZURE OF A CHILD AND THE
12 DETENTION HEARING, AM I CORRECT THAT THE PERIOD OF TIME
13 THAT HAPPENS BEFORE THE DETENTION HEARING IS WHAT WE
14 REFER TO AS PRE-DEPRIVATION DUE PROCESS?

15 A YES, I GUESS SO.

16 Q OKAY. AND FOR PRE-DEPRIVATION DUE PROCESS,
17 THAT'S WHERE THE WARRANT REQUIREMENTS COME INTO PLAY;
18 CORRECT?

19 A YES.

20 Q THEN POST-DEPRIVATION DUE PROCESS, THAT'S
21 WHERE WE GET TO THE DETENTION REPORT, THE DETENTION
22 HEARING, THE VARIOUS OTHER REPORTS AND HEARINGS THAT
23 HAPPEN ALONG THE WAY?

24 A RIGHT. SO WHAT YOU'RE SAYING IS THAT
25 PRE-DEPRIVATION MEANS THAT THE AGENCY SEEKS PERMISSION
26 FROM THE COURT BEFORE IT TAKES THE ACTION,
27 POST-DEPRIVATION MEANS THEY SEEK THE APPROVAL OF THE
28 COURT AFTER THEY TAKE THE ACTION.

1 Q RIGHT. SO AM I CORRECT, THEN, THAT EVEN AT
2 THE DETENTION HEARING, THAT WOULD BE A POST-DEPRIVATION
3 ISSUE; CORRECT?

4 A YES.

5 Q AT LEAST IN THE CIRCUMSTANCE WHERE THE CHILD'S
6 ALREADY REMOVED?

7 A YES.

8 Q OKAY. AM I CORRECT, THEN, THAT AT THE
9 DETENTION HEARING -- AGAIN, THE CONTEST I THINK YOU
10 SAID HAPPENED VERY SELDOMLY; IS THAT RIGHT?

11 A YES.

12 Q SO AT THE DETENTION HEARING, THAT
13 POST-DEPRIVATION DUE PROCESS WE'RE TALKING ABOUT, DOES
14 THAT LOOP BACK INTO THIS CONCEPT OF HONESTY AND
15 FUNDAMENTAL FAIRNESS?

16 A YES.

17 Q AND IT'S IMPORTANT AT THE DETENTION HEARING,
18 THEN, ISN'T IT, THAT WE BE ABLE TO RELY ON THE HONESTY
19 AND INTEGRITY OF THE SOCIAL WORKERS THAT ARE MAKING
20 THOSE REPORTS?

21 A IT'S IMPORTANT AT EVERY HEARING.

22 Q AT EVERY HEARING?

23 A YES.

24 Q WHY IS THAT?

25 A ONCE AGAIN, BECAUSE WE WANT TO MAINTAIN THE
26 INTEGRITY OF THE PROCESS.

27 Q AND ONE OF THE REASONS THAT WE WANT TO
28 MAINTAIN THE INTEGRITY OF AT LEAST THE JUVENILE

1 DEPENDENCY PROCESS IS BECAUSE THE IMPACT OF THE
2 DECISIONS THAT ARE MADE IN THOSE COURTS HAVE VERY DEEP
3 AND FAR-REACHING RAMIFICATIONS FOR THE PARENTS AND FOR
4 THE CHILDREN; RIGHT?

5 A YES. BUT YOU COULD SAY THAT ABOUT ANY COURT.

6 Q I AGREE. I AGREE WITH THAT.

7 NOW, JUST FOR OUR OWN EDUCATION HERE, IN THE
8 JUVENILE DEPENDENCY CIRCUMSTANCE, IS THERE A JURY?

9 A NO.

10 Q IS THERE A PANEL OF JUDGES THAT DECIDE THE
11 PARTICULAR CASE OR ISSUE?

12 A NO.

13 Q HOW DOES THAT WORK?

14 A THE JUDGE OR THE JUDICIAL OFFICER IN THE
15 DEPENDENCY COURT IS WHAT WE CALL THE TRIER OF FACT. SO
16 THE JUDGE OR THE JUDICIAL OFFICER MAKES THE DECISIONS
17 OF WHO DID WHAT TO WHOM AND SO FORTH.

18 Q SO IT'S A LITTLE BIT DIFFERENT THAN THE
19 CIRCUMSTANCES -- LIKE HERE, WHERE WE HAVE A JURY, IT
20 WOULD BE THE JURY WHO'S THE DECIDER OF THE FACTS?

21 A THAT'S CORRECT.

22 Q WHERE IN DEPENDENCY, IT'S THE JUDGE OR
23 JUDICIAL OFFICER WHO DECIDES THE FACTS?

24 A YES.

25 Q OKAY. ALL RIGHT. LET ME TAKE ONE SECOND HERE
26 AND GO THROUGH SOME OF THIS STUFF BECAUSE I DON'T WANT
27 TO RUN SHORT ON TIME.

28 ON THE ISSUE OF SEIZURE WITHOUT A WARRANT --

1 AND AGAIN, REFERENCING SORT OF BACK TO YOUR -- THE
2 MANDATE THAT DCFS START GETTING THESE WARRANTS -- AM I
3 CORRECT THAT AT THE DETENTION HEARING, THE COURT
4 DOESN'T NECESSARILY DETERMINE WHETHER OR NOT A WARRANT
5 SHOULD HAVE BEEN OBTAINED PRIOR TO SEIZURE; IS THAT
6 RIGHT?

7 A YES.

8 Q OKAY. SO THE COURT DOESN'T REALLY MAKE THE
9 ANALYSIS AS TO WHETHER OR NOT, AT THE TIME THE SOCIAL
10 WORKER SEIZED THE CHILD, DID THE SOCIAL WORKER HAVE
11 SPECIFIC AND ARTICULABLE EVIDENCE TO SHOW THAT THE
12 CHILD WAS LIKELY TO SUFFER SEVERE BODILY INJURY OR
13 DEATH IN A SHORT PERIOD OF TIME? THE COURT DOESN'T DO
14 THAT ANALYSIS?

15 A NO.

16 Q BECAUSE THAT'S NOT RELEVANT TO THE ISSUE THAT
17 THE JUVENILE DEPENDENCY COURT IS FACING AT DETENTION;
18 RIGHT?

19 A YES.

20 Q AT DETENTION, WE'RE JUST WONDERING, THE
21 EVIDENCE THAT THE SOCIAL WORKERS ARE GIVING US RIGHT
22 NOW, DOES THAT SUPPORT A PRIMA FACIE FINDING TO BRING
23 THE CHILD WITHIN THE JURISDICTION OF THE COURT?

24 A YES.

25 Q AND DO YOU KNOW WHAT THE STANDARD IS, WHEN A
26 SOCIAL WORKER SEIZES A CHILD -- OR IS PERMITTED TO
27 SEIZE A CHILD UNDER THE LAW WITHOUT FIRST GETTING A
28 WARRANT?

1 MR. GUTERRES: OBJECTION. RELEVANCE.

2 MR. MCMILLAN: LET ME --

3 MR. GUTERRES: AND FOUNDATION.

4 MR. MCMILLAN: LET ME ASK IT A DIFFERENT WAY.

5 BY MR. MCMILLAN:

6 Q IN PUTTING TOGETHER THIS MANDATE THAT YOU
7 ISSUED TO THE DEPARTMENT OF CHILDREN AND FAMILY
8 SERVICES, AM I CORRECT THAT YOU, YOURSELF, PERSONALLY
9 DID SOME RESEARCH INTO THE LAW SO THAT YOU COULD
10 DEVELOP AN UNDERSTANDING OF WHAT IT WAS THAT THIS
11 PARTICULAR MANDATE NEEDED TO ADDRESS AND HOW TO ADDRESS
12 IT?

13 A AT SOME POINT, THERE WAS -- I'M SURE I LOOKED
14 AT SOME OF THOSE CASES.

15 Q OKAY. LET ME ASK IT THIS WAY.

16 BASED ON YOUR RECOLLECTION -- AND IF YOU DON'T
17 RECALL, THAT'S PERFECTLY FINE. BASED ON YOUR
18 RECOLLECTION, AM I CORRECT THAT A CSW, CHILDREN'S
19 SOCIAL WORKER, AT THE TIME THEY SEIZE A CHILD, MUST
20 HAVE SPECIFIC AND ARTICULABLE EVIDENCE TO SHOW THAT THE
21 CHILD IS LIKELY TO SUFFER SEVERE BODILY INJURY OR DEATH
22 IN A SHORT PERIOD OF TIME?

23 IS THAT A CORRECT STATEMENT OF THE LAW AS FAR
24 AS YOU UNDERSTAND IT?

25 A I BELIEVE SO.

26 Q AND WITH REGARD TO SPECIFIC EVIDENCE, AM I
27 CORRECT IN UNDERSTANDING THAT SPECULATION ABOUT A
28 POTENTIAL FUTURE INJURY IS INSUFFICIENT BASIS TO SEIZE

1 A CHILD WITHOUT FIRST OBTAINING A WARRANT?

2 MR. GUTERRES: OBJECTION. SPECULATION. NO
3 FOUNDATION.

4 THE COURT: OVERRULED.

5 THE WITNESS: YES.

6 BY MR. MCMILLAN:

7 Q SO WE DON'T SEIZE CHILDREN BASED ON HUNCHES OR
8 IMAGINATIONS ABOUT WHAT MAY HAPPEN UNLESS THERE IS
9 SPECIFIC EVIDENCE TO SUPPORT IT?

10 A YES.

11 Q IS THAT ANOTHER ONE OF THOSE SAFEGUARDS THAT
12 WE PUT IN PLACE TO, AGAIN, PROTECT THE RIGHTS OF
13 PARENTS AND CHILDREN?

14 A YES.

15 Q AND THOSE -- FROM THE JUDICIAL PERSPECTIVE,
16 THOSE ARE IMPORTANT TO YOU, AREN'T THEY?

17 A YES.

18 Q CAN YOU EXPLAIN TO US WHY?

19 A ONCE AGAIN, WE WANT TO ENSURE THAT WHEN THE
20 GOVERNMENT TAKES ACTION, THERE IS A LEGITIMATE BASIS
21 FOR IT.

22 Q AND THESE CONCEPTS ARE SO IMPORTANT THAT, TO
23 YOUR KNOWLEDGE, OTHER COUNTIES BESIDES THE COUNTY OF
24 LOS ANGELES HAVE ACTUALLY TAKEN STEPS TO MAKE SURE THAT
25 THESE SAFEGUARDS ARE PUT INTO PRACTICE BY THEIR OWN
26 SOCIAL SERVICES AGENCIES; IS THAT RIGHT?

27 MR. GUTERRES: OBJECTION. RELEVANCE.

28 THE COURT: SUSTAINED.

1 BY MR. MCMILLAN:

2 Q GOING BACK TO YOUR MEMO HERE, PARAGRAPH 3, IT
3 SAYS:

4 "OTHER CALIFORNIA COUNTIES,
5 INCLUDING SAN DIEGO, SANTA CLARA, AND
6 SAN FRANCISCO, HAVE RESPONDED TO THESE
7 CASES BY IMPLEMENTING WRITTEN
8 PROCEDURES BY WHICH SOCIAL WORKERS MUST
9 OBTAIN A COURT ORDER PRIOR TO DETAINING
10 A CHILD WHERE THERE ARE NO EXIGENT
11 CIRCUMSTANCES AND THE PARENTS HAVE NOT
12 CONSENTED."

13 FIRST, DID I READ THAT CORRECTLY?

14 A YES --

15 MR. GUTERRES: OBJECTION. RELEVANCE.

16 THE COURT: SUSTAINED.

17 BY MR. MCMILLAN:

18 Q THESE REMOVAL WARRANTS -- WE'VE ALREADY TALKED
19 A LITTLE BIT ABOUT THE INVESTIGATIVE WARRANTS AND HOW
20 LONG IT TAKES TO GET ONE.

21 THESE REMOVAL WARRANTS, DOES THE SAME SORT OF
22 PROCESS AND TIMING APPLY?

23 MR. GUTERRES: OBJECTION. VAGUE AS TO TIME.

24 THE COURT: SUSTAINED.

25 JUST ASK HIM HOW LONG IT TAKES.

26 BY MR. MCMILLAN:

27 Q HOW LONG DOES IT TAKE TO GET A REMOVAL
28 WARRANT?

1 A ONCE AGAIN, THE -- IT PROBABLY -- I WOULD SAY
2 IT TAKES A FEW HOURS.

3 Q SO MAYBE SOMEWHERE BETWEEN ONE AND
4 THREE HOURS?

5 A PROBABLY. IN SOME CASES, IT COULD BE LONGER.

6 Q BUT IT WOULDN'T BE DAYS OR WEEKS?

7 A NO.

8 Q EVEN IF IT'S A LITTLE LONGER, WE'RE JUST
9 TALKING ABOUT A PERIOD OF HOURS?

10 A YES.

11 THE COURT: MR. MCMILLAN, I'LL REMIND YOU OF
12 THE TIME.

13 MR. MCMILLAN: YES, I AM MINDFUL OF THE TIME,
14 AND I'M CUTTING STUFF OUT AND I'M WORKING ON IT.

15 BY MR. MCMILLAN:

16 Q LET ME ASK YOU THIS: WHEN YOU TALKED A LITTLE
17 BIT EARLIER ABOUT THE SOCIAL WORKER, ONE OF THEIR
18 DUTIES TO THE COURT -- TO EVERYBODY, ALL THE PARTIES,
19 IS TO GO OUT AND INVESTIGATE THE ALLEGATIONS AND THEN
20 REPORT THE RESULTS OF THEIR INVESTIGATION; RIGHT?

21 A YES.

22 Q OKAY. WOULD IT BE IMPORTANT TO YOU, AS A
23 JUDGE, IF SOMEONE, WHEN THEY'RE PUTTING TOGETHER THESE
24 REPORTS AND SIGNING THEM AND FILING THEM -- SOME OF
25 THEM UNDER PENALTY OF PERJURY, EVEN -- WOULD IT BE
26 IMPORTANT FOR YOU TO KNOW WHETHER OR NOT THE
27 INVESTIGATOR ACTUALLY DID GO OUT AND TALK TO THE
28 WITNESSES THAT THEY CLAIMED THEY TALKED TO IN THAT

1 REPORT?

2 A YES.

3 Q WHY?

4 A ONCE AGAIN, SO THAT WE CAN FEEL CONFIDENT THAT
5 THE FACTS AS STATED ARE TRUE.

6 Q AND IF, FOR EXAMPLE, THE FACTS ARE NOT TRUE,
7 THEN THAT WOULD UNDERMINE THE EFFICACY OF THE
8 PARTICULAR RESULT, WOULDN'T IT?

9 MR. GUTERRES: OBJECTION. ASKED AND ANSWERED.
10 CUMULATIVE.

11 THE COURT: OVERRULED.

12 THE WITNESS: YES.

13 BY MR. MCMILLAN:

14 Q SOCIAL WORKERS, I THINK THERE'S A NUMBER OF
15 FUNCTIONS THEY PERFORM. I THINK THERE'S CASE LAW THAT
16 SAYS THEY ARE TO BE THE NEUTRAL, DETACHED ARM OF THE
17 COURT.

18 DOES THAT SOUND RIGHT?

19 A NO.

20 Q OKAY. EXPLAIN TO US -- LET ME TRY SOMETHING
21 ELSE.

22 WHAT ABOUT THE NEUTRAL, DETACHED EYES AND EARS
23 OF THE COURT?

24 A NO.

25 Q OKAY. EXPLAIN TO US, IF YOU WOULD, IN
26 RELATION TO THE SOCIAL WORKER'S OBLIGATION TO
27 INVESTIGATE AND THEN HONESTLY, ACCURATELY, AND
28 COMPLETELY REPORT TO THE COURT, WHY IT IS THAT THEY'RE

1 NOT TO BE THE NEUTRAL DETACHED ARM OF THE COURT?

2 A I'M BEING TECHNICAL HERE, BUT THE DEPARTMENT
3 OF CHILDREN AND FAMILY SERVICES IS A PARTY TO THE
4 PROCEEDINGS, SO -- BUT THEIR OBLIGATION, YOU KNOW, IS
5 TO PROVIDE THAT KIND OF SERVICE.

6 Q TO THE COURT?

7 A YES.

8 Q AND THAT'S ONE --

9 A AND BASICALLY TO THE COUNTY, TO THE SYSTEM, TO
10 EVERYBODY INVOLVED.

11 Q OKAY. AND AGAIN, THAT GOES TO ONE OF THOSE
12 UNDERLYING REASONS WHY IT'S CRITICAL THAT THE SOCIAL
13 WORKER, IN MAKING THESE REPORTS, BE HONEST, ACCURATE,
14 AND COMPLETE?

15 A YES.

16 MR. GUTERRES: OBJECTION. LEADING. AND ASKED
17 AND ANSWERED.

18 THE COURT: SUSTAINED.

19 BY MR. MCMILLAN:

20 Q NOW, YOU'D TALKED A LITTLE BIT EARLIER ABOUT
21 THAT -- CERTAINLY AT THE DETENTION HEARING, THE PARENT
22 WILL HAVE AN ATTORNEY; IF THERE'S TWO PARENTS INVOLVED,
23 THERE MAY BE AN ATTORNEY FOR EACH PARENT; THE CHILD MAY
24 HAVE AN ATTORNEY; THE AGENCY WILL HAVE AN ATTORNEY.

25 SO THERE'S A LOT OF ATTORNEYS IN THERE?

26 A YES.

27 Q OKAY. DOES THE FACT THAT EVERYBODY IN THERE
28 IS REPRESENTED BY AN ATTORNEY LESSEN IN ANYWAY THE

1 SOCIAL WORKER'S OBLIGATION TO BE TRUTHFUL, ACCURATE,
2 AND COMPLETE IN THEIR REPORTING?

3 A NO.

4 Q WHY IS THAT? I MEAN, WE HAVE THESE ATTORNEYS
5 IN THERE TO ARGUE THE CASE; WHY IS IT THAT THE SOCIAL
6 WORKERS STILL NEED TO BE TRUTHFUL, ACCURATE, AND
7 COMPLETE?

8 MR. GUTERRES: OBJECTION. ASKED AND ANSWERED.
9 AND RELEVANCE.

10 THE COURT: OVERRULED.

11 THE WITNESS: THE ATTORNEYS ARE -- WHAT THE
12 ATTORNEYS SAY IS NOT EVIDENCE. THE ATTORNEYS ARE
13 JUST -- THE ATTORNEYS ARE, FOR WANT OF A BETTER TERM,
14 MOUTHPIECES FOR THE PARTIES. BUT THE PARTIES -- AND
15 THE ATTORNEYS PRESENT THE FACTS ON BEHALF OF THE
16 PARTIES. SO THE FACTS STILL NEED TO BE ACCURATE AND
17 COMPLETE AND SO FORTH AS YOU HAVE SAID.

18 BY MR. MCMILLAN:

19 Q RIGHT. AND THAT RULE, THAT APPLIES TO EVERY
20 HEARING IN THE PROCESS; RIGHT?

21 A YES, SIR.

22 Q IT APPLIES TO THE DETENTION HEARING,
23 JURIS/DISPO HEARING, ANY HEARINGS THAT MAY HAPPEN IN
24 BETWEEN JURIS/DISPO AND THE FINAL DISPOSITION OF THE
25 CASE?

26 A YES.

27 Q AND AGAIN, PART OF THE REASON FOR THAT IS
28 BECAUSE WE WANT TO ENSURE THE INTEGRITY OF THE

1 DECISIONS THAT COME OUT OF THAT CASE?

2 MR. GUTERRES: OBJECTION. ASKED AND ANSWERED.

3 THE COURT: SUSTAINED.

4 BY MR. MCMILLAN:

5 Q AM I CORRECT THAT THE REPORTS FILED BY SOCIAL
6 WORKERS -- AND THAT WOULD INCLUDE DETENTION,
7 JURIS/DISPO, LAST-MINUTE INFORMATION -- ALL OF THE
8 REPORTS FILED BY THE SOCIAL WORKERS ARE, IN EFFECT,
9 THEIR TESTIMONY?

10 MR. GUTERRES: OBJECTION. VAGUE.

11 THE COURT: OVERRULED.

12 THE WITNESS: THEY CAN BE.

13 BY MR. MCMILLAN:

14 Q THE REPORTS ARE ADMITTED INTO EVIDENCE?

15 A USUALLY, MOSTLY. MOSTLY, YES.

16 Q AND EVIDENCE, I MEAN, IS WHAT THE JUDGE
17 CONSIDERS IN A DEPENDENCY MATTER IN MAKING THE DECISION
18 ON THE FACTS; RIGHT?

19 A YES.

20 Q AND AM I CORRECT -- AM I CORRECT THAT THE
21 FACTUAL DECISIONS THAT ARE MADE BY THE TRIAL COURT IN
22 JUVENILE DEPENDENCY, UNDER MOST CIRCUMSTANCES, IF
23 THERE'S AN APPEAL THAT COMES OUT OF THAT, THE APPELLATE
24 COURT IS GOING TO BE BOUND BY WHATEVER THOSE FACTUAL
25 FINDINGS WERE AT THE TRIAL COURT?

26 A NOT NECESSARILY.

27 Q LET'S FOCUS JUST FOR A MOMENT ON THE
28 SUBSTANTIAL EVIDENCE STANDARD OF REVIEW.

1 WHEN WE'RE DEALING WITH A SUBSTANTIAL EVIDENCE
2 STANDARD OF REVIEW ON APPEAL, AM I CORRECT THAT THE
3 APPELLATE COURT IS RESTRICTED TO THE FOUR CORNERS OF
4 THE TRIAL COURT RECORD?

5 A THAT'S CORRECT.

6 Q AND WHEN WE SAY "RESTRICTED TO THE FOUR
7 CORNERS OF THE TRIAL COURT RECORD," THAT WOULD BE JUST
8 THE EVIDENCE THAT WAS EITHER GIVEN BY TESTIMONY OR
9 ACCEPTED INTO EVIDENCE IN DOCUMENT FORM?

10 A YES.

11 Q WHICH WOULD INCLUDE ALL THOSE REPORTS?

12 A YES.

13 Q AM I ALSO CORRECT ON THE SUBSTANTIAL EVIDENCE
14 STANDARD OF REVIEW THAT THE APPELLATE COURT IS
15 ASSESSING WHETHER OR NOT -- THE ONLY QUESTION THEY'RE
16 REALLY ASKING IS WHETHER OR NOT THE EVIDENCE ADMITTED
17 AT TRIAL SUPPORTS THE DECISION; IS THAT RIGHT?

18 A GENERALLY, YES.

19 Q AND WHEN WE'RE TALKING ABOUT THAT, IS IT
20 CORRECT THAT ALL INFERENCES SUPPORTING THE DECISION ARE
21 GIVEN IN FAVOR OF THE PARTY WHO WON IN THE UNDERLYING
22 TRIAL COURT?

23 A THE -- YES.

24 Q SO IT'S REALLY CRITICAL THAT THAT RECORD DOWN
25 IN THE UNDERLYING TRIAL COURT, IT BE THE TRUTH?

26 A YES.

27 Q BECAUSE IF IT'S NOT, SOMEBODY IS GOING TO GET
28 STUCK WITH POTENTIALLY A BAD DECISION?

1 A POTENTIALLY.

2 Q ARE YOU FAMILIAR WITH A CASE, 9TH CIRCUIT
3 CASE, *ROGERS VS. COUNTY OF SANTA CLARA*?

4 MR. GUTERRES: OBJECTION. RELEVANCE.

5 THE COURT: I DON'T KNOW WHETHER IT IS OR NOT.
6 OVERRULED FOR THE MOMENT.

7 ARE YOU FAMILIAR WITH IT?

8 THE WITNESS: NOT OFF THE TOP OF MY HEAD.

9 THE COURT: TAKES CARE OF THAT.

10 BY MR. MCMILLAN:

11 Q LET ME ASK YOU THIS: BACK IN THAT FIVE-YEAR
12 WINDOW WE WERE TALKING ABOUT A LITTLE BIT EARLIER, 2008
13 TO 2013, DID YOU -- IN YOUR CAPACITY AS PRESIDING
14 JUDGE, DID YOU NOTICE A STATISTICALLY SIGNIFICANT
15 NUMBER OF REMOVALS BASED ON MEDICAL NEGLIGENCE?

16 MR. GUTERRES: OBJECTION. RELEVANCE.

17 THE COURT: SUSTAINED.

18 BY MR. MCMILLAN:

19 Q OKAY. IN YOUR CAPACITY AS THE PRESIDING JUDGE
20 OF THE JUVENILE COURTS, SPECIFICALLY WITH REFERENCE TO
21 THE JUVENILE DEPENDENCY COURTS, YOU HAD OCCASION TO
22 INTERFACE WITH MEMBERS OF THE PUBLIC FROM TIME TO TIME;
23 RIGHT?

24 A YES.

25 Q AND AS PART OF THAT INTERFACE WITH MEMBERS OF
26 THE PUBLIC, DID YOU EVER HEAR OR RECEIVE COMPLAINTS
27 ABOUT SOCIAL WORKERS BEING DISHONEST IN THEIR COURT
28 REPORTS?

1 A YES.

2 Q AND THEN YOU TALKED A LITTLE BIT EARLIER ABOUT
3 FROM TIME TO TIME HOW YOU WOULD INTERFACE WITH THE
4 COUNTY RELATIVE TO THE BUSINESS THAT THE COUNTY WAS
5 DOING WITH THE COURT, THESE CASES AND THINGS.

6 DO YOU REMEMBER THAT?

7 A YES.

8 Q DID YOU HAVE OCCASION TO LET THE COUNTY KNOW
9 THAT, NOT NECESSARILY IF THEY WERE TRUE OR THE MERITS
10 OF COMPLAINTS, BUT THAT PEOPLE WERE COMPLAINING THAT
11 THE SOCIAL WORKERS WERE BEING DISHONEST IN THE REPORTS?

12 A YES.

13 MR. GUTERRES: OBJECTION. RELEVANCE.

14 THE COURT: OVERRULED.

15 THE WITNESS: YES.

16 BY MR. MCMILLAN:

17 Q DID THAT HAPPEN MORE THAN ONCE?

18 A YES.

19 THE COURT: MR. MCMILLAN, I'M GOING TO REMIND
20 YOU OF THE TIME.

21 MR. MCMILLAN: I'M DONE.

22 THE COURT: ALL RIGHT.

23 MR. GUTERRES?

24 MR. GUTERRES: THANK YOU, YOUR HONOR.

25

26 CROSS-EXAMINATION

27 BY MR. GUTERRES:

28 Q GOOD MORNING, JUDGE.

1 A GOOD MORNING.

2 Q I AM CONSCIOUS OF THE TIME AND I'LL TRY TO GET
3 YOU OUT AS QUICKLY AS I CAN.

4 IN THE DEPENDENCY SYSTEM, AS PRESIDING JUDGE,
5 THERE'S GENERALLY ONE PARTY THAT ENDS UP NOT BEING VERY
6 HAPPY WITH THE OUTCOME.

7 WOULD YOU AGREE WITH THAT, IN GENERAL?

8 A NO.

9 Q HAVE YOU HEARD OF -- DO YOU, IN YOUR CAPACITY
10 AS THE PRESIDING JUDGE, RECEIVE COMPLAINTS FROM FOLKS
11 REGARDING THE SYSTEM?

12 A YES.

13 Q HAVE YOU RECEIVED COMPLAINTS REGARDING DCFS?

14 A YES.

15 Q AND HAVE YOU RECEIVED COMPLAINTS REGARDING
16 JUDGES THEMSELVES?

17 A YES.

18 Q WE WERE TALKING ABOUT THIS CONCEPT OF FAIRNESS
19 AS IT RELATES TO THE PROCEEDINGS AND DEPENDENCY, AND I
20 WANTED TO -- WE KIND OF TOUCHED UPON IT. THERE ARE
21 SAFEGUARDS THAT ARE SET FORTH IN THE ENTIRE PROCESS OF
22 THE DEPENDENCY SYSTEM.

23 WOULD YOU AGREE WITH THAT?

24 A YES.

25 Q IS ONE OF THOSE SAFEGUARDS THE FACT THAT EACH
26 PARTY IS REPRESENTED BY COUNSEL?

27 A YES.

28 Q AND IF AN ATTORNEY REPRESENTING A PARTICULAR

1 PARENT FEELS THAT CERTAIN EVIDENCE THAT HAS BEEN
2 PRESENTED IS UNFAIR, MISREPRESENTED, WHAT CAN THEY --
3 THAT ATTORNEY DO TO ENSURE FAIRNESS?

4 A THEY HAVE THE RIGHT TO CONTEST IT. THEY HAVE
5 THE RIGHT TO CROSS-EXAMINE WITNESSES. THEY HAVE THE
6 RIGHT TO SUBPOENA WITNESSES TO TESTIFY FOR WHATEVER
7 POSITION THEY'RE ASSERTING. AND THEY DO.

8 Q AND IS THERE SOME KIND OF -- HOW WOULD THAT
9 GET PRESENTED TO THE COURT?

10 A GENERALLY SPEAKING, THE SAME WAY I'M HERE
11 TODAY. FROM A WITNESS SITTING IN THE WITNESS BOX WHO
12 TESTIFIES.

13 Q AND IF THERE ARE CHANGES IN THE CIRCUMSTANCES
14 OR FACTS THAT A PARENT LEARNS ABOUT DURING THE PROCESS
15 OF THE DEPENDENCY PROCEEDINGS, IS THERE A PARTICULAR
16 MOTION THAT THAT PARENT CAN FILE WITH THE JUVENILE
17 COURT TO TRY TO CHANGE A PRIOR ORDER BASED ON THESE NEW
18 FACTS?

19 A YES.

20 Q AND WHAT THAT CALLED?

21 A IT'S CALLED A PETITION PURSUANT TO WELFARE AND
22 INSTITUTIONS CODE SECTION 388.

23 Q AND ARE THERE ANY TIME LIMITS AS TO WHEN A
24 LAWYER CAN FILE A 388 PETITION TO TRY TO CHANGE A PRIOR
25 COURT ORDER BASED UPON NEW INFORMATION THAT THEY'VE
26 LEARNED?

27 A NO.

28 Q SO THAT COULD BE DONE ANY TIME AFTER THE

1 PETITION IS FILED; CORRECT?

2 A YES.

3 Q AND THE PROCESS FOR THAT WOULD BE -- COULD YOU
4 JUST EXPLAIN THE PROCESS? WHAT GETS FILED WITH THE
5 PETITION?

6 A THERE'S A SPECIFIC FORM THAT IS CALLED, I
7 BELIEVE, A 388 PETITION. AND THE PARENT -- OR ANYBODY,
8 ANY PARTY OR ANY INTERESTED PERSON CAN FILL OUT THE
9 FORM, STATE WHATEVER FACTS THERE ARE ON THE FORM. AND
10 THE COURT WILL REVIEW THAT FORM.

11 AND THE COURT CAN DO -- HAS A NUMBER OF
12 OPTIONS. THE COURT CAN LOOK AT THE FORM AND SAY ON ITS
13 FACE IT DOESN'T STATE ENOUGH FACTS TO JUSTIFY THIS
14 ACTION, AND THE COURT CAN DENY IT. THE COURT CAN LOOK
15 AT THE FORM AND SAY CLEARLY IT JUSTIFIES THE FACTS, AND
16 THE COURT CAN GRANT IT. OR THE COURT CAN SAY THERE ARE
17 POTENTIALLY ENOUGH FACTS HERE TO JUSTIFY THE ACTION,
18 AND THE COURT WILL SET IT FOR A HEARING AND THEN TAKE
19 FURTHER EVIDENCE ON THE MATTER.

20 Q AND WITH REGARD TO THE DETENTION HEARING --
21 WHICH IS, IN ESSENCE, THE FIRST HEARING THAT BASICALLY
22 COMMENCES THE PROCESS; IS THAT CORRECT?

23 A YES.

24 Q IF THERE IS SOMETHING THAT'S CONTAINED WITHIN
25 THE PETITION OR SOMETHING THAT IS CONTAINED IN THE
26 DETENTION REPORT THAT A PARTICULAR PARTY, WHETHER IT'S
27 A PARENT -- ONE OR THE OTHER PARENT, DISAGREES WITH, I
28 BELIEVE YOU SAID THERE'S A MECHANISM WHERE THEY COULD

1 ASK FOR SOME TYPE OF A CONTESTED HEARING?

2 A YES, THEY COULD HAVE A CONTESTED HEARING ON
3 THE ISSUE OF DETENTION. AND I BELIEVE IT'S -- I
4 THINK -- IT'S TWO OR THREE DAYS. HONESTLY, I FORGET
5 WHICH.

6 Q SO A PARENT DOES HAVE AN ABILITY TO CHALLENGE
7 THE EVIDENCE EVEN THOUGH THE BURDEN OF PROOF, I BELIEVE
8 THE PRIMA FACIE BURDEN, IS LOW; CORRECT?

9 A ON A NUMBER OF OCCASIONS.

10 Q AND THEN AT THE ADJUDICATION HEARING, A
11 PARENT -- ANY ATTORNEY, WHETHER THAT'S THE ATTORNEY FOR
12 THE CHILD OR THE ATTORNEY FOR ONE OR THE OTHER PARENT,
13 DO THEY HAVE AN ABILITY TO PRESENT THEIR OWN EVIDENCE?

14 A YES.

15 Q SO THOSE ADJUDICATION HEARINGS, THEY'RE JUST
16 NOT BASED ENTIRELY ON THE REPORTS BY DCFS, ARE THEY?

17 A NO.

18 Q AND SO IF A PARENT WANTS TO CHALLENGE A
19 STATEMENT IN A COURT REPORT, A JURISDICTION/DISPOSITION
20 REPORT, FOR EXAMPLE, THEY COULD CALL ANY WITNESS AT THE
21 TIME OF THE ADJUDICATION HEARING TO CHALLENGE THE
22 EVIDENCE IN A REPORT?

23 A YES.

24 Q AND AS PRESIDING JUDGE OF THE JUVENILE COURT,
25 HAVE YOU EVER COME ACROSS AN OCCASION WHERE A
26 PARTICULAR RECOMMENDATION OF DCFS ISN'T NECESSARILY
27 FOLLOWED BY THE JUDICIAL OFFICER?

28 A YES.

1 Q SO THE JUDICIAL OFFICER IS AT LIBERTY TO WEIGH
2 WHATEVER EVIDENCE IS BEFORE IT AND ISSUE A RULING
3 IRRESPECTIVE OF DCFS'S OR THE COUNTY'S RECOMMENDATIONS
4 IN ANY REPORT; CORRECT?

5 A THAT'S THE JOB OF THE TRIER OF FACT.

6 Q I BELIEVE IN ONE OF THE RESPONSES THAT YOUR
7 HONOR GAVE TO MR. MCMILLAN'S QUESTIONS WAS THAT THE
8 COURT RELIES ON THE PARTIES TO PRESENT THE FACTS.

9 AND WHEN YOU SAID "PARTIES," MY QUESTION IS
10 THAT'S MEANT TO INCLUDE FATHER, MOTHER, AND CHILD?

11 A YES.

12 Q LET'S TALK ABOUT THE REMOVAL ORDERS.

13 YOU WERE ASKED ABOUT KIND OF THIS TIMING, HOW
14 LONG DOES IT TAKE OR WOULD IT TAKE TO GET THE COURT TO
15 ISSUE THEM. AND I BELIEVE YOU HAD INDICATED SOMETHING
16 ALONG THE LINES OF A FEW HOURS, THREE TO FOUR HOURS, I
17 THINK IS WHAT THE COURT ESTIMATED?

18 A I WOULD GUESS.

19 Q WHEN YOU'RE GIVING THAT ESTIMATE, YOU'RE
20 ESTIMATING -- WERE YOU ESTIMATING THE TIME IT WOULD
21 TAKE FOR THE JUDICIAL OFFICER TO ACTUALLY GET THE
22 DOCUMENTS AND ULTIMATELY REVIEW THAT AND FINALLY ISSUE
23 THE ORDER?

24 A WELL, YOU KNOW, THERE ARE PROBABLY MULTIPLE
25 LEVELS TO THE PROCESS. NUMBER ONE, THE SOCIAL WORKER,
26 I WOULD GUESS -- I BELIEVE CONSULTS WITH EITHER THEIR
27 SUPERVISOR AND THEIR ATTORNEY OR BOTH. WHATEVER TIME
28 IT TAKES FOR THEM TO PREPARE THE PAPERWORK HAS TO BE

1 FACTORED IN. AND THEN THAT HAS TO BE DELIVERED TO THE
2 COURT.

3 AND AS I RECALL -- I HAVEN'T READ THIS, THESE
4 DOCUMENTS, IN A WHILE -- THEY'RE BROUGHT TO THE COURT
5 AT CERTAIN TIMES OF THE DAY, AND THEN THEY'RE, I
6 BELIEVE -- WELL, WHEN I LEFT, THE PROCESS WAS, I THINK,
7 EACH COURT RECEIVED A NUMBER OF THESE, AND THEY HAD TO
8 HAVE THEM DONE, YOU KNOW, CERTAINLY BY THE END OF THE
9 DAY. SO THERE COULD BE A FEW HOURS' DELAY THERE AS
10 WELL.

11 Q SO WHEN YOU WERE GIVING THAT ESTIMATE OF THREE
12 TO FOUR HOURS, YOU'RE NOT ACTUALLY INCLUDING THE TIME
13 THAT IT MIGHT TAKE THE SOCIAL WORKER TO CONSULT WITH
14 HIS OR HER SUPERVISOR OR COUNTY COUNSEL AND PREPARE THE
15 PAPERWORK THAT ULTIMATELY THEN GETS SUBMITTED TO THE
16 COURT; CORRECT?

17 A NOT NECESSARILY.

18 Q AND WE TALKED ABOUT INVESTIGATIVE WARRANTS AND
19 REMOVAL ORDERS OR WARRANTS. AND I BELIEVE YOU WERE
20 ASKED QUESTIONS ABOUT THIS MEMO THAT WAS IN NOVEMBER OF
21 2010.

22 A YES.

23 Q BUT DO YOU RECALL IF COUNTY HAD EVER PRESENTED
24 ANY REMOVAL ORDERS PRIOR TO THAT TIME?

25 A I DON'T --

26 Q TO THE JANUARY TIME FRAME?

27 A I DON'T RECALL.

28 MR. GUTERRES: ONE MINUTE, YOUR HONOR.

1 THANK YOU, YOUR HONOR.

2 AND THANK YOU, YOUR HONOR.

3 THE COURT: ALL RIGHT.

4 MR. MCMILLAN?

5 MR. MCMILLAN: THANK YOU.

6

7

REDIRECT EXAMINATION

8 BY MR. MCMILLAN: 02:06:17

9 Q LET'S START AT THE BACK FIRST.

10 WE'RE TALKING ABOUT WHETHER OR NOT YOU
11 REMEMBERED IF PRIOR TO NOVEMBER 19, 2010, THE COUNTY
12 ACTUALLY GOT THESE REMOVAL WARRANTS.

13 AND YOU DON'T REALLY REMEMBER; RIGHT?

14 A CORRECT.

15 Q BUT AM I CORRECT THAT IF THE COUNTY HAD
16 PRESENTED A STATISTICALLY SIGNIFICANT NUMBER OF WARRANT
17 APPLICATIONS PRIOR TO NOVEMBER 19, 2010, YOU WOULD KNOW
18 OF IT BECAUSE IT WOULD HAVE A DIRECT IMPACT ON THE WORK
19 FLOW AT THE COURTS THAT YOU MANAGE?

20 MR. GUTERRES: OBJECTION. FOUNDATION.
21 SPECULATION.

22 THE COURT: OVERRULED.

23 THE WITNESS: IT SHOULD, YES.

24 BY MR. MCMILLAN:

25 Q RIGHT. SO WE DO KNOW THAT THERE WAS NOT A
26 STATISTICALLY SIGNIFICANT NUMBER OF THESE REMOVAL
27 WARRANT APPLICATIONS BEING MADE PRIOR TO NOVEMBER 19TH,
28 2009 [SIC]; IS THAT RIGHT?

1 A I BELIEVE THAT'S PROBABLY THE CASE.

2 Q GOING BACK TO THE COURT RELIES ON THE PARTIES
3 TO PRESENT THE FACTS SO THEY CAN BE FULLY AND FAIRLY
4 LITIGATED.

5 RIGHT?

6 A YES.

7 Q AND THIS HEARING THAT -- I THINK YOU CALLED IT
8 THE ADJUDICATION HEARING, THAT MR. GUTERRES TALKED WITH
9 YOU ABOUT?

10 A YES.

11 Q THAT'S LIKE A TRIAL?

12 A YES.

13 Q AM I CORRECT THAT, AT THAT TRIAL, NOT ALL OF
14 THE EVIDENCE THAT'S AVAILABLE ACTUALLY MAKES IT INTO
15 EVIDENCE, DOES IT?

16 MR. GUTERRES: OBJECTION. SPECULATION. NO
17 FOUNDATION.

18 BY MR. MCMILLAN:

19 Q LET ME BACK UP. I'LL WITHDRAW THAT QUESTION.
20 WHEN A JUDGE IS SITTING ON THE BENCH IN A
21 JUVENILE DEPENDENCY TRIAL, THEY MAKE RULINGS ON
22 OBJECTIONS, DON'T THEY?

23 A YES.

24 Q AND THE EFFECT OF THOSE RULINGS, DEPENDING ON
25 WHETHER THE OBJECTION IS SUSTAINED OR OVERRULED, IS
26 EITHER TO ACCEPT INFORMATION INTO EVIDENCE -- IF THE
27 OBJECTION IS OVERRULED; RIGHT?

28 A CORRECT.

1 Q OR TO KEEP INFORMATION OUT OF EVIDENCE?

2 A YES.

3 Q IF THE OBJECTION IS SUSTAINED?

4 A YES.

5 Q SO IT WOULD BE FAIR TO SAY THAT NOT ALL
6 EVIDENCE AT A JUVENILE DEPENDENCY TRIAL ACTUALLY MAKES
7 IT INTO EVIDENCE?

8 A THAT IS CORRECT.

9 Q AM I ALSO CORRECT THAT -- THERE'S ANOTHER
10 THING HE BROUGHT UP, IF I CAN FIND IT.

11 THESE SAFEGUARDS, ONE OF THE SAFEGUARDS BEING
12 THAT EACH OF THE PARTIES IS REPRESENTED, INCLUDING THE
13 SOCIAL WORKER AND THE COUNTY. THEY ALL HAVE ATTORNEYS
14 AND THEY ALL GET TO SAY THEIR PIECE.

15 RIGHT?

16 A YES.

17 Q BUT THESE SAFEGUARDS, THEY'RE ONLY AS STRONG
18 AND EFFECTIVE AS THE WEAKEST ONE; IS THAT FAIR?

19 MR. GUTERRES: VAGUE.

20 THE COURT: SUSTAINED.

21 BY MR. MCMILLAN:

22 Q LET ME ASK IT THIS WAY: EVEN THOUGH THERE'S
23 ATTORNEYS IN COURT, THE SOCIAL WORKERS, THEY STILL NEED
24 TO BE HONEST, ACCURATE, AND COMPLETE IN EVERYTHING THEY
25 GIVE TO THE COURT; IS THAT RIGHT?

26 MR. GUTERRES: OBJECTION. ASKED AND ANSWERED
27 ON DIRECT MULTIPLE TIMES.

28 THE COURT: OVERRULED.

1 THE WITNESS: YES.

2 BY MR. MCMILLAN:

3 Q SO IT DOESN'T MATTER THAT THERE'S ATTORNEYS
4 HERE; THEY STILL HAVE TO BE HONEST?

5 A YES.

6 Q AND WHILE WE'RE ON THE SUBJECT OF ATTORNEYS --
7 WE ARE MOUTHPIECES. I AGREE WITH THAT.

8 BUT THROUGH YOUR EXPERIENCE WITH THE JUVENILE
9 COURT, WOULD YOU AGREE WITH ME THAT SOME MOUTHPIECES
10 ARE BETTER THAN OTHERS?

11 A THAT'S MY EXPERIENCE THROUGH MY ENTIRE LEGAL
12 CAREER.

13 Q AND WHEN WE'RE LOOKING AT THIS ISSUE OF
14 FUNDAMENTAL FAIRNESS, HAVE YOU HAD THE EXPERIENCE IN
15 JUVENILE COURT WHERE THERE WAS AN ISSUE OF INEFFECTIVE
16 ASSISTANCE OF COUNSEL?

17 MR. GUTERRES: OBJECTION. RELEVANCE.

18 THE COURT: OVERRULED.

19 THE WITNESS: I'M SORRY. WILL YOU REPEAT THE
20 QUESTION?

21 BY MR. MCMILLAN:

22 Q INEFFECTIVE ASSISTANCE OF COUNSEL, ARE YOU
23 FAMILIAR WITH THAT?

24 A YES.

25 Q IS THAT THE CIRCUMSTANCE WHERE WE HAVE ONE OF
26 THOSE MOUTHPIECES THAT'S MAYBE NOT AS EFFECTIVE AS HE
27 OR SHE SHOULD BE?

28 A COULD BE.

1 Q AND WHEN WE HAVE THAT CIRCUMSTANCE WHERE, FOR
2 EXAMPLE, MAYBE THE ATTORNEY -- WE HAVE AN ALLEGATION BY
3 THE SOCIAL WORKER THAT SHE CALLED AND SPOKE WITH A
4 DOCTOR AND THE DOCTOR SAID SOME HORRIBLE THINGS ABOUT
5 MOM. THAT'S THE CIRCUMSTANCE. AND THE ATTORNEY, THAT
6 MOUTHPIECE, DOESN'T EVEN CALL THE DOCTOR TO FIND OUT IF
7 IT'S TRUE.

8 WOULD THAT BE ONE OF THOSE CIRCUMSTANCES WHERE
9 THERE MIGHT BE AN ISSUE ABOUT THE COMPETENCY OF THE
10 ATTORNEY?

11 MR. GUTERRES: OBJECTION. SPECULATION.
12 FOUNDATION.

13 THE COURT: SUSTAINED.

14 BY MR. MCMILLAN:

15 Q ONE OF THE REASONS THAT IT'S CRITICAL THAT
16 SOCIAL WORKERS BE HONEST IS BECAUSE WE DON'T WANT TO
17 RELY ENTIRELY -- PUT ALL OF OUR FAITH IN ATTORNEYS WHEN
18 WE'RE DEALING WITH FAMILY MATTERS OF SUCH GRAVITY; IS
19 THAT RIGHT?

20 A YES.

21 Q SO IT'S ABSOLUTELY CRITICAL, WHETHER WE HAVE
22 ATTORNEYS HERE OR NOT, THAT THE GOVERNMENT IS HONEST,
23 COMPLETE, AND ACCURATE SO THAT WE CAN GET FAIR AND
24 CONSISTENT DECISIONS ON THESE JUVENILE DEPENDENCY
25 MATTERS?

26 MR. GUTERRES: ASKED AND ANSWERED.

27 THE COURT: SUSTAINED.

28 DON'T ASK THAT QUESTION AGAIN.

1 MR. MCMILLAN: I WON'T.

2 BY MR. MCMILLAN:

3 Q NOW, THESE GOVERNMENT SOCIAL WORKERS, THEY
4 FREQUENTLY APPEAR IN COURT; IS THAT RIGHT?

5 A I GUESS THAT'S FAIR TO SAY.

6 Q AND THEY TESTIFY AND THEY'LL COME IN AT
7 HEARINGS AND THINGS LIKE THAT?

8 A YES.

9 Q OKAY. AND IN SOME CIRCUMSTANCES, NOT ALL
10 CIRCUMSTANCES, BUT IN SOME CIRCUMSTANCES, SOME OF THOSE
11 WORKERS OVER TIME MIGHT BECOME RECOGNIZABLE OR FAMILIAR
12 BY THE COURT?

13 MR. GUTERRES: OBJECTION. RELEVANCE.

14 THE COURT: SUSTAINED.

15 BY MR. MCMILLAN:

16 Q WHEN WE HAVE ONE OF THOSE SITUATIONS WHERE
17 THERE IS A CHALLENGE OR A CONTEST IN THE EVIDENCE, AND
18 THE PARENT IS SAYING NO, THAT NEVER HAPPENED, BUT THE
19 SOCIAL WORKER IS SAYING YES, IT DID, THE JUDGE HAS TO
20 MAKE A DECISION ON CREDIBILITY; RIGHT?

21 A YES.

22 Q I MEAN, THAT'S HOW THESE CASES GET RESOLVED?

23 A YES.

24 Q I'LL GO BACK TO THE ORIGINAL QUESTION: AM I
25 CORRECT THAT OVER TIME, WITH THESE SOCIAL WORKERS
26 COMING IN AND OUT OF COURT, THAT IT'S POSSIBLE FOR THE
27 JUDICIAL OFFICER TO RECOGNIZE THE SOCIAL WORKER?

28 MR. GUTERRES: OBJECTION. RELEVANCE.

1 THE COURT: SUSTAINED.

2 BY MR. MCMILLAN:

3 Q WELL, THE PARENTS TYPICALLY ON A CASE, THEY'RE
4 NOT COMING IN REPEATEDLY OTHER THAN IN THEIR CASE;
5 RIGHT?

6 MR. GUTERRES: OBJECTION. RELEVANCE.

7 THE COURT: SUSTAINED.

8 BY MR. MCMILLAN:

9 Q OH, 388 PETITION. ONCE A CASE IS CLOSED AND
10 THE JUVENILE COURT LOSES JURISDICTION -- THAT'S WHAT
11 HAPPENS ONCE A CASE IS FINISHED; RIGHT?

12 A YES.

13 Q OKAY. THE PARENT DOESN'T HAVE AN OPPORTUNITY
14 ANYMORE THEN TO FILE A 388 PETITION; RIGHT?

15 A NOT IN THE DEPENDENCY COURT.

16 Q AND IN FACT, IN SOME OTHER COURT, IT'S A
17 DIFFERENT PETITION ALTOGETHER; IT'S NOT A 388?

18 A YES.

19 Q OKAY. SO THE PARENT, ONCE THE CASE IS
20 RESOLVED AND DISMISSED AND IT MOVES ON DOWN THE LINE,
21 THE PARENT'S ABILITY TO SEEK TO REVERSE OR CHANGE THAT
22 ORDER USING THE 388 PETITION THAT MR. GUTERRES TALKED
23 ABOUT, IT'S LOST?

24 A CERTAINLY WITHIN THE DEPENDENCY COURT.

25 Q LET ME ASK YOU -- ASSUME FOR A MOMENT FOR ME,
26 IF YOU WOULD, THAT A PARENT IN ONE OF THESE JUVENILE
27 DEPENDENCY PROCEEDINGS, THEY FILED A CIVIL RIGHTS
28 COMPLAINT WITH THE LOS ANGELES COUNTY CIVIL RIGHTS

1 UNIT, AND THAT THAT COMPLAINT WAS INVESTIGATED, AND
2 THAT SOME ASPECTS OF THAT COMPLAINT WERE SUBSTANTIATED
3 AND IT WAS FOUND THAT, YES, THE PARTICULAR SOCIAL
4 WORKER DID VIOLATE THE PARENT'S CIVIL RIGHTS, DID
5 DISCRIMINATE.

6 IS THAT SOMETHING THAT -- AS A BENCH OFFICER,
7 A JUDGE SITTING ON THIS JUVENILE DEPENDENCY CASE, IS
8 THAT SOMETHING THAT YOU WOULD WANT TO KNOW ABOUT?

9 MR. GUTERRES: OBJECTION. OUTSIDE THE SCOPE
10 AND RELEVANCE.

11 THE COURT: SUSTAINED.

12 MR. MCMILLAN: NO FURTHER QUESTIONS, YOUR
13 HONOR.

14 THE COURT: ANYTHING ELSE?

15 MR. GUTERRES: NO QUESTIONS, YOUR HONOR.

16 THE COURT: THANK YOU, JUDGE NASH. MY LAST
17 ORDER TO YOU IS YOU'RE EXCUSED.

18 AS SOON AS JUDGE NASH CAN CLEAR THE STAMPEDE,
19 WE'RE GOING TO RECESS. WE'LL RESUME AT 1:30.

20 ALL JURORS, PLEASE REMEMBER THE ADMONITION TO
21 HAVE NO CONTACT WITH ANYONE ABOUT ANY SUBJECT OR ISSUE
22 OR PERSON INVOLVED IN THIS CASE. DO NOT FORM NOR
23 EXPRESS ANY OPINION ON ANY SUBJECT OR ISSUE IN THE
24 CASE.

25 WE ARE NOW IN RECESS.

26 (JURY EXCUSED)

27 THE COURT: WHAT DO WE HAVE THIS AFTERNOON?

28 MR. MCMILLAN: I THINK IT'S ALL DEPOSITIONS.

1 THE COURT: GOOD. I'LL SEE YOU AT 1:30.

2 MR. MCMILLAN: THANK YOU, YOUR HONOR.

3 MR. GUTERRES: THANK YOU, YOUR HONOR.

4 (LUNCH RECESS)

5 MR. PRAGER: WE'LL BE CONTINUING THE READ FOR
6 MS. CONDON AND THEN WE'LL MOVE ON TO MICHELLE
7 HOCHSTEIN, YOUR HONOR.

8 THE COURT: HOW MUCH MORE OF MS. CONDON'S DO
9 WE HAVE?

10 MR. PRAGER: WELL, SHE HAS 233 PAGES; WE'RE ON
11 PAGE 66. SO WE EXPECT IT TO TAKE THROUGH THE REST OF
12 THE AFTERNOON.

13 THE COURT: DO WE HAVE EVERYBODY? OKAY.
14 EVERYONE READY?

15 MR. PRAGER: YES, YOUR HONOR.

16 MR. GUTERRES: YES, YOUR HONOR.

17 (JURY PRESENT)

18 THE COURT: EVERYONE MAY BE SEATED. WE'RE ON
19 THE RECORD. EVERYBODY IS PRESENT.

20 AND AT THIS TIME, IT'S MY UNDERSTANDING WE'RE
21 GOING TO CONTINUE WITH THE READING OF THE DEPOSITION OF
22 MS. CONDON, WHICH WAS IN PROGRESS YESTERDAY AT THE TIME
23 WE RECESSED.

24 ARE YOU THE WITNESS?

25 MR. PARIS: I WILL BE THE WITNESS.

26 THE COURT: ALL RIGHT.

27 MR. PRAGER: THANK YOU, YOUR HONOR.

28 THE COURT: THANK YOU.

1 MR. PRAGER: YOUR HONOR, FOR THE RECORD, WE'RE
2 RESUMING AT PAGE 66, LINE 1.

3 THE COURT: ALL RIGHT. THANK YOU.

4 MR. PRAGER: MAY WE PROCEED?

5 THE COURT: YES, GO AHEAD.

6 MR. PRAGER: THANK YOU.

7 (WHEREUPON A PORTION OF THE DEPOSITION
8 OF LYNNE CONDON WAS READ INTO THE
9 RECORD AS FOLLOWS:)

10

11 BY MR. PRAGER:

12 "Q. AND IT'S TRUE THE APPEAL RIGHTS
13 HAVE A TIME FRAME; CORRECT?

14 A. THEY DO.

15 Q. IS THAT 30 DAYS?

16 A. I DON'T RECALL, SITTING HERE.

17 Q. DOES IT SOUND RIGHT -- EXCUSE ME --
18 DOES IT SOUND ABOUT --

19 A. IT SOUNDS ABOUT RIGHT, 30 DAYS.

20 Q. SO CAN WE ESTIMATE 30 TO 45 DAYS?

21 A. I WOULD SAY YES, BUT I'M NOT SURE
22 IN MY MIND IF IT IS 30 DAYS. BUT I
23 BELIEVE IT IS.

24 Q. DO YOU BELIEVE THAT A TELEPHONE
25 CALL -- LET ME PHRASE IT THIS WAY:
26 IT'S TRUE TO SATISFY TO YOUR
27 OBLIGATIONS THE COUNTY MUST SEND A
28 LETTER TO THE CLIENT FOLLOWING

1 DETERMINATION; CORRECT?

2 A. MUST? UNDER OUR PROCEDURE, WE
3 INSTRUCT THE PEOPLE WORKING ON THE CASE
4 THAT THEY NEED TO SEND A LETTER, YES.

5 Q. IS THERE EVER A PERIOD OF TIME OR A
6 CIRCUMSTANCE WHEN IT WOULD BE
7 ACCEPTABLE NOT TO SEND A LETTER TO
8 A CLIENT, A LETTER FOLLOWING A
9 DETERMINATION OR A REDETERMINATION?

10 A. IT WOULD NOT BE ACCEPTABLE.

11 Q. ALL RIGHT. OKAY. SO LET'S
12 REPHRASE IT TO MAKE SURE WE'RE CLEAR:
13 IT WOULD BE UNACCEPTABLE TO THE COUNTY
14 OF LOS ANGELES TO FAIL TO SEND A CLIENT
15 A LETTER OF DETERMINATION FOLLOWING A
16 DETERMINATION OF THEIR COMPLAINT?

17 A. YES.

18 Q. IT WOULD ALSO BE A VIOLATION OF
19 COUNTY POLICIES AND PROCEDURES TO FAIL
20 TO SEND A CLIENT A LETTER FOLLOWING A
21 REDETERMINATION OF THEIR COMPLAINT?

22 A. YES.

23 Q. NOW, IN MS. DUVAL'S CASE
24 SPECIFICALLY, ARE YOU AWARE OF WHETHER
25 OR NOT THE COUNTY FAILED TO SEND
26 MS. DUVAL A LETTER FOLLOWING A
27 REDETERMINATION OF HER CASE?

28 A. I BELIEVE THAT I LEARNED DURING THE

1 COURSE OF THIS LITIGATION THAT THAT WAS
2 THE CASE.

3 Q. WHEN YOU LEARNED THAT THE COUNTY
4 FAILED TO NOTIFY MS. DUVAL OF A
5 REDETERMINATION OF HER CLAIM, DID YOU
6 TAKE ANY ACTION?

7 A. I DID TAKE ACTION.

8 Q. OKAY. WHAT ACTION DID YOU TAKE?

9 A. I CAN'T DISCUSS THOSE ACTIONS
10 BECAUSE THEY INVOLVE PERSONNEL ISSUES.

11 Q. FIRST, ARE YOU REQUIRED, IN YOUR
12 POSITION, TO BE FAMILIAR WITH THE
13 REGULATIONS UNDER -- I BELIEVE IT'S
14 TITLE 21?

15 A. I AM NOT REQUIRED TO COMMIT THEM TO
16 MEMORY, BUT, YOU KNOW, I DO HAVE THEM
17 TO REFERENCE.

18 Q. RIGHT.

19 A. WHEN I NEED TO HAVE REFERENCE TO
20 THEM.

21 Q. AND IT'S YOUR JOB TO ENFORCE THEM;
22 CORRECT?

23 A. IT IS MY JOB TO ENSURE THAT WE HAVE
24 A PROCESS IN PLACE THAT MEETS THE
25 REQUIREMENTS OF THAT PARTICULAR
26 STATUTE.

27 Q. WELL, WHEN DID YOU FIRST LEARN THAT
28 MS. DUVAL WAS NOT SENT A LETTER

1 FOLLOWING A REDETERMINATION?

2 A. DURING THE COURSE OF THIS
3 LITIGATION.

4 Q. DO YOU KNOW WHEN, WHAT MONTH AND
5 YEAR?

6 A. NO, I DON'T REMEMBER ANY OF THAT,
7 NO.

8 Q. YOU'VE HAD A CHANCE TO REVIEW
9 EXHIBIT NO. 2?

10 A. YES.

11 Q. THIS IS YOUR DECLARATION IN SUPPORT
12 OF THE COUNTY'S MOTION FOR SUMMARY
13 ADJUDICATION AND SUMMARY JUDGMENT;
14 CORRECT?

15 A. THAT'S CORRECT.

16 Q. OKAY. IS THERE -- LOOK AT LINE 12,
17 IF YOU WILL, PLEASE.

18 A. YES.

19 Q. DO YOU SEE WHERE IT SAYS:

20 'A LETTER OF DETERMINATION OF THE
21 FINAL CONCLUSION OF THE CIVIL RIGHTS
22 INVESTIGATION WAS NOT SENT TO DUVAL.'

23 A. THAT'S CORRECT.

24 Q. DO YOU FEEL, IN YOUR OFFICIAL
25 CAPACITY, THAT IT IS YOUR JOB TO ENSURE
26 THE DUE PROCESS RIGHTS OF CLIENTS ARE
27 RESPECTED?

28 A. IT IS ULTIMATELY MY RESPONSIBILITY,

1 YES.

2 Q. OKAY. AND IF MS. DUVAL DOESN'T
3 KNOW THERE'S BEEN A REDETERMINATION FOR
4 HER CLAIM, IS THAT ULTIMATELY YOUR
5 RESPONSIBILITY?

6 A. AT ONE POINT IN TIME, IT WAS MY
7 ULTIMATE RESPONSIBILITY.

8 I UNDERSTAND YOUR QUESTION, AND YOUR
9 ANSWER IS THAT IT DOES CALL FOR A LEGAL
10 CONCLUSION THAT I'M NOT IN A POSITION
11 TO MAKE AS THE EMPLOYEE RELATIONS
12 MANAGER FOR THE DEPARTMENT OF CHILDREN
13 AND FAMILY SERVICES."

14 MR. PRAGER: JUST A CORRECTION AT LINE 15.
15 IT'S "I UNDERSTAND YOUR QUESTION AND MY ANSWER IS."
16 CORRECT?

17 MR. PARIS: CORRECT.

18 BY MR. PRAGER:

19 "Q. GOT IT. TODAY YOU'RE TESTIFYING
20 AS A PERCIPIENT WITNESS?

21 A. I AM.

22 Q. OKAY. YOU AGREE, MA'AM, THAT THE
23 AFFIRMATIVE ACTION CIVIL RIGHTS UNIT
24 ISSUED A FINDING, A REPORT OF
25 INVESTIGATION, REGARDING MS. DUVAL'S
26 CASE; CORRECT?

27 A. YES.

28 Q. YOU'VE REVIEWED THE REPORT?

1 A. AT SOME POINT, YES.

2 Q. NOW, IT'S TRUE THAT THERE WAS, IN
3 FACT, A NUMBER OF MODIFICATIONS AND
4 SUPPLEMENTAL REPORTS FOLLOWING THE
5 INITIAL REPORT; CORRECT?

6 A. A NUMBER, YES.

7 Q. TO YOUR KNOWLEDGE, DID YOU REVIEW
8 ALL THE SUBSEQUENT REPORTS REGARDING
9 MS. DUVAL'S CIVIL RIGHTS COMPLAINT?

10 A. AT SOME POINT IN TIME.

11 Q. DO YOU RECALL WHEN YOU LAST
12 REVIEWED THE CIVIL RIGHTS INVESTIGATION
13 RESULTS?

14 A. NO.

15 Q. IN GETTING READY FOR YOUR
16 DEPOSITION TODAY, DID YOU REVIEW ANY
17 DOCUMENTS?

18 A. NO.

19 Q. YOU DIDN'T REVIEW ANYTHING AT ALL?

20 A. OTHER THAN YOUR NOTICES.

21 Q. WHAT ABOUT HAVE YOU EVER HEARD OF
22 THE CIVIL RIGHTS ACT OF 1964?

23 A. YES.

24 Q. AND YOU'D AGREE, MA'AM, THAT THAT
25 ACT APPLIES TO YOUR ORGANIZATION;
26 CORRECT?

27 A. YES.

28 Q. AND YOU'RE REQUIRED TO BE TRAINED

1 BY THAT ACT?

2 A. I DON'T KNOW WHAT YOU MEAN. AM I
3 REQUIRED OR IS THE DEPARTMENT?

4 Q. THE DEPARTMENT.

5 A. IN GENERAL, BECAUSE THAT -- OF
6 COURSE, THE FEDERAL LAW GUIDES THE WAY
7 THAT WE DO BUSINESS. AND THE STATE
8 ADOPTS A LOT OF THE FEDERAL LAW IN ITS
9 OWN STATUTORY CONSTRUCTS. SO TO THAT
10 EXTENT, YES, WE DO ABIDE BY FEDERAL AND
11 STATE LAW.

12 Q. AND WOULD YOU AGREE THAT THE
13 AMERICANS WITH DISABILITIES ACT APPLIES
14 TO YOUR ORGANIZATION?

15 A. DEFINITELY.

16 Q. DO YOU HAVE A BASIC UNDERSTANDING
17 OF WHAT PORTION OF THE AMERICANS WITH
18 DISABILITIES ACT, OR ADA, APPLIES TO
19 YOUR ORGANIZATION?

20 A. I HAVE A BASIC UNDERSTANDING OF
21 THAT ENTIRE ACT, BUT I DON'T KNOW THEM
22 BY NUMBERS NECESSARILY.

23 Q. I AM GOING TO HAND YOU AN
24 APPROXIMATE 12-PAGE DOCUMENT. IT'S
25 DATED AUGUST 2, 2010. I'LL REPRESENT
26 THIS IS THE CIVIL RIGHTS REPORT OF
27 INVESTIGATION PREPARED REGARDING
28 MS. DUVAL'S CIVIL RIGHTS COMPLAINT, AND

1 IT APPEARS TO HAVE BEEN PREPARED BY
2 MS. HOCHSTEIN.

3 YOU CAN SHOW IT TO YOUR ATTORNEY.

4 OKAY, SO LET'S LOOK AT THIS DOCUMENT.

5 YOU'VE SEEN IT BEFORE; CORRECT?

6 A. YES.

7 Q. YOU KNOW MS. HOCHSTEIN; CORRECT?

8 A. YES.

9 Q. IS THERE SOMETHING THAT YOU CAN
10 CALL TO MY ATTENTION WHERE YOU DIDN'T
11 RELY UPON IT?

12 A. AFTER I HAD A DISCUSSION REGARDING
13 THIS MATTER, I CHANGED POLICY REGARDING
14 REVIEW OF DOCUMENTS WHERE THERE WAS A
15 FINDING BECAUSE I DID NOT HAVE THE SAME
16 LEVEL OF CONFIDENCE THAT I HAD PRIOR TO
17 THIS. I DID NOT HAVE THE SAME LEVEL OF
18 CONFIDENCE THAT I HAD IN
19 MS. HOCHSTEIN'S JUDGMENT IN THIS
20 PARTICULAR CASE, NOR IN LYNETTE
21 MORGAN-NICHOLS' JUDGMENT IN THIS CASE.
22 SO NOW I REVIEW ALL OF THE COMPLAINTS
23 AND THE REPORTS WHERE THERE ARE
24 FINDINGS TO MAKE SURE THAT THEY ARE
25 CORRECT IN THE PREMISE AND IN THE
26 CONCLUSION. SO I DID -- YOU KNOW,
27 THERE WAS A TIME IN MY RELATIONSHIP
28 WITH MS. HOCHSTEIN THAT I STOPPED THE

1 SAME LEVEL OF TRUST.

2 Q. AND THAT WOULD BE AFTER THE DUVAL
3 CASE?

4 A. YES.

5 Q. UNDERSTOOD. BUT JUST TO BE CLEAR,
6 WITH MY UNDERSTANDING OF YOUR
7 NOMENCLATURE, OF THE WORDS YOU'RE
8 USING, I UNDERSTAND YOU SAYING THAT
9 WHENEVER A CIVIL RIGHTS INVESTIGATOR
10 MAKES A DETERMINATION THAT SOMEONE
11 SUFFERED DISCRIMINATION, THAT IS THE
12 REPORT YOU WISH TO REVIEW; CORRECT?

13 A. YES.

14 Q. IF, HOWEVER, A CIVIL RIGHTS
15 INVESTIGATOR MAKES A REPORT FINDING NO
16 DISCRIMINATION, THAT IS NOT A REPORT
17 THAT YOU WOULD REVIEW?

18 A. THAT'S CORRECT.

19 Q. SO WHEN YOU SAY 'FINDINGS,' YOU'RE
20 REALLY TALKING ABOUT POSITIVE FINDINGS
21 OF DISCRIMINATION; CORRECT?

22 A. CONCLUSIONS THAT THERE WAS
23 DISCRIMINATION OR A POLICY VIOLATION.

24 Q. HAVING REVIEWED THE AUGUST 2, 2010,
25 CIVIL RIGHTS REPORT OF INVESTIGATION,
26 YOU UNDERSTAND THAT MS. HOCHSTEIN
27 SUSTAINED VIOLATIONS OF MS. DUVAL'S
28 CIVIL RIGHTS; CORRECT?

1 A. IN READING THIS REPORT --

2 Q. YES, MA'AM?

3 A. -- SHE CAME TO THE CONCLUSION THAT
4 HER INVESTIGATION SUBSTANTIATED THAT
5 MS. DUVAL EXPERIENCED DISCRIMINATION ON
6 THE BASIS OF HER DISABILITIES.

7 Q. WITH REGARD TO THE DOCUMENT, IT'S
8 TRUE THAT MS. HOCHSTEIN DETERMINED, ON
9 AUGUST 2, 2010, THAT MS. DUVAL WAS
10 DIFFERENTLY TREATED IN THE RECEIPT OF
11 SERVICES BECAUSE SHE IS A QUALIFIED
12 INDIVIDUAL WITH A DISABILITY, AND SHE
13 NOTES TREMORS AND POSSIBLE MUNCHAUSEN'S
14 THERE; IS THAT CORRECT?

15 A. YES.

16 Q. SO IT'S TRUE THAT MS. HOCHSTEIN
17 REACHED THIS CONCLUSION IN AUGUST 2010;
18 CORRECT?

19 A. ERRONEOUSLY REACHED THAT
20 CONCLUSION.

21 Q. I'LL READ THE ENTIRE THING TO YOU
22 TO BE CLEAR:

23 'FURTHER, DCFS MADE THE
24 RECOMMENDATION THAT CP DUVAL NOT BE
25 ALLOWED TO REUNIFY WITH HER SON,
26 THEREFORE CP DUVAL WAS DIFFERENTLY
27 TREATED IN THE RECEIPT OF SERVICES
28 BECAUSE SHE IS A QUALIFIED INDIVIDUAL

1 WITH A DISABILITY (TREMORS, POSSIBLE
2 MUNCHAUSEN) .'

3 DO YOU SEE THAT NOW?

4 A. YES.

5 Q. AND THAT'S WHAT'S BEFORE YOU IN
6 EXHIBIT NO. 4; CORRECT?

7 A. THAT -- YES.

8 Q. AND IT'S TRUE, AND I'LL -- WELL,
9 FIRST, IT'S TRUE THAT THIS LANGUAGE ON
10 EXHIBIT 4 WAS INCLUDED IN
11 MS. HOCHSTEIN'S REPORT; CORRECT?

12 A. THAT IS CORRECT.

13 Q. AND MY QUESTION IS THIS: YOU'VE
14 HAD MULTIPLE MEETINGS AND CONVERSATIONS
15 WITH MS. HOCHSTEIN REGARDING
16 MS. DUVAL'S CASE; CORRECT?

17 A. YES.

18 Q. DO YOU HAVE ANY REASON TO BELIEVE
19 THAT MS. HOCHSTEIN WAS UNTRUTHFUL WHEN
20 SHE MADE THE STATEMENT IN EXHIBIT 4?

21 A. I BELIEVE THAT SHE THOUGHT SHE WAS
22 RIGHT. IT'S NOT A MATTER OF VERACITY;
23 IT'S A MATTER OF ACTUALLY DOING A
24 PROPER ANALYSIS.

25 Q. OKAY. LET ME DRAW YOUR ATTENTION
26 TO PAGE 10, THE BOTTOM PARAGRAPH. IT
27 STARTS:

28 'CP DUVAL IS ALSO PROTECTED AS A

1 QUALIFIED INDIVIDUAL WITH A DISABILITY
2 (POSSIBLE MUNCHAUSEN BY PROXY) BECAUSE
3 SHE IS A PERSON WHO IS PERCEIVED BY
4 OTHERS AS HAVING THIS IMPAIRMENT THOUGH
5 SHE HAS NEVER RECEIVED A DIAGNOSIS FROM
6 A LICENSED MEDICAL PROFESSIONAL.'

7 YOU SEE THAT ON PAGE 10; CORRECT?

8 A. YES.

9 Q. ALL RIGHT. GO AHEAD AND TAKE
10 DOCUMENT 6 AND CIRCLE -- THAT LANGUAGE
11 IS, IN FACT, ON PAGE 10 OF EXHIBIT 3;
12 CORRECT?

13 A. IT IS ON PAGE 10 OF EXHIBIT 3.

14 Q. OKAY. SO IN YOUR CONVERSATION WITH
15 MS. HOCHSTEIN REGARDING THE DUVAL
16 MATTER, DID YOU EVER DISCUSS THE
17 PERCEPTION OF MS. DUVAL'S DISABILITY
18 WITH MS. HOCHSTEIN?

19 A. YES.

20 Q. WHAT WAS DISCUSSED?

21 A. BASICALLY WE DISCUSSED THE FACT
22 THAT, AGAIN, WE HAVE TO HAVE A NEXUS,
23 WE HAVE TO HAVE AN ACT, AND THEN WE
24 HAVE TO HAVE A -- SOME KIND OF
25 DISCRIMINATORY ACT.
26 MY OPINION, AFTER DISCUSSING THE MATTER
27 WITH SIMONE MILLER AND STEVEN SANDERS,
28 WAS -- IS THAT THERE WAS NO PERCEPTION.

1 WE DIDN'T KNOW, SIMPLY BECAUSE WE
2 WANTED TO GET A MEDICAL ASSESSMENT
3 DONE. SO THERE'S NO PLACE WHERE WE
4 SAID NO, SHE HAS THESE CONDITIONS,
5 THESE MEDICAL CONDITIONS. IN OUR
6 REPORT, WE'RE SAYING THAT THERE IS A
7 POSSIBILITY THAT SHE MAY HAVE IT, BUT
8 WE'VE NEVER SAID THAT SHE HAD IT.

9 Q. AS PART OF YOUR INVESTIGATION INTO
10 THE DUVAL MATTER, DID YOU EVER SPEAK TO
11 SUSAN PENDER?

12 A. NO. I DIDN'T INVESTIGATE THIS
13 MATTER.

14 Q. I UNDERSTAND, BUT -- YOU DIDN'T
15 INVESTIGATE THIS MATTER?

16 A. NO, I DID NOT.

17 Q. YOU REVIEWED THE DOCUMENTS OTHERS
18 PREPARED AND SENT TO YOU; CORRECT?

19 A. AFTER THE FACT.

20 Q. AFTER THE STATE WAS SENT THE
21 AUGUST 2, 2010, REPORT?

22 A. THAT'S CORRECT.

23 Q. MA'AM, IT'S TRUE THAT WHEN YOU
24 LEARNED FROM MS. MILLER OF THE DUVAL
25 CASE, YOU MADE NO EFFORT TO CONTACT
26 MS. SUSAN PENDER; CORRECT?

27 A. THAT IS CORRECT.

28 Q. AND THAT IS ALSO TRUE OF KIMBERLY

1 ROGERS?

2 A. THAT IS CORRECT.

3 Q. AND IT'S TRUE OF CANDIS NELSON?

4 A. THAT IS CORRECT.

5 Q. AND IT'S TRUE OF VICTORIA SCHEELE?

6 A. CORRECT.

7 Q. SO BETWEEN 2006 AND THE PRESENT
8 TIME, TO YOUR KNOWLEDGE, HOW MANY CIVIL
9 RIGHTS COMPLAINTS HAVE BEEN SUSTAINED
10 AGAINST SOCIAL WORKERS THAT WERE FILED
11 BY CLIENTS?

12 A. BASED UPON A CIVIL RIGHTS
13 VIOLATION?

14 Q. YES, MA'AM.

15 A. MAYBE ONE OR TWO.

16 Q. AND BECAUSE IT WAS AN UNUSUAL
17 EVENT, WAS THERE ANY REASON YOU
18 WOULDN'T WANT TO TALK TO ALL THE SOCIAL
19 WORKERS INVOLVED IN THE CASE?
20 DO YOU UNDERSTAND THE QUESTION?

21 A. I DO.

22 Q. OKAY.

23 A. BECAUSE THEY HAD ALREADY BEEN
24 INTERVIEWED, THEIR STATEMENTS WERE
25 ALREADY ON FILE, THEIR RECORDS HAD
26 ALREADY BEEN REVIEWED. AND IT WAS VERY
27 CLEAR TO ME THAT IT WAS AN
28 INTERPRETATION OF WHAT HAD ALREADY BEEN

1 DONE THAT WAS THE PROBLEM IN THIS CASE,
2 NOT ON THE INVESTIGATION. IT WAS THE
3 INTERPRETATION AND THE INCORRECT
4 PREMISE, AGAIN.

5 Q. I'LL GO AHEAD AND MARK THIS AS
6 EXHIBIT NO. 10.
7 THE FIRST OTHER ISSUE WE SHOULD ADDRESS
8 IS THAT THIS DOCUMENT IS DATED
9 JANUARY 7, 2010; CORRECT?

10 A. IT IS. BUT I THINK IT WAS
11 JANUARY 7, 2011.

12 Q. I AGREE WITH YOU. I'M JUST CALLING
13 IT TO YOUR ATTENTION. I USED THE SAME
14 DATE THAT THE DOCUMENT HAD, BUT YOUR
15 BELIEF IS THAT THIS, IN FACT, WAS
16 AUTHORED JANUARY 7, 2011; CORRECT?

17 A. THAT'S CORRECT.

18 Q. AND EXHIBIT NO. 10 HAS THE SAME
19 JANUARY 7, 2010, DATE BECAUSE THE
20 DOCUMENT SAYS THAT.
21 HAVING SAID THAT, IT'S YOUR BELIEF THAT
22 THIS REPORT WAS AUTHORED ON JANUARY 7,
23 2011; CORRECT?

24 A. THAT'S CORRECT.

25 Q. OKAY. LET'S TALK ABOUT THESE TWO
26 STATEMENTS.
27 WHEN WE INITIALLY TALKED ABOUT THE
28 FIRST REPORT, IT SAID THAT THERE WAS A

1 PERCEPTION, OR THAT MS. DUVAL SUFFERED
2 THE PERCEPTION OF BEING DIAGNOSED WITH
3 MUNCHAUSEN BY PROXY. THIS REPORT
4 BEFORE YOU IN EXHIBIT 10 SAYS:

5 'COULD HAVE BEEN THE PERCEPTION.'

6 DO YOU SEE THAT DIFFERENCE?

7 A. YES.

8 Q. CAN YOU EXPLAIN THAT TO ME?

9 A. I DIDN'T WRITE IT, BUT I'M PRETTY
10 SURE THAT WE HAD -- IT'S THE DISCUSSION
11 THAT I HAD WITH MS. HOCHSTEIN. BECAUSE
12 IN HER FIRST REPORT SHE SAID THAT THERE
13 WAS A PERCEPTION. SHE COULD NOT HAVE
14 POSSIBLY COME TO THAT CONCLUSION
15 CORRECTLY.

16 COULD THERE HAVE BEEN? YES, THERE'S A
17 POSSIBILITY. AS YOU STATED EARLIER,
18 COUNSEL, DURING THE COURSE OF THIS
19 DEPOSITION, THAT THERE'S THE
20 POSSIBILITY. WAS IT PROBABLE? WE
21 DIDN'T REACH THAT CONCLUSION. DID IT
22 HAPPEN? THAT WAS NOT THE CONCLUSION.
23 POSSIBILITY? AGAIN, ANYTHING IS
24 POSSIBLE, BUT THERE IS NO EVIDENCE THAT
25 THAT WAS THE CASE.

26 COULD HAVE BEEN IS NOT THE MEASURE THAT
27 WE USE IN DETERMINING DISCRIMINATION.

28 Q. AND WHAT WOULD THE MEASURE BE?

1 A. THE MEASURE WOULD BE THAT, IN
2 FACT -- FIRST OF ALL, MENTIONING IT IN
3 THIS REPORT, IT WOULD HAVE TO SAY THAT
4 SHE DID HAVE IT. WE'D HAVE TO DISCLOSE
5 AN ACTUAL MEDICAL CONDITION. WE'D HAVE
6 TO SHOW THAT SHE WAS DENIED SOME
7 SERVICE OR BENEFIT OR TREATED
8 DIFFERENTLY BECAUSE OF THAT DISCLOSURE.
9 WE DID NOT DISCLOSE, NOR WAS SHE DENIED
10 ANY PARTICULAR BENEFIT BECAUSE OF THE
11 MENTION OF MUNCHAUSEN'S.

12 Q. WELL, IT'S TRUE, MA'AM, THAT YOU
13 CHANGED POLICY TO ENSURE THAT ANY
14 MATTER WITH A FINDING OF DISCRIMINATION
15 WOULD BE REVIEWED BY YOU, CORRECT?
16 AFTER MS. DUVAL'S AUGUST 2, 2010,
17 INITIAL REPORT?

18 A. AFTER THIS REPORT AS WELL. AND I
19 DIDN'T CHANGE POLICY; I CHANGED
20 PROCEDURE.

21 Q. THANK YOU. SO WHEN DID YOU -- SO
22 WHEN DID THE PROCEDURE CHANGE?

23 A. PROBABLY SOMEWHERE AFTER WE HAD THE
24 DISCUSSION WITH MS. SMITH, SIMONE
25 MILLER.

26 Q. THANK YOU. WHEN YOU'RE AT WORK AT
27 YOUR USUAL WORKSTATION, DO YOU HAVE
28 ACCESS TO ANY POLICY OR PROCEDURE

1 MANUALS AUTHORED BY THE COUNTY OF
2 LOS ANGELES REGARDING DCFS?

3 A. YES.

4 Q. HOW MANY?

5 A. BASICALLY, ALL OF THE POLICY AND
6 PROCEDURAL MANUALS REGARDING SOCIAL
7 WORK PRACTICES ARE ON OUR WEBSITE,
8 WHICH IS ACCESSIBLE BY ANY EMPLOYEE. I
9 HAVE POLICY AND PROCEDURE MANUALS ON
10 PERSONNEL MANUAL PRACTICES. ANYTHING
11 THAT'S WITHIN MY -- THAT I WOULD HAVE
12 TO REFER TO IN THE EXECUTION OF MY
13 DUTIES, I HAVE ACCESS TO THOSE MANUALS.

14 Q. HOW MANY MANUALS WOULD THAT BE?
15 THREE? FIVE?

16 A. 20.

17 Q. 20? AND DID YOU WRITE THIS NEW
18 PROCEDURE AND PUT IT IN ONE OF THOSE
19 POLICY OR PROCEDURE MANUALS?

20 A. NO, I DIDN'T WRITE IT.

21 Q. SO HOW DO EMPLOYEES KNOW WHERE TO
22 FIND IT OR HOW TO FOLLOW IT?

23 A. THERE'S ONLY ONE EMPLOYEE THAT
24 NEEDS TO KNOW THAT, AND THAT'S LYNETTE
25 MORGAN-NICHOLS, WHO REPORTS DIRECTLY TO
26 ME. SHE IS NOT TO APPROVE ANY REPORT
27 BEFORE -- IF IT HAS ANY FINDING OF A
28 CIVIL RIGHTS VIOLATION OR ANY PRACTICE

1 VIOLATION -- WITHOUT ME SEEING IT
2 FIRST. SHE'S THE ONLY ONE THAT NEEDS
3 TO KNOW IT BECAUSE SHE'S THE ONE THAT
4 HAS TO REVIEW IT BEFORE IT GOES
5 ANYWHERE.

6 MR. MCMILLAN: GO AHEAD AND MARK THIS
7 AS THE NEXT EXHIBIT IN ORDER, WHICH
8 SHOULD BE EXHIBIT NO. 10, I BELIEVE.
9 I'M SORRY, NO. 11.

10 BY MR. MCMILLAN:

11 Q. I'M SORRY. IN 2009, WERE YOU THE
12 CIVIL RIGHTS COORDINATOR?

13 A. PROBABLY I WAS, YES.

14 Q. BASED ON YOUR BEST ESTIMATE, YOU
15 WERE?

16 A. I PROBABLY WAS, YES.

17 Q. IN 2010, WERE YOU THE CIVIL RIGHTS
18 COORDINATOR?

19 A. PROBABLY, YES.

20 Q. 2011?

21 A. PROBABLY.

22 Q. OKAY. WHAT YOU'RE SAYING IS -- NO
23 ONE WANTS YOU TO GUESS. SO BASED ON
24 YOUR CURRENT UNDERSTANDING, IS IT YOUR
25 BEST ESTIMATE THAT YOU WERE THE CIVIL
26 RIGHTS COORDINATOR 2009 THROUGH 2011?

27 A. THAT'S CORRECT.

28 Q. SAME QUESTION FOR 2012?

1 A. THAT IS CORRECT.

2 Q. 2013?

3 A. YES.

4 Q. 2014?

5 A. PART OF 2014.

6 Q. WHICH PART?

7 A. THE FIRST PART, PROBABLY.

8 Q. I UNDERSTAND. I SIMPLY ASKED IF
9 THAT WAS A CORRECT STATEMENT OF COUNTY
10 POLICY.

11 AND IT IS?

12 A. AND I ANSWERED YES, TO MY
13 UNDERSTANDING.

14 Q. AND YOU HAD ALSO TESTIFIED EARLIER
15 THAT AT ONE POINT YOU WERE THE CIVIL
16 RIGHTS COORDINATOR FOR THE COUNTY OF
17 LOS ANGELES; CORRECT?

18 A. FOR THE DEPARTMENT OF CHILDREN AND
19 FAMILY SERVICES.

20 Q. UNDERSTOOD. AND TODAY, THE CIVIL
21 RIGHTS COORDINATOR FOR THE COUNTY OF
22 LOS ANGELES DCFS IS LYNETTE
23 MORGAN-NICHOLS; CORRECT?

24 A. I BELIEVE SO, YES.

25 Q. AND LYNETTE MORGAN-NICHOLS, AS THE
26 CIVIL RIGHTS COORDINATOR FOR THE COUNTY
27 OF LOS ANGELES DCFS, REPORTS TO YOU?

28 A. YES.

1 Q. DID THE COUNTY OF LOS ANGELES DCFS
2 HAVE A DISCRIMINATION COMPLAINT
3 PROCEDURE ALREADY IN PLACE AT THAT
4 TIME?

5 A. THEY DID.

6 Q. AND HOW DID YOU COME TO GAIN AN
7 UNDERSTANDING OF WHAT THAT PROCEDURE
8 ENTAILED?

9 A. I SAT WITH THE MANAGER OF CIVIL
10 RIGHTS AND LOOKED AT THE PROCEDURE ON
11 WHAT THEY WERE DOING, COMPARED IT WITH
12 WHAT THE STATE REQUIRED US TO DO AND
13 THE LAW AS I KNEW IT TO BE. I DON'T
14 PRACTICE LAW FOR THE COUNTY, BUT, YOU
15 KNOW, YOU DON'T LEARN LAW AND THEN
16 FORGET IT JUST BECAUSE YOU'RE NOT
17 ACTUALLY PRACTICING IT ON A DAY-TO-DAY
18 BASIS.
19 SO I REVIEWED THE STATUTES, I REVIEWED
20 THE CONTROLLING DOCUMENTS TO MAKE SURE
21 THAT THE PROCESS WAS WHAT IT NEEDED TO
22 BE, AND LEARNED THE BUSINESS OF THE
23 DAY-TO-DAY OPERATIONS FROM THE PERSON
24 WHO WAS MANAGING THE POSITION WHO WOULD
25 HAVE REPORTED TO ME.

26 Q. AND WHAT DO YOU MEAN BY
27 'CONTROLLING DOCUMENTS'?

28 A. WELL, FOR INSTANCE, THE PARTICULAR

1 CIVIL RIGHTS ACTS AND THE COUNTY
2 POLICIES ON INVESTIGATIONS FOR BOTH
3 EMPLOYEES AND FOR CLIENTS.

4 Q. BACK IN 2009 THROUGH 2010, WHAT WAS
5 YOUR UNDERSTANDING OF THE DUTIES OF THE
6 CIVIL RIGHTS UNIT INVESTIGATOR?

7 A. THEY WERE TO REVIEW THE CASE.
8 IF -- THEY WERE TO GET A CLEAR
9 UNDERSTANDING OF WHAT THE ALLEGATIONS
10 WERE. THEY WERE TO REVIEW POLICY.
11 THEY WERE TO CONTACT THE SOCIAL WORKERS
12 INVOLVED. THEY WERE TO REVIEW THE --
13 WE CALL THEM COUNTY OR CALIFORNIA STATE
14 SYSTEM CWS/CMS, AND REVIEW THE NOTES
15 THAT ARE PLACED IN THERE, WHICH ARE
16 REQUIRED OF OUR SOCIAL WORKERS.
17 WHENEVER THEY MAKE A CONTACT WITH A
18 CLIENT, THEY HAVE TO NOTATE WHAT THE
19 ESSENCE OF THAT CONTACT WAS OR ANYTHING
20 ELSE THAT'S HAPPENING ON THE CASE.
21 SO THEY REVIEW ALL OF THOSE THINGS,
22 THEN THEY WRITE A REPORT BASED ON THE
23 PROCEDURAL GUIDELINES THAT HAVE BEEN
24 SET UP.

25 Q. NOW, THE INVESTIGATOR THAT IS
26 ASSIGNED TO THE CASE, IS HE OR SHE
27 SUPPOSED TO BE A NEUTRAL THIRD PARTY
28 WHEN IT COMES TO INVESTIGATING THE

1 COMPLAINT OF DISCRIMINATION?

2 A. YES.

3 Q. AND IS THAT SAME INVESTIGATOR
4 SUPPOSED TO BE AN OBJECTIVE
5 FACT-FINDER?

6 A. YES.

7 Q. OKAY. AND BY 'OBJECTIVE,' WHAT
8 DOES THAT MEAN TO YOU?

9 A. IT MEANS THAT THEY'RE SUPPOSED TO
10 LOOK AT A CASE, LOOK AT THE FACTS, AND
11 DRAW CONCLUSIONS BASED UPON THE FACTS
12 UNCOVERED DURING THE COURSE OF THE
13 INVESTIGATION.

14 Q. AND THE PURPOSE OF THE
15 INVESTIGATION IS TO DETERMINE WHETHER
16 THERE WAS A CIVIL RIGHTS
17 DISCRIMINATION; CORRECT?

18 A. THAT'S CORRECT.

19 Q. NOW, THE INVESTIGATOR IS ALSO
20 TASKED WITH UNCOVERING EVIDENCE
21 NECESSARY TO DETERMINE WHETHER A
22 DISCRIMINATION HAS HAPPENED; CORRECT?

23 A. YES.

24 Q. AND IT IS NOT THE INVESTIGATOR'S
25 DUTY TO PROTECT THE COUNTY, IS IT?

26 A. NO.

27 Q. IT'S NOT TO BE THE COMPLAINANT'S
28 ADVOCATE EITHER; CORRECT?

1 A. CORRECT.

2 Q. AND EARLIER YOU MENTIONED THAT YOU,
3 YOURSELF, DO NOT INVESTIGATE ANY OF
4 THESE CIVIL RIGHTS DISCRIMINATION
5 COMPLAINTS?

6 A. NO, I DO NOT.

7 Q. BACK IN 2009 THROUGH 2010,
8 APPROXIMATELY WHAT PERCENTAGE OF YOUR
9 TIME WAS DEVOTED TO OVERSEEING THE
10 CIVIL RIGHTS UNIT AS OPPOSED TO, SAY,
11 STAFF DEVELOPMENT?

12 A. WELL, I HAD THREE UNITS, AND I
13 SPENT MORE TIME WITH THE PERFORMANCE
14 MANAGEMENT SECTION. I WOULD SAY THAT I
15 SPENT 60 PERCENT OF MY TIME WITH THE
16 PERFORMANCE MANAGEMENT SECTION, AND
17 PROBABLY 20 PERCENT OF MY TIME WITH THE
18 LABOR RELATIONS SECTION AND 20 PERCENT
19 OF MY TIME WITH THE CIVIL RIGHTS
20 SECTION.

21 Q. IT IS TRUE, ISN'T IT, THAT AT ONE
22 POINT YOU DID ASK MICHELLE HOCHSTEIN
23 AND LYNETTE MORGAN-NICHOLS TO PREPARE
24 AN AMENDED REPORT BASED ON SOME OF THE
25 INPUT THAT YOU EITHER RECEIVED FROM
26 SIMONE MILLER AND -- WHAT'S HIS
27 NAME? -- DR. SANDERS; CORRECT?

28 A. YES.

1 Q. OKAY. JUST SO I HAVE A CLEAR
2 UNDERSTANDING OF WHAT -- YOU KNOW, WHO
3 THESE PEOPLE ARE, BACK IN 2009, 2010,
4 WHEN MS. DUVAL'S CIVIL RIGHTS COMPLAINT
5 WAS UNDER INVESTIGATION, WHAT WAS
6 STEVEN SANDERS' POSITION AT DCFS?

7 A. HE WAS A REGIONAL ADMINISTRATOR.

8 Q. AS A REGIONAL ADMINISTRATOR, HE WAS
9 OVERSEEING OR SUPERVISING SOME OF THE
10 SUBJECTS THAT WERE UNDER INVESTIGATION;
11 CORRECT?

12 A. YES.

13 Q. OKAY. I WANT TO MARK AS EXHIBIT 14
14 A DOCUMENT BATES-STAMPED NO. DCFS
15 CRU1050 THROUGH 1051. LET ME KNOW ONCE
16 YOU'VE REVIEWED -- LET ME KNOW ONCE
17 YOU'VE HAD A CHANCE TO REVIEW IT.

18 A. IS THIS A COMPLETE DOCUMENT,
19 COUNSEL? BECAUSE IT DOESN'T APPEAR
20 TO --

21 Q. YEAH, THAT WAS EXACTLY THE SAME
22 PROBLEM I HAD. BUT I'M NOT GOING TO
23 EXAMINE YOU OVER THE PORTION THAT'S CUT
24 OFF ANYWAY. SO I UNDERSTAND THAT THE
25 SECOND HALF OF THE E-MAIL DATED
26 DECEMBER 28TH IS CUT OFF.
27 HAVE YOU HAD A CHANCE TO REVIEW THE
28 DOCUMENT?

1 A. YES, I HAVE.

2 Q. OKAY. I WANT TO DIRECT YOUR
3 ATTENTION TO THE FIRST PAGE,
4 BATES-NUMBERED 1050.
5 DO YOU SEE THAT THERE'S AN E-MAIL
6 WITH -- DATED JANUARY 3, 2011, AT
7 9:34 A.M.?

8 A. UH-HUH.

9 Q. IS THAT E-MAIL SOMETHING THAT YOU
10 RECOGNIZE?

11 A. WELL, I RECOGNIZE IT AS IT APPEARS
12 TO BE FROM ME, YES. I DON'T REMEMBER
13 IT INDEPENDENTLY.

14 Q. RIGHT. BUT IT APPEARS TO BE AN
15 E-MAIL THAT YOU SENT TO
16 MS. MORGAN-NICHOLS --

17 A. YES.

18 Q -- MS. MILLER, AND -- WELL, SORRY.
19 AT LEAST THOSE TWO; CORRECT?

20 A. YES.

21 Q. IN THE E-MAIL, THE BODY OF THE
22 E-MAIL STATES:

23 'I WANT THE FINDINGS ON OUR REPORT
24 AMENDED BASED UPON THE EXPLANATION
25 BELOW. SEE ME ON THIS. THANK YOU.'
26 FIRST, DID I READ THAT CORRECTLY?

27 A. YOU LEFT OUT PLEASE, 'PLEASE SEE ME
28 ON THIS.'

1 Q. WHAT WAS YOUR INTENTION IN SENDING
2 THIS E-MAIL?

3 A. BECAUSE I WANTED LYNETTE TO CONVEY
4 TO WHOMEVER WAS GOING TO BE DOING THE
5 AMENDMENT THAT -- I WANTED THEM TO BE
6 AWARE OF WHAT DR. SANDERS WAS SAYING,
7 WHO WAS THE PERSON WHO WOULD HAVE BEEN
8 MOST FAMILIAR WITH THE PRACTICE IN THE
9 FIELD, WHO WOULD HAVE BEEN MOST
10 FAMILIAR WITH THE DSM -- THE DIAGNOSTIC
11 BOOK, I GUESS, IS WHAT THEY CALL IT --
12 AND TO SUPPORT WHAT HIS FINDINGS WERE.
13 BECAUSE SIMONE HAD GONE TO DR. SANDERS
14 TO TELL HIM WHAT MICHELLE'S CONCERNS
15 WERE IN HER REPORT. SO I DIRECTED
16 SIMONE TO TALK TO HIM. AND HE REPLIED
17 AS FOLLOWS: 'THAT INFORMATION WAS
18 GIVEN TO ME.' SO I WANTED TO CONVEY TO
19 LYNETTE THAT THIS SHOULD BE A
20 CONSIDERATION OF THE AMENDMENT TO THE
21 REPORT THAT MICHELLE ORIGINALLY WROTE
22 AND REVISED ON A COUPLE OF OCCASIONS.

23 Q. AS OF JANUARY 3, 2011, WHAT LED YOU
24 TO BELIEVE THAT DR. SANDERS HAD ANY
25 SORT OF FAMILIARITY OR EXPERTISE WITH
26 THE DSM?

27 A. BECAUSE THAT'S PART OF HIS JOB. I
28 MEAN, IT'S PART OF THE JOB OF ALL

1 SOCIAL WORKERS TO HAVE A WORKING
2 FAMILIARITY, BUT HE IN PARTICULAR WOULD
3 HAVE, I BELIEVE, AN EXPERT LEVEL OF
4 KNOWLEDGE OF THESE KINDS OF THINGS.
5 I'VE WORKED WITH DR. SANDERS BEFORE.
6 I'VE TALKED TO HIM ON VARIOUS ISSUES.
7 AND HE'S VERY KNOWLEDGEABLE ABOUT THE
8 FIELD OF SOCIAL WORKING, INCLUDING
9 THESE KINDS OF MEDICAL ISSUES THAT
10 PRESENT ON A CASE.

11 Q. AND SO, BASED ON YOUR EXPERIENCE,
12 YOU RELIED ON DR. SANDER'S OPINION
13 REGARDING MUNCHAUSEN BY PROXY IN ORDER
14 TO REQUEST THAT A FURTHER AMENDMENT BE
15 MADE TO MS. HOCHSTEIN'S REPORT;
16 CORRECT?

17 A. WELL, I THINK THIS IS -- I THOUGHT
18 THAT DR. SANDERS WAS MORE THAN AN
19 OPINION. IT WAS AN INFORMED EXPERT
20 OPINION.

21 Q. AND JUST SO WE HAVE THE FRAME OF
22 REFERENCE, WHAT WAS THE INCORRECT
23 PREMISE THAT MS. HOCHSTEIN WAS RELYING
24 UPON -- RELYING ON THAT WAS CORRECTED
25 BY DR. SANDERS' E-MAIL?

26 A. THAT MS. DUVAL WAS DIAGNOSED BY A
27 SOCIAL WORKER WITH MUNCHAUSEN BY PROXY.
28 AND WHETHER OR NOT ANY OF THOSE --

1 THESE INDICATIONS WERE PRESENT IN THE
2 REPORT OR IN THE SOCIAL WORKER'S
3 FINDINGS WAS PERTINENT TO THE PREMISE
4 OF MICHELLE'S INVESTIGATIVE REPORT. SO
5 WE WANTED TO GET CLEAR ON WHAT THAT
6 WAS. AND I BELIEVE THAT DR. SANDERS
7 HAD THE BACKGROUND, EXPERIENCE, AND
8 EXPERTISE TO SHED SOME LIGHT ON THE
9 ILLNESS. AND THAT WASN'T AT ALL FOUND
10 IN THE CSW'S RECORDS, REPORTS, WHAT
11 HAVE YOU.

12 Q. OKAY. WHO ULTIMATELY IS
13 RESPONSIBLE FOR DETERMINING WHETHER
14 THERE WAS A CIVIL RIGHTS VIOLATION?

15 A. THE CIVIL RIGHTS SECTION.

16 Q. OKAY. AND YOU SAID THAT IT STARTS
17 IN THE CIVIL RIGHTS SECTION WITH THE
18 INVESTIGATOR; CORRECT?

19 A. WITH THE REPORT, YES.

20 Q. AND WHO DOES IT FALL TO AT THE VERY
21 END?

22 A. IT WOULD FALL TO ME.

23 Q. OKAY. SO ULTIMATELY, YOU WERE
24 RESPONSIBLE FOR DETERMINING WHETHER
25 THERE WAS A CIVIL RIGHTS VIOLATION FOR
26 ANY INVESTIGATION IN THE CIVIL RIGHTS
27 UNIT?

28 A. YES.

1 Q. IN MAKING THAT DETERMINATION, WERE
2 YOU ALSO REQUIRED TO LOOK AT THE
3 EVIDENCE THAT WAS CONSIDERED BY THE
4 INVESTIGATOR OR GATHERED BY THE
5 INVESTIGATOR?

6 A. YES.

7 Q. I WANT TO DIRECT YOUR ATTENTION TO
8 DCFS CRU1045, THE SECOND PAGE.

9 A. YES.

10 Q. AND SPECIFICALLY, LET'S TAKE A LOOK
11 AT YOUR E-MAIL DATED DECEMBER 22, 2010,
12 1:14 P.M. YOU WRITE:

13 'MICHELLE, THANK YOU FOR YOUR
14 INPUT. LYNETTE IS AWARE THAT ALL
15 FUTURE REPORTS CONTAINING SUBSTANTIATED
16 FINDINGS MUST BE REVIEWED BY ME.
17 SIMONE, PLEASE FORWARD MICHELLE'S
18 RESPONSE TO STEVEN SANDERS FOR HIS
19 REVIEW AND COMMENTS.'

20 DID I READ YOUR E-MAIL CORRECTLY?

21 A. YES.

22 Q. AND THIS IS AN E-MAIL THAT YOU
23 SENT; CORRECT?

24 A. YES.

25 Q. YOU MENTIONED EARLIER THAT THE
26 COUNTY SOCIAL WORKERS WERE ALSO FOUND
27 TO HAVE BEEN ACTING COMPLETELY WITHIN
28 THE COUNTY'S POLICY; RIGHT?

1 A. YES.

2 Q. GOOD MORNING, MS. CONDON.

3 A. GOOD MORNING.

4 Q. YOU UNDERSTAND THAT WE ARE HERE
5 TODAY ON A CONTINUATION OF THE
6 DEPOSITION WE TOOK LAST WEEK; CORRECT?

7 A. YES.

8 Q. AND YOU UNDERSTAND THAT YOU'RE
9 STILL UNDER OATH FROM THE DEPOSITION
10 THAT WE TOOK LAST WEEK?

11 A. YES.

12 Q. YOU WILL TODAY TELL THE TRUTH, THE
13 WHOLE TRUTH, AND NOTHING BUT THE TRUTH;
14 YES?

15 A. YES.

16 Q. WE'RE GOING TO SWITCH GEARS A
17 LITTLE BIT HERE. AND BEFORE WE TURN TO
18 THE DOCUMENTS, IN YOUR ROLE AS THE
19 EMPLOYEE RELATIONS MANAGER FOR THE
20 COUNTY OF LOS ANGELES BACK IN 2010,
21 WERE YOU REQUIRED TO BE FAMILIAR WITH
22 DIVISION 21 REQUIREMENTS FROM THE
23 CALIFORNIA DEPARTMENT OF SOCIAL
24 SERVICES? THAT WOULD BE CHAPTER
25 21-100, NONDISCRIMINATION IN
26 FEDERALLY-ASSISTED PROGRAMS?

27 A. YES. I HAD TO HAVE A WORKING
28 KNOWLEDGE OF DIVISION 21, YES.

1 Q. WHAT IS YOUR UNDERSTANDING OF THE
2 PURPOSE OF DIVISION 21? DO YOU HAVE AN
3 UNDERSTANDING?

4 A. YES, I DO.

5 Q. PLEASE SHARE THAT WITH US.

6 A. IT IS TO PROTECT THE CIVIL RIGHTS
7 OF CLIENTS, TO MAKE SURE THAT THEY WERE
8 NOT DISCRIMINATED AGAINST BASED UPON
9 SOME PROTECTED STATUS. THAT
10 DISCRIMINATION WOULD BE THE DENIAL OR
11 DELAY OF SERVICES OR DISPARATE
12 TREATMENT BASED UPON SOME IDENTIFIED
13 STATUS.

14 Q. DID YOU UNDERSTAND BACK IN 2010
15 THAT IT WOULD BE IMPROPER TO ESTABLISH
16 ADMINISTRATIVE METHODS OR PROCEDURES
17 WHICH HAVE THE EFFECT OF SUBJECTING
18 INDIVIDUALS TO DISCRIMINATION OR
19 DEFEATING THE OBJECTIVES OF
20 DIVISION 21?

21 A. YES.

22 Q. INsofar AS DIVISION 21, YOU
23 MENTIONED THAT YOU, AS THE HEAD OF THE
24 CIVIL RIGHTS UNIT, ARE REQUIRED TO
25 ADMINISTER THESE PROGRAMS -- SORRY --
26 YOU ARE IN CHARGE OF ADMINISTERING THE
27 CIVIL RIGHTS UNIT SECTION; CORRECT?

28 A. THAT WASN'T EXACTLY MY TESTIMONY,

1 BUT I AM IN CHARGE OF MAKING SURE THAT
2 TITLE 21 IS UPHELD AND FOLLOWED.

3 Q. SO WOULD YOU AGREE WITH ME THAT
4 HAVING A RECORD OF AN IMPAIRMENT MEANS
5 THAT YOU EITHER HAVE A HISTORY OF A
6 MENTAL OR PHYSICAL IMPAIRMENT THAT
7 SUBSTANTIALLY LIMITS ONE OR MORE LIFE
8 ACTIVITIES, OR TO EVEN BE MISCLASSIFIED
9 AS HAVING SUCH?

10 A. I UNDERSTAND WHAT IT SAYS IN THE
11 WRITING. IT SAYS WHAT IT SAYS.

12 Q. WELL, YOUR PURPOSE, AGAIN, IN
13 ADMINISTERING THE CIVIL RIGHTS UNIT IS
14 TO SEE THAT DIVISION 21 REQUIREMENTS
15 ARE FOLLOWED; CORRECT?

16 A. YES.

17 Q. SO HAS THE COUNTY OF LOS ANGELES
18 BEEN COMPLYING WITH DIVISION 21 INSOFAR
19 AS THIS DEFINITION IS CONCERNED?
20 DURING YOUR TENURE?

21 A. DURING MY TENURE, TO MY KNOWLEDGE,
22 THE DEPARTMENT OF CHILDREN AND FAMILY
23 SERVICES HAS BEEN COMPLIANT WITH
24 DIVISION 21 AND TO THIS PARTICULAR
25 SECTION.

26 Q. THEN IF I CAN DIRECT YOUR ATTENTION
27 TO PAGE 81, SECTION 21-117, I'D LIKE TO
28 READ JUST THE FIRST PARAGRAPH. IT

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SAYS:

'EACH PUBLIC CONTACT EMPLOYEE
SHALL RECEIVE TRAINING IN THE
REQUIREMENTS OF DIVISION 21.'

FIRST OF ALL, WERE YOU THE PUBLIC
CONTACT EMPLOYEE FOR THE COUNTY OF
LOS ANGELES BACK IN 2010?

A. I WAS NOT THE PUBLIC CONTACT
EMPLOYEE.

Q. YOU WERE ONE OF THEM; CORRECT?

A. I -- ONE OF THEM.

Q. RIGHT. DID YOU RECEIVE ANY
TRAINING REGARDING THE REQUIREMENTS OF
DIVISION 21?

A. YES.

Q. I'M GOING TO -- LET'S TURN TO
DIVISION 21-201 IN THE PACK THAT I JUST
HANDED YOU.

A. 21-201?

Q. YES.

A. OKAY.

Q. I'M GOING TO GO AHEAD AND REREAD
THE FIRST SENTENCE:

'RESPONSIBILITY FOR THE
IMPLEMENTATION OF NONDISCRIMINATION
REQUIREMENTS SHALL BE CENTRALIZED
WITHIN EACH AGENCY.'

DID I READ THAT CORRECTLY?

1 A. YES.

2 Q. FOR THE COUNTY OF LOS ANGELES DCFS,
3 IS THE RESPONSIBILITY THAT I JUST
4 DESCRIBED IN 21-201.1, IS THAT
5 CENTRALIZED IN THE CIVIL RIGHTS UNIT?

6 A. WITHIN THE HUMAN RESOURCES
7 DIVISION, YES.

8 Q. I'M GOING TO CONTINUE READING:

9 'EACH AGENCY SHALL DESIGNATE AN
10 EMPLOYEE AS THE CIVIL RIGHTS
11 COORDINATOR AND SHALL ALLOCATE ADEQUATE
12 PERSONNEL AND RESOURCES TO IMPLEMENT
13 THE PROVISIONS OF THIS DIVISION AND
14 ENSURE NONDISCRIMINATION IN THE
15 DELIVERY OF SERVICES.'

16 DID I READ THAT CORRECTLY?

17 A. YES, YOU DID.

18 Q. OKAY. AND BACK IN 2010, YOU WERE A
19 CIVIL RIGHTS COORDINATOR; CORRECT?

20 A. THAT'S CORRECT.

21 Q. THEY ARE, THANK YOU.

22 LET'S TURN TO PAGE 86, REGULATION
23 21-203.2. I WANT TO TURN TO, ACTUALLY,
24 PARAGRAPH .24. I'M GOING TO GO AHEAD
25 AND READ PARAGRAPH .24.

26 'FOR THOSE COMPLAINTS REQUIRING
27 INVESTIGATION BY THE CWD, THE
28 INVESTIGATION, INCLUDING ANY ATTEMPTED

1 RESOLUTION, SHALL BE COMPLETED WITHIN
2 60 CALENDAR DAYS FOLLOWING THE RECEIPT
3 OF THE COMPLAINT. WITHIN 20 CALENDAR
4 DAYS FOLLOWING THE COMPLAINT OF THE
5 INVESTIGATION, THE CDW [SIC] SHALL' --
6 AND THEN .24-1 IS: 'INFORM THE
7 COMPLAINANT IN WRITING OF THE RESULTS
8 OF THE INVESTIGATION, CLEARLY STATING
9 THE REASON FOR THE DECISION.
10 .24-2: INFORM CDSS/CRB OF THE CASE
11 RESOLUTION AND OF ANY CORRECTIVE ACTION
12 TAKEN.
13 .24-3: FORWARD A COMPLETE COPY OF THE
14 INVESTIGATION REPORT TO CDSS/CRB, AND
15 ATTACH COPIES OF ALL CORRESPONDENCE
16 SENT TO THE COMPLAINANT.'
17 FIRST OF ALL, DID I READ THAT
18 CORRECTLY?
19 A. YES.
20 Q. BACK IN 2010, WHEN MS. DUVAL'S
21 CIVIL RIGHTS UNIT COMPLAINT WAS BEING
22 PROCESSED, WHAT PROCEDURES DID YOU HAVE
23 IN PLACE TO ENSURE THAT THE TIMING
24 REQUIREMENTS OF SECTION 21-203.24 WERE
25 BEING COMPLIED WITH?
26 A. WE WOULD MONITOR THE -- WHEN THE
27 COMPLAINT CAME IN AND WHAT STEPS WERE
28 NECESSARY TO STAY IN COMPLIANCE WITHIN

1 THE 60 DAYS -- CALENDAR DAYS FOLLOWING
2 THE RECEIPT OF THE COMPLAINT.

3 Q. ANYTHING ELSE?

4 A. THE SUPERVISOR WOULD ASSIST THE
5 INVESTIGATORS AS NECESSARY IN THE
6 COMPLETION OF THE COMPLAINTS WITHIN THE
7 TIME FRAMES.

8 Q. WAS THAT ALL PURSUANT TO A WRITTEN
9 POLICY?

10 A. THIS IS THE ADOPTED WRITTEN POLICY,
11 YES.

12 Q. DIVISION 21 IS THE WRITTEN POLICY
13 OF THE LA COUNTY OF DCFS?

14 A. YES.

15 Q. BACK IN 2010, WHEN MS. DUVAL'S
16 CIVIL RIGHTS UNIT COMPLAINT WAS BEING
17 INVESTIGATED, DID LA DCFS HAVE A POLICY
18 OF WAITING TO COMMENCE AN INVESTIGATION
19 UNTIL AFTER THE STATE ASSIGNED A
20 CDSS/CRB NUMBER?

21 A. GENERALLY, YES, THAT'S TRUE.

22 Q. WHY WAS THAT?

23 A. BECAUSE IN SOME CASES THE STATE MAY
24 NOT AGREE THAT IT WAS SOMETHING THAT
25 NEEDED TO BE INVESTIGATED.

26 Q. OKAY. I WANT TO TURN YOUR
27 ATTENTION TO PAGE 86.2. WE'RE STILL ON
28 REGULATION 21-203.3. AND NOW WE'RE

1 MOVING ON TO .3-1. FIRST I'M GOING TO
2 READ THE SENTENCE, THEN YOU CAN TELL ME
3 IF I READ IT CORRECTLY:

4 'IN ORDER TO MAINTAIN CONSISTENCY
5 IN THE CONDUCT OF INVESTIGATIONS, THE
6 FOLLOWING PROCEDURES SHALL APPLY.'

7 DID I READ THAT CORRECTLY?

8 A. YES.

9 Q. SUBPARAGRAPH 20.31:

10 'THE CWD/CDSS SHALL DESIGNATE AN
11 EMPLOYEE TO CONDUCT INVESTIGATIONS. IN
12 NO CASE SHALL AN EMPLOYEE BE ASSIGNED
13 TO AN INVESTIGATIVE COMPLAINT INVOLVING
14 ACTIONS TAKEN BY HIM/HER, OR BY AN
15 EMPLOYEE UNDER HIS/HER IMMEDIATE
16 SUPERVISION, OR WHERE THAT DESIGNATED
17 EMPLOYEE'S RESPONSIBILITY IN ANOTHER
18 PROGRAM OR CAPACITY WITHIN CWD/CDSS MAY
19 RESULT IN A CONFLICT OF INTEREST.'

20 DID I READ THAT CORRECTLY?

21 A. YES.

22 Q. MS. HOCHSTEIN AND
23 MS. MORGAN-NICHOLS ARE MORE
24 APPROPRIATELY LABELED THE
25 INVESTIGATORS; CORRECT?

26 A. THAT'S CORRECT.

27 Q. WHAT PROCEDURES OR MECHANISMS DO
28 YOU HAVE IN PLACE OVER AT DCFS TO

1 ENSURE THAT NONE OF YOUR INVESTIGATORS
2 WILL HAVE A CONFLICT OF INTEREST THAT
3 PROHIBITS THEM FROM BEING DESIGNATED
4 THE INVESTIGATOR, BACK IN 2010?

5 A. WE HAVE PERSONNEL POLICIES THAT
6 PROHIBIT EMPLOYEES FROM ENGAGING IN ANY
7 ACTIVITY WHICH WOULD CONSTITUTE A
8 CONFLICT OF INTEREST.

9 Q. IS THAT AN LA DCFS-WIDE POLICY OR
10 SPECIFIC TO THE CIVIL RIGHTS UNIT?

11 A. IT'S A DEPARTMENTAL-WIDE POLICY.

12 Q. DURING YOUR TENURE AS THE EMPLOYEE
13 RELATIONS MANAGER, DO YOU KNOW WHETHER
14 THERE WAS ANY INQUIRY INTO OR
15 INVESTIGATION INTO WHETHER THERE WAS A
16 CONFLICT OF INTEREST REGARDING HAVING
17 ONE PERSON ASSIGNED AS THE HEAD OF THE
18 CIVIL RIGHTS UNIT, THE PERFORMANCE
19 MANAGEMENT DIVISION, AND -- WHAT WAS
20 THE THIRD ONE THAT YOU MENTIONED THAT
21 YOU WERE HEAD OF?

22 A. LABOR RELATIONS.

23 Q -- THE LABOR RELATIONS DIVISION?
24 WAS IT THE POLICY, CUSTOM, OR PRACTICE
25 OF THE COUNTY OF LA DCFS TO NOTIFY THE
26 COURT IF THERE WAS A FINDING THAT ANY
27 OF THE SOCIAL WORKERS INVOLVED IN THE
28 CASE HAD DISCRIMINATED AGAINST THE

1 CLIENT, BACK IN 2010?

2 DO YOU NEED THE QUESTION REREAD?

3 A. NO, I DON'T NEED THE QUESTION
4 REREAD.

5 I'M -- IT WAS NOT THE POLICY OF THE
6 CIVIL RIGHTS UNIT TO NOTIFY THE COURT.

7 Q. WAS IT THE -- NOT ONLY IT WASN'T
8 THE POLICY, IT WAS SOMETHING THAT
9 LA DCFS JUST DID NOT DO; CORRECT?

10 A. WE DID NOT DO THAT, THE CIVIL
11 RIGHTS UNIT.

12 Q. WAS THERE -- DID THE CIVIL RIGHTS
13 UNIT CONTACT ANYBODY WITHIN DCFS, OR
14 MAYBE SOMEBODY EVEN OUTSIDE OF DCFS,
15 WITH THE EXPECTATION THAT THE FINDING
16 OF DISCRIMINATION WOULD BE FORWARDED
17 OR -- SORRY -- FORWARDED TO THE
18 JUVENILE COURT?

19 A. IF THERE IS A FINDING OF
20 DISCRIMINATION, THE MATTER GOES TO THE
21 PERFORMANCE MANAGEMENT UNIT, WHO, IN
22 TURN, CONVERSES WITH THE OFFICE HEAD OF
23 THE EMPLOYEE WHO COMMITTED THE
24 DISCRIMINATION TO DETERMINE WHAT ACTION
25 WOULD BE TAKEN. NOT ONLY THE
26 CORRECTIVE ACTION IN DISCIPLINING THE
27 EMPLOYEE, BUT ALSO IN MAKING SURE THAT
28 THE CLIENT'S RIGHTS ARE PROTECTED. AND

1 WHETHER THAT BE A NOTIFICATION TO THE
2 COURT THAT THERE WAS SOME VIOLATION OF
3 THE DISCRIMINATION THAT WOULD AFFECT
4 THE COURT'S DETERMINATION OF THE CASE
5 OR IN SOME OTHER WAY LEGALLY AFFECT THE
6 CLIENT, THEN THAT'S WHERE THAT
7 DISCUSSION HAPPENS. NOT WITH -- NOT
8 DIRECTLY FROM THE CIVIL RIGHTS SECTION.

9 Q. NOW, AT THE LAST SESSION OF YOUR
10 DEPOSITION, YOU INDICATED THAT SOMETIME
11 DURING THE PENDENCY OF THIS CASE -- THE
12 CIVIL RIGHTS CASE THAT WE'RE INVOLVED
13 IN TODAY, *DUVAL VS. COUNTY OF*
14 *LOS ANGELES* -- IT CAME TO YOUR
15 ATTENTION THAT MS. DUVAL WAS NOT MAILED
16 THE LETTER INDICATING THAT THE FINDINGS
17 OF THE CIVIL RIGHTS VIOLATIONS WERE
18 BEING REVERSED; CORRECT?

19 A. YES.

20 Q. SO IF I UNDERSTAND YOU CORRECTLY,
21 IT'S NOT UP TO THE CIVIL RIGHTS UNIT TO
22 DETERMINE WHAT SPECIFIC DISCIPLINE OR
23 PUNISHMENT IS TO BE METED OUT. THAT'S
24 LEFT UP TO THE MANAGER OF PERFORMANCE
25 MANAGEMENT; CORRECT?

26 A. WELL, IT'S LEFT UP TO PERFORMANCE
27 MANAGEMENT TO DISCUSS WITH THE
28 DECISION-MAKER, WHO WOULD HAVE BEEN THE

1 REGIONAL ADMINISTRATOR, AS TO WHAT THE
2 APPROPRIATE LEVEL OF DISCIPLINE WOULD
3 BE, BASED UPON THE REPORT THAT WOULD
4 HAVE BEEN SUBMITTED TO PERFORMANCE
5 MANAGEMENT BY CIVIL RIGHTS.

6 Q. AND ONE OF THE REGIONAL PEOPLE THAT
7 YOU CONTACTED WAS MR. FRANK RAMOS;
8 CORRECT?

9 A. THAT'S CORRECT.

10 Q. AND MR. RAMOS SENT YOU AN E-MAIL
11 RESPONSE ON OR ABOUT MONDAY, JULY 26,
12 2010; CORRECT?

13 A. YES.

14 Q. WHEN -- WHO IS SONIA CONTRERAS?

15 A. SONIA CONTRERAS WOULD HAVE BEEN THE
16 ASSISTANT REGIONAL ADMINISTRATOR TO
17 WHOM -- OR THE SUPERVISING SOCIAL
18 WORKER, I'M NOT SURE WHICH ONE -- BUT I
19 THINK WAS THE ASSISTANT REGIONAL
20 ADMINISTRATOR TO WHOM MS. SCHEELE WOULD
21 HAVE REPORTED.

22 Q. AS OF JULY 26, 2010, MS. CONTRERAS
23 WAS NOT PART OF THE CIVIL RIGHTS UNIT;
24 CORRECT?

25 A. NO.

26 Q. ALL RIGHT. THEN YOUR E-MAIL
27 RESPONSE TO FRANK RAMOS DIRECTLY ABOVE
28 THAT STATES:

1 'I DO WISH TO DISCUSS THIS FURTHER
2 WITH YOU WHEN THE INVESTIGATOR IS
3 HERE.'

4 CORRECT?

5 A. YES.

6 Q. AND THE INVESTIGATOR, IS THAT
7 MICHELLE HOCHSTEIN?

8 A. YES.

9 Q. AND 'YOU' IS REFERRING TO
10 MR. RAMOS; RIGHT?

11 A. YES.

12 Q. THEN THE E-MAIL DIRECTLY ABOVE THAT
13 IS FROM FRANK RAMOS TO YOU. AND HE
14 INDICATES:

15 'NO PROBLEM. I ALSO AM IN RECEIPT
16 OF YOUR MESSAGE AND WILL CALL MICHELLE
17 LATER TODAY.'

18 CORRECT?

19 A. RIGHT.

20 Q. WERE YOU PRIVY TO THAT CALL BETWEEN
21 MICHELLE HOCHSTEIN AND FRANK RAMOS?

22 A. NO, I WASN'T.

23 Q. IS THERE ANY REASON WHY YOU WERE
24 NOT?

25 A. BECAUSE MICHELLE -- IT WAS
26 MICHELLE'S CASE. SHE KNEW WHAT THE
27 ISSUES WERE. I WANTED HER TO TALK TO
28 FRANK DIRECTLY SO THAT SHE COULD

1 EXPLAIN DIRECTLY TO FRANK WHAT HER
2 ISSUES WERE WITH MS. SCHEELE'S
3 NONCOOPERATION, SO THAT ULTIMATELY WE
4 COULD ACHIEVE THE GOAL OF GETTING
5 MS. SCHEELE TO COOPERATE IN THE
6 INVESTIGATION.

7 Q. THE E-MAIL DIRECTLY ABOVE THAT IS
8 FROM YOU TO MS. HOCHSTEIN. AND IT
9 SAYS:

10 'SO, WHAT HAPPENED?'

11 CORRECT?

12 A. RIGHT.

13 Q. SO WHAT HAPPENED?

14 A. I DON'T RECALL, BUT APPARENTLY SHE
15 WAS ABLE TO GET THE INFORMATION SHE
16 NEEDED, AND THAT SHE WAS ABLE TO GET
17 MS. SCHEELE'S COOPERATION IN THE
18 INVESTIGATION.

19 Q. OKAY. YOU'VE HAD LOTS OF
20 EXPERIENCE WORKING WITH PEOPLE THAT
21 INVESTIGATE CHILD ABUSE; RIGHT?

22 A. YES.

23 Q. AND YOU'VE HAD LOTS OF EXPERIENCE
24 WITH PEOPLE THAT TRY AND TAKE ACTION TO
25 PROTECT CHILDREN FROM CHILD ABUSE;
26 RIGHT?

27 A. YES.

28 Q. AND YOU'VE REVIEWED CASES INVOLVING

1 ABUSED CHILDREN; CORRECT?

2 A. YES.

3 Q. YOU'VE REVIEWED CASES INVOLVING
4 EMPLOYEES WHO ARE ALLEGED TO HAVE
5 VIOLATED THE RIGHTS OF CLIENTS WHO ARE
6 BEING ACCUSED OF CHILD ABUSE; CORRECT?

7 A. YES.

8 Q. SO YOU ARE FAMILIAR WITH THE
9 GENERAL ISSUES INVOLVING CHILD ABUSE
10 CASES; CORRECT?

11 A. YES.

12 Q. AND AS PART OF THOSE GENERAL
13 ISSUES, ARE YOU AWARE OF ANY ISSUES
14 INVOLVING ALLEGATIONS OF MUNCHAUSEN BY
15 PROXY?

16 A. ONLY ONE.

17 Q. WHICH ONE?

18 A. THE ONE THAT'S THE SUBJECT OF THIS
19 LAWSUIT.

20 Q. MS. DUVAL?

21 A. THE ONE THAT IS THE SUBJECT OF THIS
22 LAWSUIT.

23 Q. WELL, AT THE TIME YOU REVIEWED THE
24 FILE, YOU UNDERSTOOD THERE WAS AN
25 ALLEGATION THAT THE DEPARTMENT
26 IMPROPERLY BRANDED MS. DUVAL AS
27 SUFFERING MUNCHAUSEN BY PROXY; CORRECT?

28 A. I BELIEVE THAT THAT WAS AN ISSUE.

1 Q. IN THAT REGARD, TRUE OR FALSE, TO
2 YOUR KNOWLEDGE, WHEN MS. DUVAL FILED
3 HER CIVIL RIGHTS COMPLAINT AGAINST THE
4 DEPARTMENT, SHE ALLEGED
5 DISABILITY-BASED DISCRIMINATION?

6 A. THAT IS TRUE.

7 Q. AND PART OF HER DISABILITY-BASED
8 DISCRIMINATION WAS THAT SHE WAS LABELED
9 AS SUFFERING MUNCHAUSEN BY PROXY?

10 A. EVENTUALLY, YES.

11 Q. IT'S TRUE THAT CIVIL RIGHTS
12 REGULATIONS FORBID BOTH DISCRIMINATION
13 AGAINST A PERSON THAT HAS A DISABILITY
14 AND ANYONE THAT MAY NOT BE DISABLED BUT
15 IS PERCEIVED AS BEING DISABLED;
16 CORRECT?

17 A. THAT'S CORRECT."

18 MR. PRAGER: THAT IS THE END OF THIS
19 DEPOSITION READ, YOUR HONOR.

20 THE COURT: ALL RIGHT. THANK YOU.

21 I THINK WE'LL TAKE A TEN-MINUTE RECESS AT THIS
22 TIME. ALL JURORS, PLEASE REMEMBER THE ADMONITION.

23 (JURY EXCUSED)

24 (RECESS)

25 THE COURT: YOU READY?

26 MR. PRAGER: YES, YOUR HONOR.

27 THE COURT: ARE WE GOING TO DO A VIDEO
28 DEPOSITION OR A READING?

1 MR. PRAGER: JUST A READ, YOUR HONOR.

2 THE COURT: OKAY. ARE WE ALL SET?

3 MR. PRAGER: YES, YOUR HONOR.

4 (JURY PRESENT)

5 THE COURT: EVERYBODY MAY BE SEATED. WE'RE ON
6 THE RECORD. EVERYBODY IS PRESENT.

7 MR. PRAGER, THE NEXT WITNESS WILL ALSO BE
8 PRESENTED BY DEPOSITION?

9 MR. PRAGER: YES, YOUR HONOR. THANK YOU, YOUR
10 HONOR. MICHELLE HOCHSTEIN AS MS. TAYBACK IS ASSISTING
11 US WITH THE READ.

12 THE COURT: ALL RIGHT. GO AHEAD.

13 MR. PRAGER: THANK YOU, YOUR HONOR.

14 (WHEREUPON A PORTION OF THE DEPOSITION
15 OF MICHELLE HOCHSTEIN WAS READ INTO THE
16 RECORD AS FOLLOWS:)

17

18 BY MR. PRAGER:

19 "Q. MS. HOCHSTEIN, CAN YOU PLEASE, FOR
20 ME, STATE AND SPELL YOUR FULL NAME?

21 A. MICHELLE, M-I-C-H-E-L-L-E, R,
22 PERIOD, HOCHSTEIN, H-O-C-H-S-T-E-I-N.

23 Q. OKAY. AND I THINK I MAY HAVE
24 WRITTEN THIS DOWN WRONG, BUT I THINK
25 YOU SAID EARLIER THAT YOU STARTED WITH
26 THE COUNTY OF LOS ANGELES IN 2007;
27 RIGHT?

28 A. THAT'S CORRECT.

1 Q. GOT IT. THAT BRINGS US CURRENT TO
2 JULY 2007?

3 A. YES.

4 Q. WHERE YOU STARTED AS A SENIOR DPT?

5 A. YES.

6 Q. AND SINCE I'VE FORGOTTEN WHAT DPT
7 STANDS FOR?

8 A. DEPARTMENTAL PERSONNEL TECHNICIAN.

9 Q. AND AS A DEPARTMENTAL PERSONNEL --
10 WELL, NO.

11 YOU WERE A SENIOR DEPARTMENT PERSONNEL
12 TECHNICIAN?

13 A. YES.

14 Q. SO YOU WERE SUPERVISING THREE TO
15 FOUR DEPARTMENT PERSONNEL TECHNICIANS?

16 A. CORRECT.

17 Q. OKAY. AND DEPARTMENT PERSONNEL
18 TECHNICIANS -- I THINK I HAVE A BETTER
19 UNDERSTANDING OF THIS NOW THAN I DID IN
20 THE BEGINNING -- THEY WERE DOING
21 SOMETHING VERY SIMILAR TO WHAT YOU HAD
22 EARLIER DESCRIBED THAT YOU WERE DOING
23 WITH UCLA RISK MANAGEMENT.

24 AM I GETTING THAT RIGHT?

25 A. THAT IS CORRECT.

26 Q. DID YOU EVER HAVE TO COACH ANY OF
27 YOUR EMPLOYEES?

28 A. YES.

1 Q. WHAT WOULD THAT ENTAIL?

2 A. LISTENING.

3 Q. TO THEM?

4 A. ASKING QUESTIONS.

5 Q. LISTENING TO THE EMPLOYEE?

6 A. YES. COLLABORATION WITH THEM,
7 PROBLEM-SOLVING, FINDING SOLUTIONS.

8 Q. IN ANY OF THESE COACHING EFFORTS,
9 WERE YOU EVER -- DID YOU EVER HAVE TO
10 GO OUT AND INTERVIEW A THIRD PARTY
11 OTHER THAN THE EMPLOYEE THAT YOU WERE
12 COACHING? AND BY THAT I MEAN DID YOU
13 EVER FIND A CIRCUMSTANCE WHERE YOU WERE
14 GETTING ONE SIDE OF THE STORY FROM YOUR
15 SUBORDINATE AND YOU HAVE TO GO OUT AND
16 DO A LITTLE INVESTIGATION, FIGURE OUT
17 WHAT THE OTHER SIDE OF THE STORY IS?

18 A. NO.

19 Q. OKAY. SO THE SORTS OF THINGS THAT
20 YOU WERE COACHING ON IN THAT SUPERVISOR
21 POSITION WERE MORE INTERNAL TO THE
22 OPERATION OF YOUR PARTICULAR UNIT?

23 A. I WAS COACHING THEM ON HOW TO
24 ENGAGE IN AN INTERACTIVE PROCESS TO
25 ESTABLISH REASONABLE ACCOMMODATIONS.

26 Q. IN YOUR OFFICE, YOU GUYS WOULD SORT
27 OF BE LIKE A NEUTRAL THIRD PARTY
28 BETWEEN THOSE TWO INTERESTS, MANAGEMENT

1 AND THE EMPLOYEE?

2 AM I GETTING THAT RIGHT?

3 A. OUR JOB WAS SIMPLY TO ADVISE.

4 Q. BOTH THE EMPLOYEE AND THE MANAGER
5 OR JUST THE MANAGER?

6 A. EITHER ONE.

7 Q. AND WHEN YOU SAY 'SIMPLY TO
8 ADVISE,' WITH REGARD TO THE EMPLOYEE IT
9 WOULD BE TO ADVISE THEM AS TO THEIR
10 RIGHTS, AND AS TO THE MANAGER IT WOULD
11 BE TO ADVISE THEM AS TO THEIR RIGHTS
12 AND RESPONSIBILITIES?

13 A. I DON'T RECALL ADVISING EMPLOYEES
14 OF THEIR RIGHTS. I RECALL TALKING WITH
15 THEM A LOT ABOUT BENEFITS AND HOW THE
16 BENEFITS INTERACTED WITH THEIR LEAVE OF
17 ABSENCE. THAT'S PRIMARILY THE CALLS I
18 GOT.

19 Q. AND WHAT ABOUT YOUR SUBORDINATES,
20 THE PEOPLE THAT YOU MANAGED? IS THAT
21 MORE OR LESS WHAT THEY WERE DOING AS
22 WELL?

23 A. THEY WERE WORKING MORE DIRECTLY
24 WITH THE MANAGER.

25 Q. TO ADVISE THE MANAGER?

26 A. HOW TO CONDUCT AN INTERACTIVE
27 PROCESS.

28 Q. OKAY. SO THE MANAGERS THEMSELVES

1 DOING THE INTERACTIVE PROCESS WITH THE
2 EMPLOYEES?

3 A. YES.

4 Q. OKAY. AND YOU GUYS WERE
5 ESSENTIALLY ADVISING THEM OR TEACHING
6 THEM, THE MANAGERS --

7 A. YES.

8 Q. -- HOW TO DO THAT PROCESS?

9 A. YES.

10 Q. IN THAT PERIOD OF JULY 2007 TO
11 MARCH 2009, DID YOU HAVE ANY FORMALIZED
12 TRAINING REGARDING THE LAWS, RULES, AND
13 REGULATIONS THAT YOU WERE GOING TO BE
14 ADVISING ON?

15 A. YES.

16 Q. THAT WAS WITH THE COUNTY OF
17 LOS ANGELES?

18 A. YES.

19 Q. OKAY. WHAT KIND OF TRAINING WAS
20 THAT?

21 A. THE CEO'S OFFICE, CHIEF EXECUTIVE
22 OFFICE, OF LOS ANGELES COUNTY WOULD
23 GIVE -- UNDER THE RISK MANAGEMENT
24 DIVISION, WOULD GIVE QUARTERLY TRAINING
25 TO ALL RETURN-TO-WORK SECTIONS, AS
26 EVERY DEPARTMENT.

27 Q. THOSE WERE FORMALIZED TRAININGS
28 THAT YOU WOULD ACTUALLY ALL COME

1 TOGETHER IN A CLASSROOM-TYPE SETTING,
2 OR HOW DID THAT WORK?

3 A. YES.

4 Q. AND DID THEY PASS OUT WRITTEN
5 MATERIALS AND THAT SORT OF THING?

6 A. YES.

7 Q. WHO WAS ADMINISTERING THOSE
8 TRAININGS? I DON'T MEAN THE NAME. WAS
9 IT, LIKE, AN ATTORNEY OR WAS IT SOME
10 OTHER --

11 A. THE CHIEF EXECUTIVE OFFICE UNDER
12 THE RISK MANAGEMENT DIVISION.

13 Q. OKAY. AND HOW LONG WOULD THOSE
14 QUARTERLY TRAININGS TYPICALLY LAST?

15 A. I THINK ABOUT A HALF A DAY.

16 Q. MARCH 2009, WHAT HAPPENED THAT YOU
17 WERE NO LONGER A DEPARTMENTAL -- OR
18 RATHER A SENIOR DEPARTMENTAL PERSONNEL
19 TECHNICIAN? WERE YOU PROMOTED? WERE
20 YOU MOVED TO A DIFFERENT SECTION?

21 A. I WAS PROMOTED.

22 Q. TO?

23 A. ADMINISTRATIVE SERVICES MANAGER I.

24 Q. IF I CAN ONLY WRITE CLEARLY OR
25 QUICKLY.

26 HOW DID YOUR JOB DUTIES -- WELL, LET ME
27 ASK YOU THIS FIRST: WAS IT IN A
28 DIFFERENT SECTION COMPLETELY OR WAS IT

1 WITHIN THE SAME SECTION, JUST, YOU
2 KNOW, A RUNG UP THE LADDER -- ON THE
3 LADDER.

4 A. IT WAS A DIFFERENT DEPARTMENT.

5 Q. DID YOU APPLY FOR THAT MOVE?

6 A. I APPLIED FOR THE EXAM.

7 Q. SO THERE WAS A TEST?

8 A. THERE WAS AN EXAM.

9 Q. WHAT SORT OF SUBJECT MATTER DID IT
10 COVER?

11 A. COUNTY POLICY.

12 Q. COUNTY POLICY RELATIVE TO WHAT?

13 A. I DON'T RECALL.

14 Q. OKAY. SO YOU GOT MOVED UP TO
15 ADMINISTRATIVE SERVICES I IN A
16 DIFFERENT DEPARTMENT.

17 WHAT DEPARTMENT WAS THAT?

18 A. THE DEPARTMENT OF CHILDREN AND
19 FAMILY SERVICES.

20 Q. AND THAT WAS IN -- WAS IT IN MARCH
21 OR APRIL OF 2009?

22 A. WAS WHAT?

23 Q. THE MOVE TO ADMINISTRATIVE
24 SERVICES I?

25 A. MARCH.

26 Q. AND AS ADMINISTRATIVE SERVICES I,
27 WHAT -- GENERALLY SPEAKING, WHAT WERE
28 YOUR JOB DUTIES?

1 A. I WAS AN INVESTIGATOR IN THE CIVIL
2 RIGHTS UNIT.

3 Q. NOW, THE CIVIL RIGHTS UNIT AT THAT
4 TIME, IN 2009, WAS THAT A SUBDEPARTMENT
5 OF -- I GUESS IT WAS A SUBDEPARTMENT OF
6 CHILDREN AND FAMILY SERVICES; RIGHT?

7 A. IT IS A UNIT IN THE DEPARTMENT OF
8 CHILDREN AND FAMILY SERVICES.

9 Q. WHAT DOES THE CIVIL -- OR RATHER,
10 IN MARCH 2009, WHEN YOU MOVED OVER TO
11 CHILDREN AND FAMILY SERVICES AND WERE
12 PROMOTED TO THE LEVEL OF ADMINISTRATIVE
13 SERVICES I AS AN INVESTIGATOR IN THE
14 CIVIL RIGHTS UNIT, WHAT WAS IT THAT YOU
15 UNDERSTOOD THE PURPOSE OF THE CIVIL
16 RIGHTS UNIT WAS?

17 DOES THAT MAKE SENSE?

18 A. I UNDERSTOOD THE PURPOSE OF THE
19 CIVIL RIGHTS UNIT WAS TO INVESTIGATE
20 EMPLOYMENT DISCRIMINATION AND CLIENT
21 DISCRIMINATION COMPLAINTS.

22 Q. UP UNTIL THAT POINT IN TIME IN
23 MARCH 2009, DID YOU HAVE EITHER FORMAL
24 TRAINING -- AND THAT INCLUDES YOUR
25 COLLEGE EDUCATION, YOUR BA, YOUR MS --
26 FOR ANY OF THE ASSOCIATION-TYPE
27 TRAININGS THAT YOU DID, DID YOU HAVE
28 EITHER FORMAL TRAINING OR INFORMAL

1 TRAINING IN INVESTIGATIVE TECHNIQUES?

2 A. NO.

3 Q. WHEN YOU MOVED OVER TO THE CIVIL
4 RIGHTS UNIT IN THE CHILDREN AND FAMILY
5 SERVICES DEPARTMENT, DID YOU THEN
6 RECEIVE SOME TRAINING IN INVESTIGATIVE
7 TECHNIQUES?

8 A. I KNOW THERE WAS A BINDER WITH SOME
9 PREVIOUS COMPLAINTS AND SOME GUIDANCE
10 ON HOW TO INVESTIGATE A COMPLAINT, AS
11 WELL AS WE HAD A REPRESENTATIVE FROM A
12 DEPARTMENT THAT OVERSEES THAT
13 PARTICULAR UNIT, WHICH AT THAT TIME WAS
14 CALLED THE OFFICE OF AFFIRMATIVE ACTION
15 COMPLIANCE.

16 Q. IN 2009?

17 A. I WAS NOT INVESTIGATING ANY CLIENT
18 COMPLAINTS IN 2009. OH, EXCEPT ONE.

19 Q. DO YOU KNOW, IF ANYONE, WHO IT WAS
20 THAT WAS INVESTIGATING CLIENT
21 COMPLAINTS IN 2009?

22 A. I'M NOT SURE OF THAT. I'M REALLY
23 NOT SURE WHAT WAS GOING ON WITH THAT.

24 Q. OKAY. AND WHEN WE SAY 'CLIENT
25 COMPLAINT,' JUST TO DISTINGUISH --
26 BECAUSE I UNDERSTAND YOU GAVE ME TWO
27 DIFFERENT THINGS: YOU INVESTIGATED
28 EMPLOYMENT OR EMPLOYEE DISCRIMINATION

1 COMPLAINTS AND CLIENT DISCRIMINATION
2 COMPLAINTS AS TWO SEPARATE CATEGORIES?

3 A. YES.

4 Q. AN EMPLOYEE, THAT IS SORT OF
5 SELF-EXPLANATORY. THAT'S A COUNTY
6 EMPLOYEE WE'RE TALKING ABOUT WHO IS
7 MAKING A COMPLAINT?

8 A. YES.

9 Q. UNDERSTAND. WHEN WE'RE TALKING
10 ABOUT A CLIENT DISCRIMINATION
11 COMPLAINT, WHO ARE WE TALKING ABOUT?

12 A. IT COULD BE SOME PARENT INVOLVED IN
13 THE DEPENDENCY COURT SYSTEM OR INVOLVED
14 WITH OUR DEPARTMENT IN SOME WAY. IT
15 COULD BE A FOSTER PARENT. IT COULD
16 BE -- THOSE ARE THE ONLY TWO CASES THAT
17 I CAN THINK OF RIGHT NOW, THE TWO
18 TYPES.

19 Q. SURE. OKAY. HOW MANY
20 INVESTIGATORS WERE THERE IN THE CIVIL
21 RIGHTS UNIT IN 2009 WHILE YOU WERE
22 THERE?

23 A. I BELIEVE THERE WERE THREE
24 FULL-TIME DEDICATED INVESTIGATORS, BUT
25 I CAN'T THINK OF THE THIRD ONE. I CAN
26 ONLY THINK OF THE TWO OF US.

27 Q. SO IT WAS THREE INCLUDING YOURSELF?

28 A. NO. NO, IT WAS ME AND A COWORKER,

1 IT PRESENTED OR FILED?

2 A. I'M NOT REALLY SURE HOW SHE LOGGED
3 THOSE BECAUSE THERE WERE REALLY TWO
4 DATES FOR THE CLIENT COMPLAINTS AND FOR
5 THE EMPLOYMENT DISCRIMINATION
6 COMPLAINTS, BUT THE CLIENT COMPLAINTS
7 HAD TO GO TO THE CDSS FIRST FOR THEIR
8 REVIEW.

9 Q. HOLD ON. CDSS IS WHAT?

10 A. CALIFORNIA DEPARTMENT OF SOCIAL
11 SERVICES.

12 Q. OKAY. GO AHEAD.

13 A. THEY HAD TO APPROVE IT. AND THEIR
14 APPROVAL CAME IN THE FORM OF A NUMBER
15 THAT THEY GAVE US, AND THEN THAT MEANT
16 THAT WE CAN GO FORWARD WITH
17 INVESTIGATING IT. IF THEY DIDN'T GIVE
18 US A NUMBER, THEN THEY MAY NOT HAVE
19 FOUND IT TO BE JURISDICTIONAL. WE HAD
20 TO FOLLOW-UP WITH THEM. AT THAT TIME,
21 THEY TOOK A LONG TIME TO REVIEW OUR
22 COMPLAINTS BEFORE GIVING US A NUMBER.

23 Q. LET ME MAKE SURE I UNDERSTAND THIS.
24 I'M JUST GOING TO FOCUS FOR THE MOMENT
25 ON CLIENT COMPLAINTS.

26 A CLIENT COMPLAINT COMES IN. IT GETS
27 TRANSMITTED UP THROUGH CALIFORNIA'S
28 DEPARTMENT OF SOCIAL SERVICES.

1 A. IF IT COMES INTO OUR OFFICE, YES.

2 Q. WHEN WE WERE TALKING ABOUT THE DSS
3 APPROVAL PROCESS, WAS IT AN APPROVAL
4 NUMBER OR A CASE NUMBER THAT THE
5 CALIFORNIA DEPARTMENT OF SOCIAL
6 SERVICES WOULD ASSIGN ONCE YOU SENT
7 THEM A COMPLAINT?

8 A. IT WAS THEIR CASE NUMBER.

9 Q. THEIR CASE NUMBER.
10 THAT WAS A CALIFORNIA STATE DEPARTMENT
11 CASE NUMBER.

12 A. YES.

13 Q. IT IS NOT A CASE NUMBER THAT YOU
14 GUYS INTERNALLY ASSIGNED?

15 A. CORRECT.

16 Q. AND PRIOR TO 2012 -- CORRECT ME IF
17 I'M WRONG ON THAT DATE, BUT PRIOR TO
18 2012, WHAT, INTERNALLY, YOUR PROCESS
19 HAD BEEN IS WHEN A COMPLAINT CAME IN,
20 IF IT WAS TO YOUR AGENCY, YOU GUYS
21 WOULD FORWARD IT TO CALIFORNIA
22 DEPARTMENT OF SOCIAL SERVICES, WAIT FOR
23 THEM TO REVIEW IT AND DECIDE THE
24 JURISDICTIONAL ISSUE, ASSIGN A CASE
25 NUMBER AND THEN SEND IT BACK TO YOU FOR
26 INVESTIGATION; RIGHT?

27 A. FOR THE MOST PART, THAT IS CORRECT.
28 HOWEVER, I DO REMEMBER REVIEWING

1 COMPLAINTS BEFORE THEY WENT TO THE CDSS
2 TO DETERMINE WHETHER OR NOT THEY WERE
3 JURISDICTIONAL OR TO GATHER MORE
4 INFORMATION FROM THE CLIENT.
5 IN OTHER WORDS, I MAY HAVE HAD TO MAKE
6 A PHONE CALL OR MEET WITH A CLIENT TO
7 GET ADDITIONAL INFORMATION FOR THE
8 EFFORT OF DETERMINING
9 JURISDICTIONALITY.

10 Q. WHEN YOU SAY, 'DETERMINING
11 JURISDICTIONALITY,' WHAT DO YOU MEAN?

12 A. THAT IT FALLS WITHIN THE PARAMETERS
13 OF WHAT WE CAN INVESTIGATE.

14 Q. WAS THAT SOMETHING SET BY POLICY OR
15 DID YOU HAVE -- HOW DID YOU KNOW WHAT
16 YOU COULD INVESTIGATE?

17 A. WE WOULD LOOK AT THE CIVIL RIGHTS
18 ACT OF 1964 AS AMENDED AND SEE IF IT
19 INVOLVED ONE OF THOSE PROTECTED BASES
20 OR CLASS OF PEOPLE.

21 Q. THAT'S THE FEDERAL CIVIL RIGHTS
22 ACT?

23 A. THAT'S THE ONLY ONE I KNOW OF.

24 Q. OKAY. DID YOU ACTUALLY LOOK AT THE
25 ACT ITSELF OR DID YOU GUYS HAVE SOME
26 SORT OF CHECKLIST?

27 A. WE HAD A CHECKLIST.

28 Q. OKAY. WHAT WAS THE CHECKLIST

1 CALLED?

2 A. A COMPLAINT FORM. AND ALSO IT'S ON
3 THE CDSS WEBSITE, AS WELL AS IN THE
4 PAMPHLETS THAT THEY MAKE SURE THAT WE
5 HAVE ON HAND FOR ALL OF OUR CLIENTS.
6 IT'S CALLED "YOUR RIGHTS."

7 Q. WHAT WOULD A CLIENT HAVE TO DO TO
8 GET A COMPLAINT FORM?

9 A. THEY WOULD EITHER CALL THE CIVIL
10 RIGHTS UNIT, OUR HOT LINE -- WE HAVE A
11 HOT LINE -- AND THEY COULD ALSO GO TO
12 THE CDSS, THE STATE, AND FILE A
13 COMPLAINT THROUGH THAT MEANS.

14 Q. AND IF, IN 2010, FOR EXAMPLE, IF
15 I'M A -- AND I WANT TO FILE A
16 COMPLAINT, JUST SO THAT I'M CLEAR, I
17 EITHER HAVE TO CALL YOU TO GET -- OR
18 CALL YOUR UNIT TO GET A COMPLAINT FORM
19 OR GO TO THE STATE.

20 DID I GET THAT RIGHT?

21 A. YES. OR YOU CAN GO ONLINE, AND I
22 BELIEVE YOU CAN ALSO GO ONLINE AT DCFS
23 WEBSITE AND GET ONE TOO. I'M NOT
24 POSITIVE, BUT I THINK YOU CAN.

25 Q. BY 'PROTECTED BASES,' YOU MEAN THE
26 VARIOUS DIFFERENT THINGS THAT ARE
27 PROTECTED?

28 A. RIGHT, UNDER THE CIVIL RIGHTS ACT.

1 Q. NOW, THE DECISION TO TAKE A
2 COMPLAINT, WAS THAT SOMETHING THAT YOUR
3 TEAM MEMBERS COULD MAKE INDEPENDENTLY?
4 DO YOU UNDERSTAND THE QUESTION?

5 A. I CAN'T SPEAK FOR MY TEAM MEMBERS.

6 Q. OKAY. WHAT ABOUT YOU, WAS THAT A
7 DECISION THAT, ACCORDING TO YOUR
8 TRAINING AT THAT POINT IN TIME, IN
9 2010, THAT YOU COULD MAKE INDEPENDENTLY
10 ON YOUR OWN?

11 A. TAKING A COMPLAINT DOES NOT REQUIRE
12 A DETERMINATION AS TO WHETHER THE
13 COMPLAINT IS ACCEPTABLE OR NOT.

14 Q. OKAY.

15 A. YOU SIMPLY JUST LET THE CLIENT
16 WRITE WHAT THEY WRITE, AND THEN YOU
17 TAKE IT.

18 Q. SO YOU COULD ACCEPT THE CLIENT'S
19 COMPLAINT WITHOUT GOING TO SOMEBODY
20 ELSE FOR PERMISSION OR ANYTHING LIKE
21 THAT?

22 A. YES.

23 Q. OKAY. AND AT THAT POINT IN TIME,
24 WHEN YOUR TEAM GOT A COMPLAINT -- WE
25 DIDN'T ACTUALLY FINISH UP ON THE
26 DESCRIPTION OF THE PROCESS THAT WE
27 STARTED A COUPLE TIMES. WE HAVEN'T
28 GOTTEN THROUGH IT.

1 ONCE YOUR UNIT GOT A COMPLAINT, THAT'S
2 WHEN IT WOULD GO TO -- AGAIN, WE'RE
3 TALKING 2010 TIME FRAME -- IT WOULD GO
4 TO CALIFORNIA DEPARTMENT OF SOCIAL
5 SERVICES; THEY WOULD REVIEW IT AND SEND
6 IT BACK TO YOU WITH A CASE NUMBER -- IF
7 THEY APPROVED IT, THE JURISDICTIONAL
8 ISSUE, THEY WOULD SEND IT BACK TO YOU
9 WITH A CASE NUMBER FOR FURTHER
10 INVESTIGATION?

11 A. YES.

12 Q. HOW DID YOUR UNIT GET THAT
13 NOTIFICATION FROM CALIFORNIA DEPARTMENT
14 OF SOCIAL SERVICES THAT YOU WERE TO
15 INVESTIGATE A COMPLAINT, WITH A
16 COMPLAINT NUMBER ASSIGNED TO IT?

17 A. THEY WOULD SEND THAT -- THEY WOULD
18 SEND THE COMPLAINT NUMBER.

19 Q. WOULD THAT BE A LETTER, E-MAIL, OR
20 DO YOU KNOW?

21 A. MOST OF THE TIME IT WAS E-MAIL.

22 Q. YOU ACTUALLY DID NOT GET THE
23 NOTIFICATION YOURSELF?

24 A. RIGHT.

25 Q. IT WOULD GO TO SOMEBODY ELSE AND
26 THEY WOULD COME TO YOU WITH A FILE AND
27 SAY, "HERE, GO AHEAD, INVESTIGATE
28 THIS."

1 A. AS I SAID, LYNETTE MORGAN-NICHOLS
2 ASSIGNED WORK TO THE OTHER TEAM
3 MEMBERS.

4 Q. OKAY.

5 A. INCLUDING ME.

6 Q. AND THAT WORK ASSIGNMENT, HOW WOULD
7 THAT PROCESS HAPPEN?

8 A. WHAT DO YOU MEAN?

9 Q. WELL, YOU GOT CASES ASSIGNED TO
10 YOU?

11 A. YES.

12 Q. HOW DID YOU FIND OUT WHAT CASES
13 WERE ASSIGNED TO YOU?

14 A. LYNETTE WOULD GIVE ME THE FILE.

15 Q. GOT IT. OKAY. AGAIN, IN 2010 --
16 FOCUSING ON 2010 FOR THE MOMENT -- AM I
17 CORRECT, THEN, THAT YOU WOULD NOT BEGIN
18 YOUR INVESTIGATION ON A COMPLAINT UNTIL
19 YOU GUYS GOT A CASE NUMBER BACK FROM
20 CDSS?

21 A. YES.

22 Q. DO YOU RECALL -- AND A LOT OF THIS
23 STUFF WE WERE COVERING EARLIER IN THE
24 DAY IS BACKGROUND INFORMATION, AND JUST
25 SORT OF TO LAY A FOUNDATION FOR WHO YOU
26 ARE AND WHAT YOUR TRAINING IS AND TO
27 GET ME FAMILIAR WITH YOU, I GUESS YOU
28 FAMILIAR WITH ME TO AN EXTENT.

1 NOW WE'RE GOING TO SHIFT GEARS A LITTLE
2 BIT TO THE SPECIFICS AND SOME OF THE
3 SPECIFICS OF THIS PARTICULAR CASE. I
4 JUST WANT TO SORT OF LET YOU KNOW WHERE
5 WE'RE TRANSITIONING.

6 DO YOU RECALL LINA DUVAL?

7 A. YES.

8 Q. SHE WAS HERE WITH US A LITTLE
9 EARLIER TODAY; DID YOU RECOGNIZE HER?

10 A. YES.

11 Q. WHAT DO YOU RECALL ABOUT LINA
12 DUVAL?

13 A. SHE FILED A CLIENT COMPLAINT, A
14 CIVIL RIGHTS COMPLAINT.

15 Q. WELL, DID YOU SPEAK WITH HER?

16 A. I MET WITH HER ONE TIME AND SPOKE
17 WITH HER ON THE PHONE.

18 Q. YOU ONLY MET WITH HER ONE TIME?

19 A. AS I RECALL, YES.

20 Q. DO YOU RECALL HOW LONG THAT MEETING
21 WAS?

22 A. I KNOW IT WAS APPROXIMATELY
23 TWO HOURS, OR IT COULD HAVE BEEN EVEN
24 LONGER.

25 Q. DO YOU REMEMBER WHEN THAT MEETING
26 WAS?

27 A. NO.

28 Q. DO YOU REMEMBER WHEN YOU SPOKE WITH

1 HER ON THE PHONE?

2 A. NO.

3 Q. DO YOU REMEMBER HOW LONG THAT PHONE
4 CALL WAS?

5 A. NO.

6 Q. DID YOU KEEP NOTES OF EITHER OF
7 THOSE MEETINGS, EITHER THE TELEPHONE
8 MEETING OR THE IN-PERSON MEETING -- THE
9 MEETING WHERE YOU MET WITH HER FOR
10 TWO HOURS, THAT WAS IN PERSON; RIGHT?

11 A. IT WAS FACE TO FACE, YES.

12 Q. THAT WAS AT SHATTO PLACE?

13 A. YES.

14 Q. THE PHONE CALL, THAT WAS -- YOU
15 WERE IN YOUR OFFICE OR SOMEPLACE ELSE?

16 A. I WAS IN MY OFFICE.

17 Q. ALSO AT SHATTO PLACE?

18 A. YES.

19 Q. DO YOU REMEMBER ANYTHING ELSE ABOUT
20 YOUR -- THE SUBSTANCE OF YOUR
21 CONVERSATION WITH HER, OTHER THAN THAT
22 YOUR GOAL WAS TO MEET HER FACE TO FACE?

23 A. I REMEMBER WE DISCUSSED HER
24 COMPLAINT.

25 Q. DO YOU REMEMBER --

26 A. ARE YOU -- SORRY.

27 Q. DO YOU REMEMBER ANYTHING ELSE ABOUT
28 HER FROM THE FACE-TO-FACE MEETING?

1 A. ARE YOU TALKING ABOUT THE SUBSTANCE
2 OF OUR CONVERSATION?

3 Q. UH-HUH. YEAH, SORRY. BREAKING MY
4 OWN RULES.

5 A. I DON'T REMEMBER ANYTHING SPECIFIC.

6 Q. WHAT WAS YOUR GENERAL IMPRESSION OF
7 HER AFTER YOUR FACE-TO-FACE MEETING?

8 A. SHE WAS VERY UPSET.

9 Q. ANYTHING ELSE, OTHER THAN SHE WAS
10 VERY UPSET?

11 A. I DON'T RECALL ANYTHING ELSE.

12 Q. DO YOU RECALL WHAT IT WAS SHE WAS
13 VERY UPSET ABOUT?

14 A. I THINK SHE WAS VERY UPSET -- AND I
15 VAGUELY RECALL THIS -- ABOUT HER -- THE
16 FATHER OF HER BABY AND HIS FAMILY, AND
17 I ALSO GUESS SHE MENTIONED SOME STUFF
18 ABOUT THE SOCIAL WORKERS.

19 Q. BUT YOUR RECOLLECTION IS THAT THE
20 FOCUS OF HER CONVERSATION WITH YOU WAS
21 THE FATHER OF HER BABY AND HOW UPSET
22 SHE WAS WITH HIM?

23 A. AND HIS FAMILY, YES.

24 Q. I THINK I MIGHT HAVE ASKED YOU THIS
25 ALREADY, BUT DID YOU TAKE SOME NOTES OF
26 THAT CONVERSATION?

27 A. YES, I DID.

28 Q. OKAY. AND IN THOSE NOTES -- WELL,

1 ACTUALLY, LET ME ASK YOU THIS FIRST:
2 ACCORDING TO YOUR DEPARTMENT'S POLICY,
3 IS THAT SOMETHING THAT YOU'RE REQUIRED
4 TO DO WHEN YOU'RE INTERVIEWING A CLIENT
5 COMPLAINANT, IS TAKE NOTES OF THE
6 CONVERSATION THAT YOU HAD WITH THEM?

7 A. I THINK THERE ARE A COUPLE
8 DIFFERENT WAYS YOU CAN INTERVIEW
9 SOMEBODY. YOU CAN EITHER HAVE THEM
10 WRITE UP THEIR OWN NOTES OR YOU CAN
11 TAKE THEM, DEPENDING ON IF YOU CAN READ
12 YOUR WRITING BETTER THAN YOU CAN READ
13 SOMEBODY ELSE'S WRITING. AND WHAT I
14 DID IN ALMOST A HUNDRED PERCENT OF MY
15 CASES IS I TOOK NOTES.

16 Q. BUT YOU DO RECALL TAKING NOTES OF
17 YOUR INTERVIEW WITH --

18 A. I DID.

19 Q. DID YOU KEEP THOSE NOTES?

20 A. EVERYTHING I WROTE DOWN IS IN HER
21 FILE.

22 Q. DID YOU HAVE ANY SORT OF INDICATION
23 ON THE PAGES OF YOUR NOTES THAT WOULD
24 SHOW THAT THEY WERE YOUR NOTES AS
25 OPPOSED TO SOMEBODY ELSE'S STATEMENT?

26 A. I WOULD ASK THE CLIENT TO REREAD
27 WHAT I HAD WRITTEN AND MAKE SURE I
28 UNDERSTOOD THEM -- HIM OR HER

1 CORRECTLY. AND THEN, IF I DID, THEY
2 WOULD SIGN AND I WOULD SIGN AND DATE
3 IT. IF I DID NOT UNDERSTAND THEM
4 CORRECTLY, THEY COULD MAKE CORRECTIONS
5 ON THE PAGE.

6 Q. OKAY. DID YOU HAVE ANY NOTES OF
7 YOUR OWN OTHER THAN THE STATEMENT THAT
8 YOU AND THE CLIENT WOULD BOTH SIGN?

9 A. I MAY HAVE TAKEN NOTES DURING A
10 PHONE CONVERSATION, BUT USUALLY WHEN I
11 WAS INTERVIEWING THE CLIENT I WAS BUSY
12 TAKING DOWN THEIR STATEMENT.

13 Q. AND DID YOU FOLLOW THAT SAME
14 PROCESS WHEN YOU INTERVIEWED THE -- I
15 DON'T KNOW -- WHAT DO YOU CALL THEM
16 WHEN IT IS THE PERSON THAT THE CLIENT'S
17 COMPLAINING ABOUT? WHAT'S THAT PERSON
18 CALLED?

19 A. WE CALL THEM THE SUBJECT.

20 Q. OKAY. AND IN SPENDING TIME WITH
21 MS. DUVAL, THAT WAS PART OF YOUR
22 INVESTIGATION RIGHT? THAT WAS ONE OF
23 YOUR DUTIES, WAS TO ACTUALLY TALK TO
24 HER, INTERVIEW HER ABOUT THE BASIS OF
25 HER COMPLAINT?

26 A. YES.

27 Q. OKAY. AND PART OF YOUR FUNCTION IN
28 THAT INTERVIEW ASSESSMENT PROCESS WAS

1 TO DECIDE WHETHER OR NOT THERE WAS
2 REALLY SOMETHING THERE; RIGHT?

3 A. NOT AT THAT POINT.

4 Q. BUT AT SOME POINT?

5 A. THAT HAD ALREADY BEEN DECIDED.

6 Q. BY WHOM?

7 A. THAT IT WAS JURISDICTIONAL. WE
8 ALREADY HAD A NUMBER.

9 Q. WHAT DOES THAT MEAN WHEN YOU SAY IT
10 'ALREADY HAD BEEN DECIDED,' 'THAT IT
11 WAS JURISDICTIONAL'? WHAT DO YOU MEAN
12 BY THAT?

13 A. THAT MEANT IT WAS SENT UP TO THE
14 CDSS, THE CDSS READ IT, THEY ASSIGNED A
15 NUMBER TO IT AND TOLD US OF THAT
16 NUMBER, AND WE WERE FREE TO
17 INVESTIGATE.

18 Q. SO WHAT WAS IT THAT YOU THOUGHT
19 THAT YOU WERE DOING WHEN THE CASE
20 THEN -- ONCE YOU GOT IT BACK FROM CDSS?

21 A. I'M INTERVIEWING THE CLIENT TO
22 GATHER ADDITIONAL INFORMATION, AND THEN
23 I GO AND INTERVIEW THE SUBJECTS AND THE
24 WITNESSES.

25 Q. TO WHAT END? FOR WHAT PURPOSE?

26 A. TO GATHER THEIR STATEMENTS. THEY
27 HAVE A RIGHT TO RESPOND TO A COMPLAINT.

28 Q. IN LOOKING AT THE DOCUMENT -- NOT

1 NECESSARILY READING IT, BUT WHEN YOU
2 WERE THUMBING THROUGH, LOOKING AT THE
3 EXHIBITS AND JUST GENERALLY LOOKING AT
4 THE DOCUMENT, DID THAT REFRESH YOUR
5 RECOLLECTION AT ALL AS TO WHAT THIS
6 DOCUMENT IS?

7 A. WELL, I KNEW WHAT IT WAS BEFORE I
8 LOOKED THROUGH IT.

9 Q. OKAY. AND WHAT IS THE DOCUMENT?

10 A. IT'S THE INVESTIGATION OF
11 MS. DUVAL'S COMPLAINT.

12 Q. OKAY. AND THIS, THE FIRST PART OF
13 THE DOCUMENT, WHERE IT SAYS 'CIVIL
14 RIGHTS REPORT OF INVESTIGATION,' IS
15 THAT A REPORT THAT YOU, YOURSELF,
16 GENERATED?

17 A. YES.

18 Q. OKAY. DID ANYBODY WORK WITH YOU TO
19 AUTHOR THIS REPORT?

20 A. I DON'T RECALL.

21 Q. OKAY. AND IN LOOKING AT THE
22 EXHIBITS THAT ARE ATTACHED TO THIS
23 REPORT HERE -- THE EXHIBITS BEING 1A,
24 1B, 1C, 1D, 2, 3, 4, 5, AND THEN 6
25 THROUGH 14 -- IS THIS, TO THE BEST OF
26 YOUR RECOLLECTION, THE COMPLETE
27 PACKAGE, A TRUE AND ACCURATE REFLECTION
28 OF THE REPORT THAT YOU COMPLETED ON OR

1 ABOUT JULY 30, 2010?

2 A. HOLD ON. LET ME LOOK AT IT.

3 Q. OKAY.

4 A. I WOULD LIKE TO MAKE ONE CORRECTION
5 TO AN EARLIER STATEMENT I MADE THAT I
6 MET WITH MS. DUVAL ONE TIME FOR MORE
7 THAN TWO HOURS.

8 Q. SURE.

9 A. APPARENTLY, I MET WITH HER TWICE,
10 FOR APPROXIMATELY FOUR HOURS EACH TIME.

11 Q. WAS THAT -- AND IF YOU DON'T
12 REMEMBER, IT'S FINE -- BUT DO YOU
13 RECALL, AFTER REVIEWING THE DOCUMENT,
14 WHETHER -- WERE BOTH OF THESE MEETINGS
15 FACE TO FACE?

16 A. ACCORDING TO WHAT I WROTE:

17 'CP DUVAL PARTICIPATED IN TWO
18 CLARIFICATION INTERVIEWS ON JUNE 2ND
19 AND JULY 7TH, RESPECTIVELY, 2010.'

20 Q. THAT IS JUNE 2ND AND JULY 7TH?

21 A. 2010.

22 (READING:)

23 'THE CP'S INTERVIEWS TOOK ABOUT
24 FOUR HOURS EACH TIME. SHE BROUGHT A
25 LARGE NUMBER OF SUPPORTING
26 DOCUMENTATION TO EACH INTERVIEW, SOME
27 OF WHICH WERE SUBMITTED FOR THE
28 INVESTIGATION. SHE SIGNED A CONSENT

1 FORM PERMITTING DISCLOSURE OF HER
2 PERSONAL INFORMATION AS NECESSARY TO
3 CONDUCT THE INVESTIGATION OF HER
4 COMPLAINT.'

5 Q. WHAT WAS THE PURPOSE OF THE CONSENT
6 FORM?

7 A. THE CDSS REQUIRES THAT WE GET THAT
8 FORM SIGNED BEFORE WE CAN BEGIN AN
9 INVESTIGATION. IF THEY DON'T SIGN, WE
10 WILL NOT INVESTIGATE THE COMPLAINT.

11 Q. OKAY. I UNDERSTAND. SO IT'S NOT
12 NECESSARILY SO YOU CAN GO LOOK AT HER
13 DCFS RECORD; IT IS JUST SO YOU CAN TALK
14 TO HER AND OTHER PEOPLE ABOUT THE
15 COMPLAINT?

16 A. SHE CONSENTED:

17 'I HAVE READ AND I UNDERSTAND THE
18 ABOVE AND AUTHORIZE THE CIVIL RIGHTS
19 INVESTIGATOR TO REVEAL MY IDENTITY AND
20 SHARE INFORMATION CONCERNING MY
21 COMPLAINT WITH THE APPROPRIATE COUNTY,
22 STATE, AND FEDERAL CIVIL RIGHTS
23 PERSONNEL AS NECESSARY.'

24 SO THAT'S WHAT THAT IS FOR. IT SAYS:

25 'AS COMPLAINANT, I UNDERSTAND THAT
26 MY IDENTITY WILL BE KEPT CONFIDENTIAL.
27 HOWEVER, I ALSO UNDERSTAND THAT IN THE
28 COURSE OF THE INVESTIGATION IT MAY

1 BECOME NECESSARY FOR THE CIVIL RIGHTS
2 INVESTIGATOR TO REVEAL MY IDENTITY AND
3 INFORMATION PERTINENT TO THE PROCESSING
4 OF THIS COMPLAINT.'

5 Q. OKAY.

6 A. WAIT.

7 BASICALLY, IT SAYS IF SHE PARTICIPATES
8 IN THE INVESTIGATION, UNDER DIVISION 21
9 OF THE CDSS MANUAL OF POLICY AND
10 PROCEDURES -- IT'S DIVISION 21,
11 SECTION 203.5:

12 'ANY OFFICIAL OR EMPLOYEE IS
13 PROHIBITED FROM INTIMIDATING,
14 THREATENING, COERCING, OR
15 DISCRIMINATING AGAINST ANY OTHER
16 INDIVIDUAL FOR THE PURPOSE OF
17 INTERFERING WITH ANY RIGHT OR PRIVILEGE
18 SECURED BY THESE REGULATIONS BECAUSE HE
19 OR SHE HAS MADE A COMPLAINT, TESTIFIED,
20 ASSISTED, OR PARTICIPATED IN ANY MANNER
21 IN AN INVESTIGATION, PROCEEDING OR
22 HEARING.'

23 Q. OKAY. ARE THERE ANY OTHER CHANGES
24 THAT YOU'D LIKE TO MAKE TO YOUR EARLIER
25 TESTIMONY BASED ON YOUR REVIEW OF THAT
26 DOCUMENT? AND BY 'THAT DOCUMENT,' THE
27 DOCUMENT WE'VE NOW MARKED AS -- OR
28 IDENTIFIED, RATHER, AS EXHIBIT 1?

1 A. NOT THAT I CAN THINK OF RIGHT NOW.

2 Q. THE ORIGINAL QUESTION WAS: IS THAT
3 A TRUE OR ACCURATE DEPICTION OF THE
4 REPORT THAT YOU COMPLETED ON JULY 30,
5 2010?

6 A. AS I RECALL IT, YES. HOWEVER, IT'S
7 BEEN A VERY LONG TIME.

8 Q. I GET IT.

9 A. AND YOU HAVE THIS DOCUMENT, SO I'M
10 NOT LOOKING AT THE VERY FILE THAT I PUT
11 TOGETHER MYSELF.

12 Q. OKAY. LET ME ASK YOU THIS BEFORE I
13 GET INTO THE SPECIFIC QUESTIONS HERE:
14 DID YOU SPEND ANY TIME REVIEWING
15 DOCUMENTS TO PREPARE FOR YOUR
16 DEPOSITION TODAY?

17 A. I MEAN, I SENT -- YEARS AGO, I
18 BELIEVE IT WAS 2012, I SENT MY ATTORNEY
19 SOME E-MAILS, EVERY E-MAIL THAT I HAD
20 RELATED TO THIS CASE, AND I ALSO
21 PROVIDED OUR LITIGATION SECTION WITH
22 ALL THESE DOCUMENTS RELATIVE TO MY
23 INVESTIGATION OF THIS CASE.

24 Q. JUST SO WE HAVE A CLEAR RECORD,
25 WHEN YOU REFERENCED 'THESE DOCUMENTS,'
26 IT IS THE THREE AND A HALF INCH --

27 A. FOUR-INCH STACK OF PAPERS HERE, AND
28 THIS IS EVERYTHING.

1 Q. HOLD ON. JUST SO THAT WE HAVE A
2 CLEAR RECORD, THE STACK OF PAPERS
3 THAT'S BATES-MARKED 827, IT IS DCFS
4 CRU, A BUNCH OF ZEROES, 1 THROUGH DCFS
5 CRU001111; CORRECT?

6 A. I DISCLOSED EVERY PIECE OF
7 INFORMATION THAT I HAD RELATIVE TO THIS
8 COMPLAINT TO ANYONE WHO ASKED ME FOR IT
9 WHO HAD A LEGAL RIGHT TO IT.

10 Q. OKAY. IT SOUNDS COMPLEX TO ME.
11 DO YOU KNOW WHO IN THE LITIGATION
12 SECTION YOU SENT THE STACK OF DOCUMENTS
13 TO?

14 A. ACTUALLY, I COPIED THEM AND GAVE
15 THEM TO MICHELLE VICTOR.

16 Q. SO YOU IDENTIFIED FOR A CLERK THE
17 FOLDER YOU WANTED COPIED, SHE MADE A
18 COPY AND DELIVERED IT TO MICHELLE
19 VICTOR?

20 A. CORRECT.

21 Q. OKAY.

22 A. ACTUALLY, I DELIVERED IT TO
23 MICHELLE VICTOR.

24 Q. YOU DELIVERED IT?

25 A. YES.

26 Q. NOW, WHO IS IT THAT RECEIVES THIS
27 REPORT?

28 A. ULTIMATELY, THE CDSS RECEIVES IT.

1 Q. WHY IS THAT, IF YOU KNOW? WHY IS
2 IT THAT YOU'RE SENDING THIS REPORT TO
3 CDSS?

4 A. MY THOUGHT IS BECAUSE THEY HAVE
5 OVERSIGHT OVER THE CIVIL RIGHTS UNITS
6 IN ALL PUBLIC EMPLOYMENT DEPARTMENTS.

7 Q. AND DID YOU SEND THIS REPORT TO
8 SOMEONE AT CDSS?

9 A. OUR CLERK SENT THE REPORT, WHEN I
10 COMPLETED IT, AND THOSE EXHIBITS TO THE
11 CDSS.

12 Q. AND THE SECOND PAGE, I DON'T KNOW
13 IF IT IS RELATED TO THE FIRST PAGE, BUT
14 I'M GOING TO SHOW YOU WHAT WE'VE MARKED
15 AS DCFS CRU, A BUNCH OF ZEROES, 105,
16 AND ASK YOU TO TAKE A LOOK AT THAT.

17 A. YES.

18 Q. IS THAT THE COVER LETTER THAT YOU
19 SENT WITH THIS JULY 30TH REPORT TO
20 CALIFORNIA DEPARTMENT OF SOCIAL
21 SERVICES?

22 A. I BELIEVE SO.

23 Q. I THOUGHT IT WAS WHEN I WAS LOOKING
24 THROUGH THIS, BUT --

25 A. THERE WOULD ALSO BE SOME OTHER
26 STUFF.

27 Q. LIKE WHAT?

28 A. I DON'T KNOW IF WE WERE DOING IT AT

1 THAT TIME, BUT I BELIEVE WE WERE, AND
2 THAT WAS WE WOULD ENCLOSE A DRAFT OF
3 THE LETTERS THAT WE WERE GOING TO SEND
4 OUT TO THE CHARGING PARTY AND THE
5 SUBJECT.

6 Q. AND YOU WOULD SEND THOSE DRAFT
7 LETTERS ALSO TO CDSS?

8 A. YES.

9 Q. AND THAT WOULD HAVE BEEN TO THIS
10 PERSON, RAMON S. LOPEZ?

11 A. I MEAN, I DON'T REMEMBER THAT NAME.
12 I REMEMBER THE NAME JAMES URQUIZO.

13 Q. OKAY. HE WAS A STATE --

14 A. HE'S AT THE CDSS, AND HE WAS OUR
15 CONTACT THERE. BUT AT THAT TIME, I
16 DIDN'T KNOW HIS NAME FROM ANYTHING. IT
17 WAS JUST A NAME ON A PIECE OF PAPER.

18 Q. NOW, I NOTICE ON THE COVER LETTER,
19 IT IS NOT YOUR SIGNATURE; CORRECT?

20 A. CORRECT.

21 Q. WHY IS THAT?

22 A. BECAUSE EVERY TIME WE COMPLETED A
23 REPORT, WE GAVE IT TO LYNETTE, OUR TEAM
24 LEAD, TO REVIEW AND BLESS, AND I GAVE
25 HER THE DRAFT LETTERS AS WELL AS THIS
26 COVER LETTER. ACTUALLY, THIS WENT ON
27 TOP, AND I WOULD LEAVE IT ON HER DESK,
28 USUALLY. I WAS THERE A LOT LATER THAN

1 HER. SHE HAD TO GO HOME; I COULD STAY.
2 SO SHE WOULD GET IT THE NEXT MORNING OR
3 A COUPLE DAYS LATER.

4 AND SOMETIMES I WOULD HAVE TO CHANGE
5 THE DATE ON THE COVER LETTER BECAUSE BY
6 THE TIME SHE GAVE IT BACK TO ME IT WAS
7 SEVERAL DAYS OLD OR WHAT HAVE YOU, SO I
8 WANTED TO MAKE SURE WHEN I SENT IT TO
9 THE CDSS THAT WAS THE ACCURATE DATE.

10 Q. ON THE FACE OF THIS REPORT, JUST
11 WHEN YOU'RE LOOKING THROUGH IT, IS
12 THERE ANY WAY THAT WE CAN TELL -- I
13 GUESS WE CAN TELL. IT SAYS RIGHT HERE
14 THE REPORT WAS COMPLETED ON JULY 30,
15 2010.

16 IS THAT WHEN THE REPORT WAS ACTUALLY
17 COMPLETED?

18 A. YES.

19 Q. AND THAT -- WHEN IT SAYS 'SUBJECT
20 OF INVESTIGATION,' THAT'S WHAT WE WERE
21 TALKING ABOUT EARLIER, WHERE THE
22 SPECIFIC PEOPLE IDENTIFIED IN THIS
23 COLUMN, THOSE ARE THE PEOPLE THAT
24 MS. DUVAL WAS COMPLAINING ABOUT?

25 A. YES.

26 Q. OKAY. AND THEN 'BASIS OF
27 COMPLAINT,' THAT SEEMS FAIRLY
28 SELF-EXPLANATORY BUT I'LL ASK IT

1 ANYWAY. THAT'S WHERE MS. -- OR THIS IS
2 A RENDITION OF WHAT THE BASIS TO
3 MS. DUVAL'S COMPLAINT WAS?

4 A. THOSE ARE HER ALLEGATIONS.

5 Q. OKAY. SO SHE ALLEGED THAT SHE WAS
6 BEING DISCRIMINATED ON THE BASIS OF
7 RACE, RELIGION, NATIONAL ORIGIN,
8 POLITICAL AFFILIATION, DISABILITY, AGE,
9 AND/OR MARITAL STATUS?

10 A. AND MARITAL STATUS. SHE ALLEGED
11 SHE WAS DISCRIMINATED AGAINST ON THE
12 BASIS OF ALL OF THOSE.

13 Q. OKAY. I'M GOING TO READ OFF FOR
14 YOU A LIST OF NAMES, AND IF YOU DON'T
15 KNOW THESE PEOPLE OR WHO THEY ARE, WHAT
16 THEY DO, JUST TELL US THAT AND THAT'S
17 PERFECTLY FINE.

18 A. OKAY.

19 Q. IT'S JUST THAT WE DON'T KNOW WHO
20 THEY ARE OR WHAT THEY DO EITHER. YOU
21 ARE PROBABLY IN A BETTER POSITION THAN
22 WE ARE TO FIGURE IT OUT.

23 LYNNE CONDON, YOU'VE ALREADY TALKED TO
24 HER. AT THE 2010 TIME FRAME, 2011 TIME
25 FRAME, IT'S MY UNDERSTANDING SHE WAS
26 THE SUPERVISOR --

27 A. MANAGER.

28 Q. MANAGER OF THE DIVISION THAT YOU

1 WERE A SUB-UNIT OF IN THE CIVIL RIGHTS
2 UNIT; RIGHT?

3 A. YES.

4 Q. OKAY. AND SHE WAS ALSO HEAD OF OR
5 THE SUPERVISOR FOR OTHER UNITS AS WELL;
6 CORRECT?

7 A. YES.

8 Q. OR MANAGER OF OTHER UNITS. AND I
9 THINK YOU NAMED FOR ME EARLIER IN THE
10 DAY SEVERAL OF THOSE UNITS?

11 A. I NAMED YOU SEVERAL UNITS, BUT I
12 DIDN'T SAY WHO MANAGED THOSE UNITS.

13 Q. OKAY. DO YOU KNOW IN 2010 AND 2011
14 WHAT OTHER UNITS, BESIDES THE CIVIL
15 RIGHTS UNIT, MS. CONDON MANAGED?

16 A. SHE MANAGED LABOR RELATIONS, CIVIL
17 RIGHTS, AND PERFORMANCE MANAGEMENT.

18 Q. PERFORMANCE MANAGEMENT, WHAT'S
19 THAT?

20 A. THEY'RE THE PEOPLE WHO HANDLE ANY
21 KIND OF PERFORMANCE QUESTIONS, ISSUES.

22 Q. WHEN YOU'RE DOING ONE OF THESE
23 INVESTIGATIONS, DO YOU HAVE ACCESS TO
24 JUVENILE CASE FILE?

25 A. I DO.

26 Q. AND THAT'S THROUGH THE COMPUTER,
27 THROUGH THE CWS/CMS DATABASE?

28 A. YES.

1 Q. OFF THE RECORD, YOU HAD A FEW
2 MOMENTS TO GO AHEAD AND REVIEW WHAT
3 WE'VE IDENTIFIED AS EXHIBIT NO. 3 TO
4 YOUR DEPOSITION, WHICH I'M HOPING NOW
5 IS, TO THE BEST OF YOUR RECOLLECTION,
6 IN THE FORM AND ORDER THAT THE PACKET
7 WAS WHEN YOU SENT IT TO THE STATE.
8 AND SO THAT'S MY QUESTION: IS THIS
9 EXHIBIT 3 NOW, TO THE BEST OF YOUR
10 RECOLLECTION -- I UNDERSTAND IT'S FOUR
11 YEARS AGO, BUT TO THE BEST OF YOUR
12 RECOLLECTION, IS THIS EXHIBIT 3 NOW, AS
13 PRESENTLY ORGANIZED, IN THE ORDER AND
14 THE FORM THAT IT WAS WHEN YOU SENT IT
15 TO THE STATE?

16 A. YES, TO THE BEST OF MY
17 RECOLLECTION.

18 Q. RIGHT. SO MY NEXT QUESTION IS, AT
19 SOME POINT IN TIME, DID YOU INFORM
20 MS. DUVAL OF THE OUTCOME OF YOUR
21 INVESTIGATION?

22 A. YES.

23 Q. DO YOU REMEMBER WHEN THAT WAS?

24 A. NO.

25 Q. DO YOU REMEMBER WHETHER OR NOT YOU
26 SENT HER THAT JULY 31ST LETTER?

27 A. NO, I DON'T REMEMBER WHAT LETTER I
28 SENT HER.

1 Q. DOES YOUR REVIEW OF EXHIBIT 4, WHAT
2 WE'VE MARKED AS EXHIBIT 4 TO YOUR
3 DEPOSITION, REFRESH YOUR RECOLLECTION
4 AS TO WHETHER OR NOT MS. DUVAL WAS SENT
5 A LETTER INFORMING HER THAT YOUR
6 DEPARTMENT HAD, IN FACT, RECEIVED HER
7 COMPLAINT?

8 A. IT APPEARS FROM THE COPY OF THIS
9 LETTER THAT ONE WAS SENT TO HER.

10 Q. OKAY. AND THAT WOULD HAVE BEEN ON
11 OR AROUND MARCH 22ND?

12 A. IT'S DATED MARCH 22, 2010, IN THE
13 COPY.

14 Q. NOW, AT SOME POINT IN TIME, WHEN
15 YOU PICKED UP THE INVESTIGATION OF
16 MS. DUVAL'S COMPLAINT, DID YOU NOTIFY
17 THE 'SOIS' OF THE 'SUBJECTS OF THE
18 INVESTIGATION' OF THE COMPLAINT?

19 A. AT SOME POINT, YES.

20 Q. AS A MATTER OF YOUR CUSTOM AND
21 PRACTICE AT THAT POINT IN TIME, WOULD
22 YOU HAVE NOTIFIED THE SUBJECTS OF THE
23 INVESTIGATION -- WOULD YOU HAVE
24 NOTIFIED THEM OF THE COMPLAINT FAIRLY
25 CLOSE IN TIME TO WHEN YOU RECEIVED THE
26 COMPLAINT?

27 A. PROBABLY.

28 Q. I NOTICE ON -- FIRST OF ALL, LET ME

1 ASK: WHAT IS THAT, EXHIBIT NO. 6?

2 A. IT IS A LETTER THAT I SENT -- IT'S
3 A LETTER OF DETERMINATION THAT I SENT
4 TO RAFAELINA DUVAL, AND IT IS DATED
5 OCTOBER 4, 2010.

6 Q. AND ON PAGE 2 OF THAT LETTER,
7 THAT'S YOUR SIGNATURE THERE ON THE
8 LETTER?

9 A. YES, IT IS.

10 Q. AND BECAUSE THERE'S A SIGNATURE ON
11 IT, WE KNOW THIS IS NO LONGER A DRAFT;
12 THIS IS SOMETHING YOU ACTUALLY SENT TO
13 HER?

14 A. YES.

15 Q. OKAY. YOU MEAN OTHER THAN THE
16 COMPLAINT THAT WE'RE LOOKING AT IN
17 EXHIBIT 3?

18 A. YES.

19 Q. AND JUST SO THAT I'M CLEAR, THIS
20 EXHIBIT NO. 6 IS A LETTER THAT YOU SENT
21 TO MS. DUVAL IN RELATION TO YOUR
22 INVESTIGATION AS DEPICTED IN EXHIBIT 3;
23 CORRECT?

24 A. AS FAR AS I REMEMBER, THAT LETTER,
25 DATED OCTOBER 4TH, WAS SENT AFTER THE
26 CDSS APPROVED OR CONFIRMED THAT WE WERE
27 IN COMPLIANCE WITH OUR INVESTIGATION.

28 Q. WHEN YOU STARTED YOUR

1 INVESTIGATION -- AND I TALKED TO YOU A
2 LITTLE BIT ABOUT THIS EARLIER IN THE
3 DAY -- IN RELATION TO MS. SCHEELE, WAS
4 SHE COOPERATIVE WITH YOUR INVESTIGATION
5 FROM THE OUTSET?

6 A. I DON'T REALLY RECALL WHAT HER
7 ATTITUDE WAS.

8 Q. WHAT DO YOU PRESENTLY REMEMBER --
9 NOW THAT YOUR RECOLLECTION HAS BEEN
10 REFRESHED, WHAT DO YOU PRESENTLY
11 REMEMBER ABOUT THE ISSUES THAT YOU WERE
12 HAVING ABOUT MS. SCHEELE DURING THE
13 COURSE OF YOUR INVESTIGATION? AND YOU
14 CAN REFERENCE IT IF YOU NEED TO.

15 A. THAT SHE CONTACTED ME NUMEROUS
16 TIMES BY TELEPHONE AND E-MAIL, FAXED
17 ABOUT 30 PAGES OF DCFS POLICY, WHICH I
18 HAVE ACCESS TO, AND GAVE ME THREE
19 TWO-PAGE LETTERS FROM JULY 14TH, 15TH,
20 AND 19TH WITH LENGTHY EXPLANATIONS
21 JUSTIFYING HER ACTIONS IN THE DUVAL
22 CASE AND WHY THEY ARE NOT
23 DISCRIMINATORY.

24 SHE HAS NOW ADVISED ME, PER WIC827 --
25 WELFARE AND INSTITUTION CODE 827:

26 'SHE IS PROHIBITED FROM GIVING OUT
27 ANY INFORMATION I REQUESTED FROM HER
28 UNLESS I PETITION THE PRESIDING JUDGE

1 FOR INFORMATION.'

2 AND SHE "ASKED ME TO FAX THE
3 CONSENT FORM SIGNED BY MS. DUVAL TO
4 HER. HER BEHAVIOR IS OUTSIDE THE NORM
5 COMPARED WITH OTHER CSWS I'VE
6 INTERVIEWED. SHE APPEARS TO BE ANXIOUS
7 ABOUT SHARING ANY INFORMATION FOR THE
8 INVESTIGATION.'

9 THAT'S ABOUT IT. I MEAN...

10 Q. OKAY. AND SO I'LL GO BACK TO ONE
11 OF MY EARLIER QUESTIONS IN THE DAY, AND
12 THIS MAY HELP REFRESH YOUR RECOLLECTION
13 SO YOU CAN ANSWER THE QUESTION.

14 WAS MS. SCHEELE COOPERATIVE WITH YOU IN
15 YOUR INVESTIGATION AT THE OUTSET?

16 A. MAYBE FROM THE OUTSET, FROM WHEN I
17 INTERVIEWED HER. BUT IT SEEMS LIKE
18 AFTER THAT INTERVIEW THERE MUST HAVE
19 BEEN SOME CONCERN ON HER PART ABOUT
20 BEING A PARTICIPANT IN THAT INTERVIEW.
21 AND I WOULD SAY IN MY YEARS OF
22 INVESTIGATING CLIENT COMPLAINTS THAT
23 SOMETIMES THE SOCIAL WORKERS ARE
24 ANXIOUS BECAUSE THEIR WORK IS BEING
25 SCRUTINIZED BY SOMEONE WHO DOES NOT
26 NECESSARILY DO THE SAME WORK.

27 Q. SO YOU WOULDN'T HAVE BEEN HONEST,
28 ACCURATE, AND COMPLETE IN THE E-MAILS

1 THAT YOU WROTE TO YOUR SUPERVISOR ON
2 JULY 19TH, 2010?

3 A. I CANNOT SAY THAT I WOULDN'T HAVE
4 BEEN. I CANNOT SAY -- I MEAN, ALL I
5 CAN SAY IS THAT I WROTE THAT, AND I
6 WOULD IMAGINE THAT IT'S TRUE.

7 Q. AND YOUR MEMORY AT 3:46 P.M. ON
8 JULY 19TH, WHEN YOU'RE EXPRESSING THE
9 EVENTS OF THAT DAY TO YOUR
10 SUPERVISOR -- YOUR MEMORY THAT DAY
11 WOULD HAVE BEEN A LOT FRESHER THAN IT
12 IS RIGHT NOW?

13 A. OH, YEAH, DEFINITELY. I COULD HAVE
14 TOLD YOU THAT DAY -- I COULD HAVE
15 SPECIFIED EXACTLY WHAT IT WAS I
16 RECEIVED, WHEN I RECEIVED IT, AND
17 WHETHER I MAY HAVE EXAGGERATED OR JUST
18 BEEN VENTING MY FRUSTRATION ABOUT THAT
19 BEHAVIOR.

20 Q. NOW, YOUR SUPERVISOR, IN READING
21 YOUR E-MAILS, UNLESS YOU'RE TELLING HER
22 THAT YOU'RE EXAGGERATING, HOW WOULD SHE
23 KNOW?

24 A. YOU MEAN LYNNE CONDON?

25 Q. YEAH.

26 A. WELL, SHE COULD ASK.

27 Q. DO YOU RECALL HER ASKING YOU,
28 'WELL, MICHELLE, WHEN YOU WROTE THIS

1 E-MAIL, WERE YOU JUST EXAGGERATING?'

2 A. NO. SHE WOULD AUTOMATICALLY THINK
3 THAT I'M GIVING HER A TRUE
4 REPRESENTATION OF WHAT IS HAPPENING,
5 AND I WOULD HOPE THAT I DID THAT. BUT
6 I CAN'T TESTIFY TO THAT TODAY AND BE A
7 HUNDRED PERCENT HONEST, COMPLETE, AND
8 ACCURATE, WHICH I HAVE BEEN SWORN TO DO
9 TODAY, BECAUSE I DON'T HAVE A CLEAR
10 RECOLLECTION OF EXACTLY WHAT WAS SENT
11 TO ME. I DON'T EVEN REMEMBER THAT
12 INFORMATION IN THAT E-MAIL UNTIL I SAW
13 IT -- UNTIL JUST NOW.

14 Q. DID YOU SAVE THE THREE TWO-PAGE
15 LETTERS THAT MS. SCHEELE SENT TO YOU?

16 A. I DON'T RECALL.

17 Q. WOULD THEY? YOU DON'T RECALL
18 PUTTING THEM IN YOUR FILE, YOUR
19 INVESTIGATION FILE?

20 A. NO.

21 Q. WHAT ABOUT THE FOUR TO FIVE
22 TELEPHONE CALLS THAT SHE MADE TO YOU?
23 DID YOU TAKE NOTES OF THOSE TELEPHONE
24 CALLS?

25 A. I DON'T RECALL.

26 Q. AND THE SEVEN E-MAILS THAT SHE SENT
27 YOU, DID YOU SAVE THOSE?

28 A. I DON'T RECALL.

1 Q. DO YOU KNOW WHETHER OR NOT YOU
2 PRODUCED THOSE SEVEN E-MAILS TO US
3 HERE?

4 A. NO.

5 Q. AND THE THREE TWO-PAGE LETTERS
6 DATED JULY 14TH, 15TH, AND 19TH,
7 RESPECTIVELY, DO YOU KNOW WHETHER OR
8 NOT YOU PRODUCED THOSE TO US?

9 A. NO. I DON'T HAVE THE AUTHORITY THE
10 PRODUCE ANYTHING DIRECTLY TO YOU.

11 Q. BECAUSE YOU HAVE NO CLEAR MEMORY
12 TODAY OF WHAT HAPPENED OR WHAT YOU DID
13 WAY BACK THEN?

14 A. NONE. IT MUST NOT HAVE BEEN THAT
15 SIGNIFICANT IS ALL I CAN SAY.

16 Q. WELL, YOU HAD OTHER CONCERNS,
17 DIDN'T YOU, LATER ON IN THE
18 INVESTIGATION, ABOUT SOME OF THE ISSUES
19 THAT YOUR SUPERVISORS RAISED? DIDN'T
20 YOU HAVE OTHER CONCERNS?

21 A. I DON'T KNOW.

22 Q. YOU DON'T REMEMBER, AS YOU SIT HERE
23 TODAY?

24 A. I DON'T. IT JUST SEEMED LIKE THIS
25 INVESTIGATION WAS LONG.

26 Q. WE'RE TALKING ABOUT PROGRAM ACCESS
27 OR POLICY COMPLIANCE FOR CLIENTS UNDER
28 THE ADA.

1 AND IN THAT SCENARIO ONLY, DOES THE
2 CIVIL RIGHTS SECTION, TO YOUR
3 KNOWLEDGE, INVESTIGATE THOSE
4 COMPLAINTS?

5 A. IF THEY ARE A CLIENT COMPLAINT,
6 THEN YES.

7 Q. WHEN DID YOU FIRST BEGIN DOING
8 CIVIL RIGHTS INVESTIGATION WORK FOR
9 DCFS?

10 A. MARCH OF 2009.

11 Q. LET ME BACK UP FOR A SECOND TO WHEN
12 YOU WERE TALKING ABOUT THE RECOURSE
13 THAT YOUR DEPARTMENT IS INVOLVED IN.
14 IS IT TRUE THAT YOUR INFORMATION IS
15 TRANSMITTED TO THE STATE OF CALIFORNIA?
16 CORRECT?

17 A. YES.

18 Q. AND THAT IS CDSS; CORRECT?

19 A. CORRECT.

20 Q. SO JUST TO BE CLEAR, THOUGH, THE
21 CATEGORY THAT YOUR OFFICE WOULD
22 INVESTIGATE -- THE CATEGORIES OF
23 DISCRIMINATION WOULD BE RACE --
24 CORRECT?

25 A. CORRECT.

26 Q. ETHNICITY?

27 A. YES.

28 Q. RELIGIOUS CREED, RELIGIOUS

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DISCRIMINATION?

A. YES, RELIGION.

Q. COLOR?

A. YES.

Q. NATIONAL ORIGIN?

A. YES.

Q. ANCESTRY?

A. YES.

Q. PHYSICAL DISABILITY?

A. YES.

Q. MENTAL DISABILITY?

A. YES.

Q. MEDICAL CONDITION?

A. YES.

Q. BUT AS PART OF YOUR CIVIL RIGHTS
INVESTIGATION, THAT THE REMOVAL OF THE
CHILD IS NOT THE PRINCIPLE
INVESTIGATION YOU WERE INVOLVED IN;
CORRECT?

A. RIGHT.

Q. YOU WERE INVOLVED IN A CIVIL RIGHTS
INVESTIGATION TO ASSURE THAT CLIENTS
WHO MAKE COMPLAINTS TO YOUR DEPARTMENT
AND YOUR UNIT ARE TREATED FAIRLY;
CORRECT?

A. CORRECT.

Q. AND IT'S YOUR RESPONSIBILITY TO
ENSURE ALL PERSONS, BOTH EMPLOYEES AND

1 THE PUBLIC, WITHIN THE DEPARTMENT
2 RECEIVE SERVICES IN A NONDISCRIMINATORY
3 FASHION; CORRECT?

4 A. CORRECT.

5 Q. BUT TO RECEIVE SERVICES IN A
6 NONDISCRIMINATORY FASHION, ONE HAS TO
7 BE A MEMBER OF A PROTECTED CLASS;
8 RIGHT?

9 A. YES.

10 Q. THE NEXT QUESTION IS WOULD YOU
11 AGREE IT WOULD BE IMPROPER FOR ANY
12 SOCIAL WORKERS TO ATTRIBUTE A MENTAL
13 ILLNESS TO AN INDIVIDUAL THAT DID NOT
14 HAVE A DIAGNOSIS INVOLVING THAT SAME
15 MENTAL ILLNESS?

16 CORRECT?

17 A. YES.

18 Q. AND THAT WOULD BE AGAINST COUNTY
19 PROTOCOL?

20 A. IT'S AGAINST PROCEDURES, THE COUNTY
21 PROCEDURES.

22 Q. I'M GOING TO ASK YOU QUESTIONS
23 ABOUT YOUR RECOLLECTION AND WHAT YOU
24 SAID OR DID NOT SAY FIRST. AND IF YOU
25 DON'T KNOW, WE CAN REFER TO THE
26 DOCUMENT THAT YOU JUST REVIEWED.

27 IS IT TRUE THAT ON JULY 30, 2010, THAT
28 YOU CONCLUDED THE INVESTIGATION INTO

1 MS. DUVAL'S CIVIL RIGHTS COMPLAINT
2 DISCLOSED THAT:

3 'SOI SCHEELE DISREGARDED
4 CP DUVAL'S REQUEST FOR ACCOMMODATION
5 WHEN SHE CONTINUED TO DOCUMENT
6 CP DUVAL'S TREMORS, AND SOI SCHEELE
7 BELIEVED THE TREMORS "MIGHT BE" DUE TO
8 CP DUVAL'S STRESS WHEN CARING FOR HER
9 SON.'

10 A. WHAT'S YOUR QUESTION?

11 Q. DID YOU SAY THAT?

12 A. I DID WRITE THAT, YES.

13 Q. I'M GOING TO READ A STATEMENT TO
14 YOU AND ASK YOU IF, DURING JULY 2010,
15 THIS STATEMENT WAS TRUE, TO THE BEST OF
16 YOUR KNOWLEDGE:

17 'CP DUVAL IS ALSO PROTECTED AS A
18 QUALIFIED INDIVIDUAL WITH A DISABILITY
19 (POSSIBLE MUNCHAUSEN BY PROXY) BECAUSE
20 SHE IS A PERSON WHO IS PERCEIVED BY
21 OTHERS AS HAVING THE IMPAIRMENT THOUGH
22 SHE HAS NEVER RECEIVED A DIAGNOSIS FROM
23 A LICENSED MEDICAL PROFESSIONAL.'
24 THAT STATEMENT YOU WROTE IN JULY OF
25 2010; CORRECT?

26 A. CORRECT.

27 Q. IN JULY OF 2010, YOU DID CONCLUDE,
28 TRUE OR FALSE, THAT MS. DUVAL WAS PART

1 OF A PROTECTED CLASS OF INDIVIDUALS;
2 CORRECT?

3 A. CORRECT.

4 Q. AND THAT PROTECTED CLASS WAS
5 DISABILITY; CORRECT?

6 A. CORRECT.

7 Q. AND THAT IS BASED IN PART UPON YOUR
8 CONCLUSION THAT SHE WAS LABELED, OR THE
9 STATEMENT WAS MADE SHE MAY HAVE
10 MUNCHAUSEN BY PROXY WITHOUT THE BENEFIT
11 OF A LICENSED INDIVIDUAL TO MAKE THAT
12 ASSESSMENT; CORRECT?

13 A. AT THAT TIME, BASED ON THE
14 INFORMATION I WAS IN POSSESSION OF,
15 YES.

16 Q. AGAIN, IN JULY 2010, TO YOUR
17 KNOWLEDGE, DID YOU CONCLUDE:

18 'THE IMPLIED DIAGNOSIS OF
19 "POSSIBLE MUNCHAUSEN BY PROXY" LED DCFS
20 CSWS TO RECOMMEND AGAINST FAMILY
21 REUNIFICATION FOR CP DUVAL WITH HER
22 SON.'

23 A. YES, I DID WRITE THAT.

24 Q. WE WERE DISCUSSING EARLIER WHETHER
25 OR NOT ANY SERVICES WERE DENIED TO
26 MS. DUVAL.

27 DO YOU RECALL THAT CONVERSATION?

28 A. I DO.

1 Q. HAVING REVIEWED THIS DOCUMENT, DOES
2 IT REFRESH YOUR RECOLLECTION REGARDING
3 THE QUESTION WHETHER OR NOT MS. DUVAL
4 WAS DENIED ANY SERVICES ARISING FROM
5 HER POTENTIAL DIAGNOSIS OF MUNCHAUSEN
6 BY PROXY?

7 DO YOU UNDERSTAND THE QUESTION?

8 A. I DO. ARE YOU TALKING ABOUT FAMILY
9 REUNIFICATION SERVICES?

10 Q. YES, MA'AM.

11 A. OKAY. I DO RECALL THIS
12 CONVERSATION, YES.

13 Q. DO YOU RECALL EVER CONCLUDING THAT
14 MS. DUVAL WAS DENIED EQUAL SERVICES
15 REGARDING FAMILY REUNIFICATION BECAUSE
16 OF THE IMPLIED -- BECAUSE OF THE
17 MUNCHAUSEN BY PROXY ISSUE IN THE CASE?

18 A. I RECALL WHAT I WROTE THERE. I
19 MEAN, I GUESS THAT COULD BE INTERPRETED
20 THAT WAY.

21 Q. NOBODY WANTS YOU TO GUESS. I DON'T
22 WANT YOU TO INTERPRET THE DOCUMENT.
23 I'D LIKE YOU TO PLEASE TESTIFY BASED ON
24 YOUR RECOLLECTION.

25 A. MY RECOLLECTION IS THAT AT THAT
26 TIME, I BELIEVED THAT WHAT I WAS
27 WRITING WAS CORRECT AND TRUE.

28 Q. AND YOU AGREE THAT AT THE TIME YOU

1 WROTE THIS REPORT, YOU BELIEVED ALL OF
2 THE INFORMATION CONTAINED IN EXHIBIT 14
3 TO BE TRUE?

4 A. CORRECT.

5 Q. IN JULY 2010, WHEN YOU AUTHORED THE
6 INFORMATION ON THIS DOCUMENT, YOU
7 BELIEVED ALL OF THE INFORMATION TO BE
8 TRUE; CORRECT?

9 A. CORRECT.

10 Q. I'VE NOW MARKED ANOTHER DOCUMENT AS
11 EXHIBIT 15, AND I'LL READ IT TO YOU:

12 "ALTHOUGH THE COURT HAS NOT
13 DETERMINED WHETHER OR NOT CP DUVAL IS
14 ENTITLED TO FR SERVICES, DCFS SOCIAL
15 WORKERS ARE BASING THEIR
16 RECOMMENDATIONS UPON THE POSSIBILITY
17 CP DUVAL HAS MUNCHAUSEN BY PROXY
18 DISORDER AND CONTINUES TO BE A DANGER
19 TO HER SON BY DEPRIVING HIM OF PROPER
20 NOURISHMENT.'

21 CORRECT?

22 A. I DID WRITE THAT.

23 Q. AT THE TIME YOU WROTE IT IN
24 JULY 2010, YOU BELIEVED IT TO BE TRUE;
25 CORRECT?

26 A. CORRECT.

27 Q. AND IT'S TRUE AT THE TIME YOU
28 AUTHORED THIS INFORMATION YOU WOULD

1 AGREE WITH THE CIRCLED STATEMENT, THAT
2 YOU BELIEVED IT TO BE TRUE?

3 A. I DID BELIEVE IT TO BE TRUE.

4 Q. SITTING HERE TODAY, DO YOU RECALL
5 IF IN JULY 2010 THERE HAD OR HAD NOT
6 BEEN A RECOMMENDATION FOR FAMILY
7 REUNIFICATION ON BEHALF OF MS. DUVAL BY
8 DCFS SOCIAL WORKERS?

9 A. BY DCFS SOCIAL WORKERS?

10 Q. YEAH.

11 A. MAKING A RECOMMENDATION FOR FAMILY
12 REUNIFICATION?

13 Q. YES.

14 A. THAT HAD NOT BEEN DONE YET BY THEM.

15 Q. CORRECT.

16 A. IT LOOKED LIKE -- ACCORDING TO THAT
17 STATEMENT, IT SAYS:

18 'DCFS SOCIAL WORKERS ARE BASING
19 THEIR RECOMMENDATIONS UPON THE
20 POSSIBILITY CP DUVAL HAS MUNCHAUSEN BY
21 PROXY DISORDER AND CONTINUES TO BE A
22 DANGER TO HER SON BY DEPRIVING HIM OF
23 PROPER NOURISHMENT.'

24 AND ALL I'M SAYING THERE IS THAT THE
25 COURT HAD NOT DETERMINED WHETHER OR
26 NOT, BUT IT APPEARS FROM THAT STATEMENT
27 THAT I BELIEVED AT THE TIME THAT THE
28 SOCIAL WORKERS HAD MADE A

1 RECOMMENDATION.

2 Q. AND THE RECOMMENDATION WAS THAT SHE
3 NOT BE GIVEN FAMILY REUNIFICATION
4 SERVICES; CORRECT?

5 A. WHATEVER IT WAS THAT I SAID IN ONE
6 OF THE PREVIOUS EXHIBITS.

7 Q. YES. YOU CAN REFER TO THE DOCUMENT
8 IF YOU NEED TO.

9 A. OKAY.

10 Q. JUST LET US KNOW WHAT PARAGRAPH
11 YOU'RE REVIEWING.

12 IS IT THE LAST PARAGRAPH ON PAGE 159?

13 A. LAST PAGE ON 159, IT SAYS:

14 'THE IMPLIED DIAGNOSIS OF POSSIBLE
15 MUNCHAUSEN BY PROXY LED DCFS CSWS TO
16 RECOMMEND AGAINST FAMILY REUNIFICATION
17 FOR CP DUVAL WITH HER SON."

18 SO BASED ON THAT EXHIBIT, IT APPEARS
19 THAT AT THAT TIME WHEN I WROTE THAT, I
20 BELIEVED THAT TO BE TRUE.

21 Q. SO LET ME SHOW YOU WHAT WAS MARKED
22 AS EXHIBIT 16. THIS WILL BE AS OF
23 JULY --

24 A. 2010.

25 Q. YEAH. I THINK YOU'VE FIGURED THAT
26 OUT NOW; RIGHT?

27 A. UH-HUH.

28 Q. (READING:)

1 'THE INVESTIGATION REVEALS
2 CP DUVAL HAS SUFFERED A DELAY OF FR
3 SERVICES, WAS DIFFERENTLY TREATED IN
4 THE RECEIPT OF SERVICES, AND WAS DENIED
5 SOME DCFS SERVICES BECAUSE SHE IS A
6 MEMBER OF THE PROTECTED CLASS
7 (DISABILITY).'
8 CORRECT?
9 A. I DID WRITE THAT.
10 Q. AND YOU WROTE THAT IN JULY 2010?
11 A. I BELIEVE SO.
12 Q. AND AT THE TIME YOU WROTE THAT
13 STATEMENT, YOU BELIEVED IT TO BE TRUE?
14 A. YES.
15 Q. AND YOU WOULD AGREE THAT AT THE
16 TIME YOU AUTHORED THIS STATEMENT, THE
17 INFORMATION WAS TRUE SO FAR AS YOU
18 KNEW?
19 A. TRUE. OR CORRECT.
20 Q. YOU'RE SAYING YOU AGREE THAT IN
21 2014 A PERSON WHO IS NOT DISABLED WHO
22 IS TREATED LIKE THEY'RE DISABLED AND
23 SUFFERS SOME DENIAL OF EQUAL SERVICES
24 BASED ON THE BELIEF THAT THEY'RE
25 DISABLED HAS BEEN THE VICTIM OF
26 DISCRIMINATION?
27 A. IF IT CAN BE PROVED, THEN I BELIEVE
28 THAT THAT'S TRUE.

1 Q. ALL RIGHT. SO MOVING RIGHT ALONG,
2 WE'RE STILL IN JULY 2010. I'M GOING TO
3 READ A STATEMENT TO YOU AND ASK YOU TO
4 CONFIRM THAT YOU BELIEVE THE STATEMENT
5 WAS TRUE IN JULY 2010.

6 'WHEN SOI NELSON DOCUMENTED IN
7 COURT REPORTS HER CONCERN THAT CP DUVAL
8 POSSIBLY HAD MUNCHAUSEN BY PROXY,
9 CP DUVAL WAS PERCEIVED TO HAVE
10 MUNCHAUSEN SYNDROME. IN ADDITION, THE
11 CP WAS THOUGHT TO BE RESPONSIBLE FOR
12 NEGLECTING AND HARMING HER SON.'
13 CORRECT?

14 A. I DID WRITE THAT.

15 Q. IN JULY 2010?

16 A. LET ME MAKE SURE. YES.

17 Q. AT THE TIME YOU AUTHORED IT, YOU
18 BELIEVED IT TO BE TRUE?

19 A. YES.

20 Q. AT THE TIME YOU AUTHORED THE
21 DOCUMENT, YOU BELIEVED THE STATEMENT TO
22 BE TRUE; CORRECT?

23 A. CORRECT.

24 Q. I WILL NOW MARK THE NEXT DOCUMENT
25 AS EXHIBIT NO. 18. I'LL READ IT TO
26 YOU:

27 'AS A RESULT, CP DUVAL IS NOW
28 ALLOWED ONLY COURT-ORDERED AND

1 TIME-LIMITED VISITS WITH HER SON FOR
2 THREE HOURS PER WEEK, MONITORED ONLY BY
3 DCFS.

4 YOU WROTE THIS; CORRECT?

5 A. YES.

6 Q. AND THAT WAS TRUE IN JULY 2010?

7 A. I BELIEVED THAT WAS TRUE.

8 Q. DO YOU KNOW IF IT'S STILL TRUE
9 TODAY?

10 A. I DON'T KNOW.

11 Q. IT SHOULD BE THAT THERE IS -- IT'S
12 OFFSET RIGHT THERE IN BOLD. IT'S ABOUT
13 THE 5TH PARAGRAPH DOWN.

14 A. I SEE IT.

15 OKAY, I'VE READ IT.

16 Q. OKAY. EXHIBIT 20, IT SAYS:

17 'DISABILITY: THE INVESTIGATION
18 SUBSTANTIATED CP DUVAL EXPERIENCED
19 DISCRIMINATION ON THE BASIS OF HER
20 DISABILITIES (TREMORS, MUNCHAUSEN'S).'

21 A. WAIT. I'M SORRY, CAN YOU PLEASE
22 REPEAT THAT?

23 Q. YEAH.

24 A. I DON'T SEE THAT.

25 Q. IT'S AT PAGE 116 -- ONE, TWO,
26 THREE, FOUR -- FIVE PARAGRAPHS DOWN.

27 I'M SORRY, PAGE 156, EXCUSE ME. I
28 MISSPOKE. I GAVE YOU THE REFERENCE

1 INCORRECTLY THE FIRST TIME. IT'S
2 PAGE 156:

3 'DISABILITY: THE INVESTIGATION
4 SUBSTANTIATED CP DUVAL EXPERIENCED
5 DISCRIMINATION ON THE BASIS OF HER
6 DISABILITIES (TREMORS, MUNCHAUSEN).'

7 A. OH, OKAY. IT'S UP HERE. OKAY.

8 Q. IT'S TRUE THAT THE LANGUAGE WAS
9 INCLUDED IN YOUR JULY 2010 REPORT;
10 CORRECT?

11 A. CORRECT.

12 Q. AND YOU BELIEVED THAT TO BE TRUE AT
13 THE TIME YOU AUTHORED THE DOCUMENT;
14 CORRECT?

15 A. CORRECT.

16 Q. AND AT THE TIME IN JULY 2010 YOU
17 AUTHORED THIS DOCUMENT, YOU BELIEVED
18 THIS STATEMENT TO BE TRUE?

19 A. I DID.

20 Q. SO WE'RE GOING BACK TO EXHIBIT 21.
21 AS OF JULY 2010, IT'S TRUE THAT YOU
22 BELIEVED THE INVESTIGATION CONFIRMED:

23 'CP DUVAL IS A QUALIFIED
24 INDIVIDUAL WITH A DISABILITY (TREMORS
25 AND ALLERGIES) BECAUSE SHE SUBMITTED
26 MEDICAL DOCUMENTATION THAT SUPPORTS
27 THAT SHE HAS DIAGNOSES FOR THESE
28 MEDICAL CONDITIONS."

1 CORRECT?

2 A. I DID WRITE THAT, YES.

3 Q. AT THE TIME IN JULY 2010, WHEN YOU
4 AUTHORED THE DOCUMENT, YOU BELIEVED
5 THIS STATEMENT TO BE TRUE?

6 A. YES.

7 Q. NO. 22. I'M GOING TO SHOW YOU A
8 DOCUMENT. AND WHAT IT SAYS IS:

9 'SOI SCHEELE DISREGARDED
10 CP DUVAL'S CLAIM HER TREMORS WERE
11 RELATED TO A MEDICAL CONDITION.'
12 DID YOU SAY THAT IN JULY 2010?

13 A. I WROTE IT IN THE REPORT.

14 Q. EXHIBIT 23. AS OF JULY 2010, YOU
15 BELIEVE THAT:

16 'SOI SCHEELE CONTINUED TO DOCUMENT
17 CP DUVAL'S SYMPTOMS AND RELATED THE
18 TREMORS TO THE POSSIBILITY CP DUVAL
19 EXPERIENCED STRESS IN CARING FOR HER
20 SON.'

21 CORRECT?

22 A. WHERE CAN I FIND THAT?

23 Q. 156 ALSO.

24 A. OH, I SEE. YES, I DID WRITE THAT.

25 Q. JULY 2010, YOU BELIEVED
26 EXHIBIT 23 TO BE TRUE?

27 A. YES.

28 Q. FOR MARKING FOR EXHIBIT 24.

1 DURING JULY 2010, YOU BELIEVED:

2 'SOI SCHEELE'S OBSERVATIONS ABOUT
3 THE TREMORS WERE NOTED IN THE COURT
4 REPORTS AS EVIDENCE OF CP DUVAL'S
5 ANXIETY REGARDING CARING FOR HER SON.'
6 CORRECT?

7 A. I DID WRITE THAT IN THE REPORT.

8 Q. AS OF JULY 2010, DO YOU BELIEVE THE
9 LANGUAGE IN EXHIBIT 24 TO BE ACCURATE
10 AND TRUE?

11 A. CORRECT.

12 Q. I'M NOW SHOWING YOU EXHIBIT 26. IN
13 JULY 2010, YOU BELIEVED THAT:

14 'HOWEVER, CP DUVAL WAS NEVER
15 DIAGNOSED WITH MUNCHAUSEN BY PROXY BY
16 AN APPROPRIATE MEDICAL PRACTITIONER.'
17 THAT STATEMENT WAS TRUE IN 2010?

18 A. I WROTE IT IN THE REPORT IN 2010.

19 Q. THE LANGUAGE THAT 'WHEN SOI NELSON
20 DOCUMENTED THE PARTIES' --

21 A. THE PHRASE --

22 Q. EXCUSE ME.

23 (READING:)

24 -- 'THE PHRASE POSSIBLE MUNCHAUSEN
25 BY PROXY ABOUT CD DUVAL IN HER COURT
26 REPORT, THIS RESULTED IN CP DUVAL BEING
27 PERCEIVED BY OTHERS AS HAVING THE
28 IMPAIRMENT MUNCHAUSEN BY PROXY.'

1 DID YOU SAY THAT?

2 A. I WROTE THAT IN MY REPORT, YES.

3 Q. I'M NOW SHOWING YOU EXHIBIT 28,
4 WHICH SAYS:

5 'FURTHER, DCFS MADE THE
6 RECOMMENDATION THAT CP DUVAL NOT BE
7 ALLOWED TO REUNIFY WITH HER SON.
8 THEREFORE, CP DUVAL WAS DIFFERENTLY
9 TREATED IN THE RECEIPT OF SERVICES
10 BECAUSE SHE IS A QUALIFIED INDIVIDUAL
11 WITH A DISABILITY (TREMORS,
12 MUNCHAUSEN) . '

13 A. I DID WRITE THAT IN THE REPORT.

14 Q. AND IN JULY 2010, YOU BELIEVED THE
15 INFORMATION IN EXHIBIT 28 TO BE TRUE?

16 A. YES.

17 Q. IN JULY 2010, YOU BELIEVED THAT
18 ALL -- IT SAYS:

19 'FURTHER, ALL SOIS INDICATED THEY
20 DID NOT POSSESS THE APPROPRIATE LICENSE
21 TO MAKE A DIAGNOSIS OF MUNCHAUSEN BY
22 PROXY. '

23 CORRECT?

24 A. I DID WRITE THAT, YES.

25 Q. AT THE TIME YOU AUTHORED THIS
26 DOCUMENT, YOU BELIEVED IT TO BE TRUE?

27 A. YES.

28 Q. IN JULY 2010, YOU BELIEVED THAT:

1 'SOI NELSON FAILED TO FOLLOW DCFS
2 POLICY WHEN SHE WROTE IN HER COURT
3 REPORT FURTHER ASSESSMENT IS NEEDED FOR
4 "POSSIBLE MUNCHAUSEN BY PROXY AND OTHER
5 PERSONALITY DISORDERS."'

6 CORRECT?

7 A. I DON'T KNOW WHERE THAT WOULD BE IN
8 HERE. OH, OKAY. YES, I DID WRITE
9 THAT.

10 Q. AT THE TIME, YOU WERE RESPONSIBLE
11 FOR ENFORCING ANY ADA-TYPE COMPLAINT BY
12 CLIENTS THAT REACHED YOUR DESK;
13 CORRECT?

14 A. NOT ENFORCING, INVESTIGATING.

15 Q. THANK YOU. YOU WERE CHARGED WITH
16 THE RESPONSIBILITY TO INVESTIGATE AND
17 SUSTAIN -- OR DO YOU CALL IT 'DISMISS'?
18 WHAT DO YOU CALL IT?

19 A. NO, I CALL THEM 'SUBSTANTIATE OR
20 UNSUBSTANTIATE' ALLEGATIONS.

21 Q. THANK YOU.

22 AT THE TIME, IT WAS STILL YOUR
23 PROFESSIONAL RESPONSIBILITY TO
24 INVESTIGATE ALL CLIENT ADA CLAIMS TO
25 SUBSTANTIATE OR UNSUBSTANTIATE THE
26 ALLEGED DISCRIMINATION; CORRECT?

27 A. ONLY THOSE ADA COMPLAINTS AND
28 ALLEGATIONS THAT WERE ASSIGNED TO ME.

1 Q. THE NEXT PARAGRAPH STARTS WITH:
2 'LYNNE, THIS IS THE FIRST TIME YOU
3 MADE ME AWARE THAT ALL SUBSTANTIATED
4 FINDINGS MUST BE REVIEWED BY AND
5 DISCUSSED WITH YOU BEFORE THEY GO OUT.'
6 CORRECT?

7 A. YES.

8 Q. NOW, THE DOCUMENT SPEAKS FOR
9 ITSELF, BUT IT'S YOUR RECOLLECTION THAT
10 PRIOR TO THIS DECEMBER 22, 2010 E-MAIL,
11 YOU HAD NO KNOWLEDGE THAT THERE WAS A
12 POLICY, WHENEVER THERE WAS A
13 SUBSTANTIATED FINDING -- EXCUSE ME --
14 SUSTAINED FINDING IT MUST BE REVIEWED
15 BY LYNNE'S OFFICE BEFORE THEY'RE SENT
16 TO THE STATE; CORRECT?

17 A. CORRECT.

18 Q. AM I TO UNDERSTAND THAT IF YOU
19 WOULD HAVE HAD AN UP-FRONT ASSESSMENT,
20 YOU WOULD HAVE MADE A DIFFERENT
21 CONCLUSION IN JULY 2010?

22 A. YES.

23 Q. AND ISN'T IT TRUE THAT THE E-MAIL
24 YOU SENT TO LYNNE, AT PAGE 1046, WAS
25 TELLING LYNNE THAT IF LYNNE WENT BACK
26 AND CAREFULLY READ THE UP-FRONT
27 ASSESSMENT, IT WOULD SUPPORT YOUR
28 CONCLUSION IN THE JULY 2010 REPORT?

1 A. YES.

2 Q. YOU DISAGREED WITH LYNNE, DIDN'T
3 YOU?

4 A. I DID, YES."

5 MR. PRAGER: THAT IS THE CONCLUSION OF THIS
6 DEPOSITION, YOUR HONOR.

7 THE COURT: ALL RIGHT. THANK YOU.

8 MR. KING: WE DO HAVE ONE MORE READ THAT
9 SHOULD TAKE ABOUT 20 MINUTES.

10 THE COURT: GO AHEAD.

11 MR. KING: I'D VENTURE TO SAY IT IS OUR LAST
12 READ.

13 YOUR HONOR, PLAINTIFFS WILL BE CALLING TO THE
14 STAND MS. BETH MINOR, PERSON MOST KNOWLEDGEABLE.

15 (WHEREUPON A PORTION OF THE DEPOSITION
16 OF BETH MINOR, PERSON MOST
17 KNOWLEDGEABLE, WAS READ INTO THE RECORD
18 AS FOLLOWS:)

19
20 "BY MR. KING:
21 BETH MINOR, HAVING BEEN FIRST DULY
22 SWORN, WAS EXAMINED AND TESTIFIED
23 FURTHER AS FOLLOWS:

24 BY MR. MCMILLAN:

25 Q. OKAY. JUST BY WAY OF REFRESHER AND
26 REVIEW, I'M GOING" --

27 MR. KING: STRIKE THAT, YOUR HONOR.

28 (READING:)

1 "BY MR. MCMILLAN:

2 Q. OKAY. SO YOU ARE THE PERSON
3 DESIGNATED BY THE COUNTY OF LOS ANGELES
4 TO SPEAK TODAY ON BEHALF OF THE COUNTY
5 OF LOS ANGELES WITH RESPECT TO THE
6 DESIGNATED AREAS OF INQUIRY THAT YOU'VE
7 CIRCLED, THAT IS NO. 27 AND 28;
8 CORRECT?

9 A. CORRECT.

10 Q. AND JUST SO THAT THE RECORD'S
11 CLEAR, NO. 27 READS:

12 'ANY AND ALL TRAINING ADMINISTERED
13 BY THE COUNTY OF LOS ANGELES REGARDING
14 ANY OF THE CUSTOMS, PRACTICES,
15 POLICIES, AND/OR PROCEDURES DESCRIBED
16 IN CATEGORIES 1 THROUGH 26 ABOVE.'
17 JUST CONFIRM THAT I GOT THAT RIGHT.

18 A. AS BEST I CAN REMEMBER, IT WAS ALL
19 THE SAME, WORD FOR WORD.

20 Q. WELL, WHY DON'T WE DO THIS:
21 BECAUSE I'M GOING TO DO THE SAME THING
22 WITH NO. 28, CAN YOU JUST READ IT INTO
23 THE RECORD FOR US, NO. 28.

24 A. (READING:)

25 'THE MATERIALS, INCLUDING ANY
26 DOCUMENTS, USED IN TRAINING
27 ADMINISTERED BY THE COUNTY OF
28 LOS ANGELES REGARDING ANY OF THE

1 CUSTOMS, PRACTICES, POLICIES, AND/OR
2 PROCEDURES DESCRIBED IN CATEGORIES 1
3 THROUGH 26 ABOVE.

4 Q. AND YOU ARE, IN FACT, HERE TODAY TO
5 SPEAK AS THE VOICE OF THE COUNTY OF
6 LOS ANGELES WITH REGARD TO THAT AREA OF
7 INQUIRY; CORRECT?

8 A. YES.

9 Q. OKAY. SO AS FAR AS YOU KNOW,
10 SITTING HERE TODAY AS THE PERSON THAT'S
11 MOST KNOWLEDGEABLE FOR THE COUNTY OF
12 LOS ANGELES REGARDING TRAINING,
13 RELATIVE TO THE ISSUES SET OUT IN THAT
14 PERSON MOST KNOWLEDGEABLE DEPOSITION,
15 YOU HAVE, IN FACT, PRODUCED ALL OF THE
16 KNOWN WRITTEN TRAINING MATERIALS AS TO
17 THOSE SUBJECT MATTER; CORRECT?

18 A. TO THE BEST OF MY ABILITY, YES.

19 Q. OKAY. I'M GOING TO START WITH
20 STRUCTURED DECISION-MAKING.

21 FIRST OF ALL, WHAT IS STRUCTURED
22 DECISION-MAKING?

23 A. WOW. IT IS -- GENERALLY SPEAKING,
24 IT HAS SEVERAL DIFFERENT COMPONENTS,
25 BUT IT IS A -- THE BEST I COULD
26 DESCRIBE, A SET OF TOOLS THAT HELP
27 SOCIAL WORKERS IN MAKING DECISIONS,
28 THAT IS BASED ON EVIDENCE-BASED

1 RESEARCH, I GUESS YOU WOULD SAY.

2 Q. WHAT DO YOU MEAN WHEN YOU SAY
3 'EVIDENCE-BASED RESEARCH,' THAT THE
4 STRUCTURED DECISION-MAKING TOOLS ARE
5 BUILT BASED ON EVIDENCE-BASED RESEARCH?

6 A. RIGHT.

7 Q. WHAT DO YOU MEAN BY 'EVIDENCE-BASED
8 RESEARCH'?

9 A. MAYBE I'LL GIVE YOU AN EXAMPLE OF
10 ONE OF THE TRAININGS.

11 Q. SURE.

12 A. HOW ABOUT THAT?

13 Q. THAT WORKS.

14 A. SO THERE'S A -- I DON'T KNOW WHAT
15 TO CALL THEM, A COMPANY, AN ENTITY --
16 HOW ABOUT THAT BECAUSE I DON'T KNOW IF
17 THEY'RE ACTUALLY A COMPANY -- CALLED
18 THE CHILDREN'S RESEARCH CENTER. SO
19 THEY HAVE HELPED -- THEIR ACRONYM IS
20 CRC. THEY'VE HELPED DEVELOP THESE
21 TOOLS.

22 AND SO THEY LOOK, FOR EXAMPLE, AT THE
23 RISK ASSESSMENT AND THE DIFFERENT
24 CATEGORIES THAT ARE WITHIN THAT TOOL.
25 THEY LOOK AT PREDICTIVE FACTORS TO SEE
26 IF CERTAIN FACTORS ARE RATED IN A
27 CERTAIN WAY: IS THERE -- IS IT MORE
28 LIKELY THAT THERE WOULD BE A RISK?

1 SO THAT'S WHAT I MEAN IN TERMS OF THEY
2 HAVE EVIDENCE FROM CASES, SITUATIONS
3 THAT THEY'VE USED TO DETERMINE WHETHER
4 OR NOT THERE WILL BE A -- HIGHER RISK
5 FACTORS.

6 Q. OKAY. LET ME MAKE SURE I
7 UNDERSTAND THIS CORRECTLY, IS THERE'S
8 AN ENTITY -- IT'S NOT PART OF THE
9 COUNTY OF LOS ANGELES; RIGHT?

10 A. RIGHT.

11 Q. THERE'S AN ENTITY CALLED THE
12 CHILDREN'S RESEARCH CENTER, THAT'S CRC?

13 A. RIGHT.

14 Q. AND THEY'RE SEPARATE AND APART FROM
15 THE COUNTY OF LOS ANGELES?

16 A. CORRECT.

17 Q. AND THEY HAVE DONE THEIR OWN
18 RESEARCH AND ANALYSIS TO DETERMINE
19 WHAT? THE RISK FACTORS INVOLVED
20 GENERALLY IN CHILD ABUSE SITUATIONS;
21 RIGHT?

22 AM I GETTING THAT RIGHT?

23 A. I GUESS. I MEAN, THAT'S REALLY
24 GENERAL BECAUSE IF YOU LOOK AT THE
25 TOOL, IT SHOWS THE DIFFERENT
26 CATEGORIES. SO YES, IN A VERY GENERAL
27 SENSE, YES.

28 Q. OKAY. AND THAT RESEARCH THAT'S

1 DONE -- WHERE WE'RE TALKING ABOUT
2 EVIDENCE-BASED RESEARCH, THAT'S
3 RESEARCH DONE BY CHILDREN'S RESEARCH
4 CENTER TO CONSTRUCT THESE STRUCTURED
5 DECISION-MAKING TOOLS; RIGHT?

6 A. AS BEST I UNDERSTAND IT. THEY MAY
7 COLLABORATE WITH OTHER PEOPLE, BUT YES.

8 Q. OKAY. AND THEY HAVE THEIR OWN
9 ANALYSTS THAT LOOK AT THE DATA THAT
10 THEY COLLECT?

11 A. I DON'T KNOW THAT.

12 Q. OKAY. YOU DON'T KNOW HOW THEY RUN
13 THEIR INTERNAL --

14 A. I DON'T KNOW THEIR PROCESS.

15 Q. OKAY. BUT YOU DO KNOW THAT THE
16 COUNTY OF LOS ANGELES DOES NOT PROVIDE
17 TO CHILDREN'S RESEARCH CENTER THIS
18 EVIDENCE-BASED RESEARCH UPON WHICH THE
19 STRUCTURED DECISION-MAKING TOOLS ARE
20 DEVELOPED.

21 AM I RIGHT ON THAT?

22 A. I DON'T REALLY KNOW THE DETAILS OF
23 THEIR RESEARCH. I'VE NEVER GOTTEN INTO
24 THE SPECIFICS ON THAT.

25 Q. OKAY.

26 A. SO I DON'T THINK I CAN GIVE YOU AN
27 ANSWER.

28 Q. BUT WE DO KNOW THAT WHEN THE SOCIAL

1 WORKERS ARE DOING THEIR RISK ASSESSMENT
2 STRUCTURED DECISION-MAKING TOOL,
3 SOMEWHERE IN THAT CWS SYSTEM THERE
4 NEEDS TO BE EVIDENCE TO SUPPORT EACH
5 RESPONSE TO EACH QUESTION IN THE
6 STRUCTURED DECISION-MAKING TOOL;
7 CORRECT?

8 A. RIGHT. I JUST WAS TRYING TO TELL
9 YOU THE RANGE OF POSSIBILITIES OF WHERE
10 IT COULD BE.

11 Q. BUT IT'S IN THERE SOMEWHERE?

12 A. RIGHT.

13 Q. OKAY. IS THE SAME TRUE FOR POLICY
14 OVERRIDES AND DISCRETIONARY OVERRIDES,
15 THAT SOMEWHERE IN THE CWS SYSTEM WE
16 NEED TO HAVE EVIDENCE TO SUPPORT THE
17 USE OF AN OVERRIDE?

18 A. WELL, LET ME SAY IT THIS WAY: THE
19 DECISION TO UTILIZE AN OVERRIDE WOULD
20 BE BASED ON EVIDENCE.

21 Q. SO WE DO NEED TO HAVE EVIDENCE TO
22 SUPPORT THE USE OF AN OVERRIDE, WHETHER
23 IT'S POLICY OR DISCRETIONARY; CORRECT?

24 A. CORRECT, YOU'D NEED A REASON.

25 Q. WELL, YOU'D NEED MORE THAN A
26 REASON. YOU ACTUALLY NEED EVIDENCE,
27 NOT JUST A GUT FEELING, BIAS; RIGHT?

28 A. RIGHT.

1 Q. YOU'D ACTUALLY NEED HARD EVIDENCE.
2 YES?

3 A. YES.

4 Q. OKAY. NOW, WHAT HAPPENS WITHIN THE
5 CONTEXT OF THE STRUCTURED
6 DECISION-MAKING TOOL IF WE EXERCISE A
7 DISCRETIONARY OVERRIDE?

8 A. IT WOULD MAKE THE RATING HIGHER.

9 Q. SO THE SCORED RISK LEVEL -- LET ME
10 FIND THAT SLIDE REAL QUICK.

11 THERE IT IS.

12 THE SCORED RISK LEVEL WOULD INCREASE IF
13 YOU USED A DISCRETIONARY OVERRIDE;
14 CORRECT?

15 A. RIGHT.

16 Q. AND WHEN WE -- I'M SORRY. I'M NOT
17 SURE I HEARD YOUR ANSWER.

18 A. YES, RIGHT.

19 Q. AND IF WE LOOK AT PAGE NO. 1912,
20 THAT'S WHERE IT'S GIVING US THE VARIOUS
21 RISK LEVELS. THERE'S LOW, MODERATE,
22 HIGH, TO VERY HIGH.

23 HOW FAR UP WOULD THE USE OF AN
24 OVERRIDE -- A DISCRETIONARY OVERRIDE
25 MOVE A PARTICULAR RISK LEVEL? IF WE'RE
26 STARTING AT LOW, HOW FAR UP WOULD THE
27 USE OF THAT OVERRIDE INCREASE THE
28 SCORED RISK LEVEL?

1 A. I BELIEVE IT'S JUST ONE LEVEL.

2 Q. OKAY. SO IF WE START AT LOW AND WE
3 USE A DISCRETIONARY OVERRIDE, IT WOULD
4 ELEVATE IT TO MODERATE. IF WE START AT
5 MODERATE, IT WOULD ELEVATE IT TO HIGH.
6 IF WE START AT HIGH, IT WOULD ELEVATE
7 IT TO VERY HIGH.

8 RIGHT?

9 A. RIGHT.

10 Q. AND WHEN YOU USE A DISCRETIONARY
11 OVERRIDE TO MAKE AN ASSESSMENT, DO YOU
12 TELL THE COURT THAT, THAT THE SCORED
13 RISK LEVEL THAT THE STRUCTURED
14 DECISION-MAKING TOOL GAVE YOU WAS
15 SOMETHING OTHER THAN THE ULTIMATE RISK
16 LEVEL THAT YOU ASSIGNED TO THE
17 REFERRAL?

18 A. I DON'T KNOW.

19 Q. AM I CORRECT THAT IN 2007 TO 2011
20 YOU TRAINED YOUR SOCIAL WORKERS, AS
21 DEPICTED ON THIS TRAINING PAGE, THAT
22 THE DETENTION HEARING REPORT IS THE
23 PRIMARY EVIDENTIARY DOCUMENT SUBMITTED
24 IN SUPPORT OF THE PETITION?

25 A. THAT'S WHAT THE PAGE SAYS.

26 Q. AND YOU TRAINED YOUR SOCIAL WORKERS
27 THAT.

28 YES?

1 A. WITH MY CLARIFICATION THAT I ADDED
2 TO YOU.

3 Q. YOU TRAINED YOUR SOCIAL WORKERS ON
4 THIS SLIDE; CORRECT?

5 A. THEY GOT THAT SLIDE, YES.

6 Q. OKAY. AND WHERE YOU SAY 'PRIMARY
7 EVIDENTIARY,' THAT'S IN QUOTES, IT'S
8 BOLD, AND IT'S UNDERLINED; RIGHT?

9 A. YES.

10 Q. WHY?

11 A. I DON'T KNOW.

12 Q. IS IT BECAUSE IT'S IMPORTANT? YOU
13 DID THAT FOR EMPHASIS?

14 A. THAT COULD BE.

15 Q. DO YOU HAVE ANY UNDERSTANDING, AS
16 YOU SIT HERE TODAY AS THE VOICE --
17 SPEAKING AS THE VOICE OF THE COUNTY OF
18 LOS ANGELES, WHY IT IS THAT 'PRIMARY
19 EVIDENTIARY' IS IN BOLD AND UNDERLINED?

20 A. I DON'T -- I DON'T KNOW WHY THAT
21 WAS DECIDED.

22 Q. OKAY. THE NEXT PAGE, COLA3505,
23 THAT'S TITLED DETENTION HEARING REPORT.
24 AND IF YOU'RE TEACHING YOUR SOCIAL
25 WORKERS THAT PRIOR TO TAKING A CHILD
26 INTO TEMPORARY PROTECTIVE CUSTODY, THEY
27 HAVE TO ASK THEMSELVES SOME QUESTIONS;
28 RIGHT?

1 A. RIGHT.

2 Q. THEY HAVE TO ASK THEMSELVES, 'WHO
3 DO I NEED TO INTERVIEW?'
4 YES?

5 A. RIGHT.

6 Q. THEY NEED TO ASK THEMSELVES, 'WHAT
7 EVIDENCE MUST I DOCUMENT TO SUPPORT
8 THIS REMOVAL?'
9 RIGHT?

10 A. RIGHT.

11 Q. AND THEN YOU TELL THEM HOW TO
12 CONDUCT THEIR INTERVIEW, THAT IS, YOU
13 ASK THE WHO, WHAT, WHERE, HOW OFTEN,
14 WHY, WHEN QUESTIONS; RIGHT?

15 A. RIGHT.

16 Q. WHAT I DON'T SEE HERE IS A
17 STATEMENT THAT SAYS, 'PRIOR TO TAKING A
18 CHILD INTO TEMPORARY CUSTODY, IN
19 ADDITION TO THESE QUESTIONS, I HAVE TO
20 ASK MYSELF WHETHER THERE IS TIME TO GET
21 A WARRANT.'

22 I DON'T SEE THAT HERE, DO I?

23 A. IT'S NOT ON THAT PAGE, NO.

24 Q. IS IT IN THIS TRAINING AT ALL, THIS
25 PARTICULAR TRAINING, EXHIBIT 23?

26 A. I HAVEN'T LOOKED THROUGH IT SLIDE
27 BY SLIDE.

28 Q. GO AHEAD. TAKE YOUR TIME.

1 A. I DON'T SEE THAT SPECIFIC
2 REFERENCE.

3 Q. OKAY. I'M GOING TO ASK YOU IF YOU
4 COULD LOOK AT THE BOTTOM OF PAGE 3519
5 OF EXHIBIT 23.

6 DO YOU SEE, IN REALLY SMALL PRINT
7 THERE, THERE IS A DATE, APRIL 5, 2007?

8 A. YES.

9 Q. WHAT IS THE SIGNIFICANCE OF THAT
10 DATE? IS THAT WHEN THE TRAINING WAS
11 ADMINISTERED?

12 A. IT COULD HAVE BEEN. I DON'T KNOW.

13 Q. OKAY. SO THIS WOULD BE TRAINING
14 THAT WOULD ONLY HAVE BEEN ADMINISTERED
15 TO SUPERVISING CHILDREN'S SOCIAL
16 WORKERS; CORRECT?

17 A. THIS PARTICULAR TRAINING, YES.

18 Q. OKAY. AND THE DOCUMENT THAT WE'RE
19 LOOKING AT NOW, THE TITLE IV-E
20 FUNDINGS, LEGAL CITATIONS, THAT
21 DOCUMENT IS PART OF THE TRAINING
22 PROVIDED TO THE SUPERVISING CHILDREN'S
23 SOCIAL WORKERS; CORRECT?

24 A. CORRECT.

25 Q. THE FIRST ITEM THERE ON EXHIBIT 24,
26 THAT'S THE DOCUMENT ENTITLED
27 "TITLE IV-E FINDINGS, LEGAL CITATIONS."
28 THE FIRST ITEM THERE IS

1 DETENTION/REMOVAL HEARINGS. AND A
2 SAYS:

3 'COURT MUST MAKE FINDING THAT
4 CONTINUANCE IN THE HOME OF THE PARENT
5 OR LEGAL GUARDIAN WOULD BE CONTRARY TO
6 THE CHILD'S WELFARE.'

7 FIRST, I READ THAT CORRECTLY, DIDN'T I?

8 A. YES.

9 Q. OKAY. THEN, OVER IN THE FAR
10 RIGHT-HAND COLUMN, THAT COLUMN'S TITLED
11 RESULT IF NO FINDING.

12 DO YOU SEE THAT?

13 A. YES.

14 Q. WHAT DO YOU TEACH YOUR SUPERVISORS
15 THAT THAT MEANS?

16 A. AT THE DETENTION HEARING, IF THE
17 COURT DOES NOT MAKE THAT FINDING, THAT
18 THE CASE WILL NOT BE ELIGIBLE FOR IV-E
19 FUNDING.

20 Q. IT WILL NEVER BE ELIGIBLE FOR IV-E
21 FUNDING; CORRECT?

22 A. RIGHT.

23 Q. SO IT'S IMPORTANT THAT THE COURT
24 ACTUALLY MAKE THE FINDING THAT
25 CONTINUANCE IN THE HOME OF THE PARENT
26 OR LEGAL GUARDIAN WOULD BE CONTRARY TO
27 THE CHILD'S WELFARE -- THAT'S IMPORTANT
28 IN ORDER TO RECEIVE TITLE IV-E FUNDING;

1 CORRECT?

2 A. THAT'S THE REQUIREMENT THAT IS
3 STATED ON HERE.

4 Q. OKAY. AND YOU TEACH YOUR
5 SUPERVISING CHILDREN'S SOCIAL WORKERS
6 THAT?

7 A. THIS IS PART OF THE TRAINING THAT
8 THEY GET, YES.

9 Q. OKAY. AND YOU ALSO TEACH THEM THAT
10 THIS FUNDING MUST BE MADE -- I'M SORRY.
11 STRIKE THAT.

12 AND YOU ALSO TEACH THEM THAT THIS
13 FINDING MUST BE MADE AT THE TIME OF THE
14 FIRST COURT RULING AUTHORIZING REMOVAL
15 OF THE CHILD FROM THE HOME; CORRECT?

16 A. THAT IS INDICATED ON THIS PAGE.

17 Q. AND THIS IS TRAINING YOU ADMINISTER
18 TO YOUR SOCIAL WORKERS.
19 YES?

20 A. YES.

21 Q. THEN UNDER B IT SAYS:

22 'COURT MUST ORDER THAT PLACEMENT
23 AND CARE ARE THE RESPONSIBILITY OF THE
24 STATE AGENCY OR ANY PUBLIC AGENCY WITH
25 WHOM THE RESPONSIBLE STATE AGENCY HAS
26 AN AGREEMENT.'

27 DID I READ THAT RIGHT?

28 A. YES.

1 Q. AND AM I CORRECT YOU TEACH YOUR
2 SOCIAL WORKERS THAT UNTIL THAT
3 PARTICULAR FINDING IS MADE, NO FUNDING
4 IS AVAILABLE?

5 IT'S OVER IN THE RIGHT-HAND COLUMN.

6 A. YEAH, I SEE WHERE YOU'RE TALKING
7 ABOUT; I'M JUST READING IT AGAIN.
8 I THINK IT'S TEACHING THEM THAT THAT
9 FUNDING -- THAT FEDERAL FUNDING IS NOT
10 AVAILABLE.

11 Q. WELL, LET ME ASK YOU THIS --
12 BECAUSE WE SEE FEDERAL AND WE SEE
13 CALIFORNIA, AND I RECOGNIZE THAT THEY
14 HAVE DIFFERENT LANGUAGE THAT NEEDS TO
15 BE IN THE FINDING; RIGHT?

16 A. RIGHT.

17 Q. BUT THE RESULT, IF THERE IS NO
18 FINDING, IS IDENTICAL; RIGHT? IT SAYS
19 NO FUNDING UNTIL FINDINGS ARE MADE;
20 YES?

21 A. THAT'S WHAT IT SAYS, YES.

22 Q. OKAY. AND THAT'S WHAT YOU TEACH
23 YOUR SOCIAL WORKERS? THAT IS THE
24 TRAINING MATERIAL THAT YOU PRESENTED
25 YOUR SOCIAL WORKERS, YOUR SUPERVISING
26 SOCIAL WORKERS; YES?

27 A. I CAN'T ARGUE WITH YOU ABOUT WHAT
28 THE DOCUMENT SAYS, SIR.

1 Q. SO IT IS SOMETHING YOU PRESENTED TO
2 YOUR SUPERVISING SOCIAL WORKERS; YES?

3 A. IT WAS GIVEN TO THE SUPERVISORS,
4 YES.

5 Q. THE NEXT ONE, C, SAYS:

6 'COURT MUST MAKE FINDING THAT
7 REASONABLE -- THIS IS IN QUOTES --
8 REASONABLE EFFORTS HAVE BEEN MADE TO
9 PREVENT OR ELIMINATE NEED FOR REMOVAL.'
10 THAT'S UNDER FEDERAL STATUTE, CORRECT,
11 TITLE IV-E?

12 A. OKAY.

13 Q. THEN, UNDER THE STATE DEPENDENCY
14 STATUTE, IT SAYS:

15 'REASONABLE EFFORTS HAVE BEEN MADE
16 TO PREVENT OR ELIMINATE THE NEED FOR
17 REMOVAL.'

18 RIGHT? THOSE ARE THE FINDINGS THE
19 COURT NEEDS TO MAKE?

20 A. RIGHT.

21 Q. YES. AND IF THE COURT DOES NOT
22 MAKE THOSE FINDINGS, THEN THE CASE WILL
23 NEVER BE ELIGIBLE FOR TITLE IV-E
24 FUNDING; CORRECT?

25 A. RIGHT.

26 Q. AND THAT'S WHAT YOU TEACH YOUR
27 SOCIAL WORKERS?

28 A. THE SUPERVISORS.

1 Q. YES. THAT'S WHAT YOU TEACH THE
2 SUPERVISORS?

3 A. YES.

4 Q. AND WHERE IT IS REFERENCING SIDE 2,
5 IF YOU CAN TURN THE PAGE TO THE NEXT
6 PAGE THAT'S TITLED RECOMMENDED TITLE
7 IV-E FINDINGS TO ENSURE FEDERAL FOSTER
8 CARE REIMBURSEMENT, IS THAT THE
9 DOCUMENT IT'S REFERENCING UNDER CASE
10 REVIEW/STATUS REVIEW HEARINGS?

11 A. IS THIS SIDE 2?

12 Q. YEAH.

13 A. OKAY.

14 Q. IS THAT SIDE 2?

15 A. THAT'S WHAT I'M ASKING YOU
16 BECAUSE --

17 Q. OH. I'M NOT THE PERSON MOST
18 KNOWLEDGEABLE, YOU ARE.
19 SO IS THAT SIDE 2?

20 A. HOLD ON.

21 Q. SURE.

22 A. LET ME READ THIS FOR A SECOND.
23 OKAY. IT APPEARS THAT IT'S COPIED ON
24 TWO PAGES, BUT IT WAS THE SECOND SIDE
25 OF THIS PAGE, PROBABLY, ORIGINALLY.

26 Q. WHEN WE'RE TALKING ABOUT A
27 PERMANENT PLAN FOR THE CHILD, WE'RE
28 TALKING ABOUT PLACEMENT.

1 AND THAT COULD BE PLACEMENT BACK IN THE
2 HOME WITH THE PARENT, PLACEMENT WITH A
3 DIFFERENT PARENT OUTSIDE THE HOME,
4 PLACEMENT FOR ADOPTION, OR PLACEMENT IN
5 SOME GUARDIANSHIP OR SOME OTHER
6 LONGER-TERM PLACEMENT; CORRECT?

7 A. RIGHT.

8 Q. OKAY. AND OVER IN THE FAR
9 RIGHT-HAND COLUMN, IT SAYS:

10 'FUNDING STOPS UNLESS FINDINGS ARE
11 MADE.'

12 WHAT FINDINGS NEED TO BE MADE BEFORE
13 FUNDING STOPS, OR RATHER TO KEEP
14 FUNDING FROM STOPPING?

15 A. FINDINGS ABOUT THE PERMANENCY --
16 ABOUT THE PLACEMENT.

17 Q. THAT THE PLACEMENT -- THAT THE
18 PROPOSED PLACEMENT IS IN THE BEST
19 INTEREST OF THE CHILD?

20 A. I DON'T SEE THOSE EXACT WORDS ON
21 HERE, BUT I'M -- THAT WOULD BE A
22 FINDING THAT THEY WOULD BE MAKING.

23 Q. OKAY. AMONG OTHER FINDINGS, THEY
24 WOULD ALSO BE MAKING THAT, THE FINDING
25 THAT THE PLACEMENT -- THE PROPOSED
26 PERMANENT PLACEMENT IS IN THE BEST
27 INTEREST OF THE CHILD; RIGHT? THAT'S
28 ONE OF THE REQUIRED FINDINGS?

1 A. THAT WOULD BE A FINDING THAT THEY
2 WOULD MAKE, SURE.

3 Q. OKAY.

4 THE COURT: MR. KING, HOW MUCH MORE OF THIS DO
5 YOU HAVE?

6 MR. KING: ONE PAGE. ACTUALLY, HALF A PAGE.

7 THE COURT: OKAY. GO AHEAD.

8 (READING:)

9 BY MR. KING:

10 Q. OKAY. AND THIS IS TRAINING THAT
11 YOU GIVE TO YOUR SUPERVISING SOCIAL
12 WORKERS; YES?

13 A. IT'S A PART OF THE TRAINING, YES.

14 Q. OKAY. YOU WANT TO MAKE SURE THAT
15 THEY UNDERSTAND THE FUNDING
16 IMPLICATIONS OF EACH FINDING AT EACH
17 STAGE IN THE PROCEEDINGS; CORRECT?

18 A. THAT'S WHAT THIS IS LAYING OUT.

19 Q. OKAY. AND THE REASON THAT YOU
20 ADMINISTER THIS TRAINING TO YOUR
21 SUPERVISING SOCIAL WORKERS IS BECAUSE
22 YOU WANT TO MAKE SURE THAT THEY
23 UNDERSTAND THE FUNDING IMPLICATIONS
24 ASSOCIATED WITH EACH STAGE OF EACH
25 DEPENDENCY PROCEEDING; CORRECT?

26 A. SO THAT THEY HAVE AN UNDERSTANDING
27 OF THE FUNDING, YES."

28 MR. KING: THANK YOU, YOUR HONOR. THAT WOULD

1 CONCLUDE THE READ OF PERSON MOST KNOWLEDGEABLE BETH
2 MINOR.

3 THE COURT: THANK YOU. WE'RE GOING TO TAKE
4 THE AFTERNOON RECESS. WE'RE GOING TO RESUME AT
5 9:00 A.M. TOMORROW MORNING.

6 ALL JURORS, PLEASE REMEMBER THE ADMONITION TO
7 HAVE NO COMMUNICATION WITH ANYBODY ON ANY SUBJECT OR
8 ISSUE OR PERSON INVOLVED IN THE CASE. DO NOT FORM ANY
9 OPINIONS NOR EXPRESS ANY OPINIONS ABOUT ANY SUBJECT OR
10 ISSUE.

11 WE ARE NOW IN RECESS.

12 (JURY EXCUSED)

13 THE COURT: ALL RIGHT. COUNSEL ARE PRESENT.
14 JURORS HAVE LEFT THE COURTROOM.

15 AND BEFORE WE RECESS FOR COUNSEL, WHAT DO YOU
16 HAVE FOR TOMORROW?

17 MR. PRAGER: WE EXPECT TO HAVE MS. DUVAL IN
18 THE AFTERNOON.

19 WE EXPECT MR. URQUIZO TO BE HERE AT 1:30.
20 WE'RE WAITING FOR CONFIRMATION OF THAT. IT COULD BE
21 2:00.

22 AND THEN MR. POWELL -- EXCUSE ME -- MR. COX.
23 AND THE ISSUE FOR HIM IS THEY'RE STILL TRYING TO GET
24 CONFIRMATION IF HE CAN BE HERE THURSDAY A.M. OR
25 WEDNESDAY.

26 SO MS. DUVAL WILL START. WE EXPECT
27 MR. URQUIZO WILL BE IN THE AFTERNOON. HE'S FROM
28 SACRAMENTO. SO IF SHE'S STILL GOING, WE'LL HAVE TO

1 INTERRUPT HER TESTIMONY TO OFFER MR. URQUIZO SO HE CAN
2 GET IN AND GET OUT. AND THEN WE HAVE TO SET
3 MR. POWELL, THAT'S THE LAST AREA.

4 THE COURT: MR. COX?

5 MR. PRAGER: MR. COX. SORRY, I KEEP DOING
6 THAT.

7 THE COURT: YEAH, I UNDERSTAND.

8 ALL RIGHT. I'LL SEE COUNSEL AT 8:30.

9 MR. PRAGER: VERY GOOD, YOUR HONOR.

10 THE COURT: I DO NEED TO HAVE -- WE HAVE
11 SEVERAL THINGS WE NEED TO MAKE MORE PROGRESS ON. ONE
12 IS THE RESOLUTION OF THE ISSUE INVOLVING REQUEST FOR
13 ADMISSIONS PERTAINING TO DR. EGGE. WE ALSO NEED TO
14 ADDRESS THE -- NOW WE HAVE TWO REQUESTS OF EXHIBITS TO
15 BE ADMITTED, AND ALSO THE VERDICT FORMS.

16 WE WON'T HAVE A LOT OF TIME FOR ALL OF THAT IN
17 THE MORNING, BUT WE'LL GET STARTED ON IT AND AT LEAST
18 SEE WHERE WE ARE. AND ALSO WE'LL PROBABLY SET A
19 SCHEDULE THEN FOR MAKING WHATEVER RULINGS ARE NECESSARY
20 ON EACH OF THOSE MATTERS. SO WE'LL SEE YOU AT 8:30.

21 MR. PRAGER: VERY GOOD, YOUR HONOR.

22 MR. GUTERRES: THANK YOU, YOUR HONOR.

23 THE COURT: MR. KING?

24 MR. KING: YOUR HONOR, I GUESS IT IS POSSIBLE
25 THAT THE PLAINTIFFS MAY BE DONE WITH THEIR CASE MAYBE
26 HALFWAY THURSDAY. SO IF THAT HAPPENS, I'M NOT SURE IF
27 THE COURT WOULD ASK THE DEFENDANTS TO HAVE WITNESSES
28 READY TO GO. I KNOW FRIDAY IS DARK, BUT IT IS POSSIBLE

1 WE COULD BE DONE WITH OUR CASE HALF-DAY ON THURSDAY.

2 THE COURT: YES, I UNDERSTAND.

3 MR. KING: I JUST WANT TO MAKE THE COURT AND
4 EVERYONE AWARE OF THAT.

5 THE COURT: YEAH.

6 SO I THINK AT LEAST WE'RE PLANNING FOR NOW,
7 MR. GUTERRES AND MS. SWISS, PROBABLY BETTER BE PREPARED
8 TO HEAR SOME EVIDENCE ON YOUR CASE THURSDAY AFTERNOON.

9 MS. SWISS: UNDERSTOOD, YOUR HONOR.

10 THE COURT: ALL RIGHT. WE'LL SEE HOW WE
11 PROGRESS. I KNOW IT'S STILL A LITTLE IFFY, BUT YOU TWO
12 WILL BE ABLE TO FIGURE OUT WHAT COULD BE DONE.

13 MS. SWISS: CAN WE ASK HOW LONG THE PLAINTIFF
14 PLANS ON TESTIFYING FOR IF SHE'S STARTING TOMORROW? I
15 MEAN...

16 MR. PRAGER: IT'S A FAIR QUESTION. I THINK
17 MR. MCMILLAN WANTS TO TRY AND GET HER DONE WITHIN --
18 WE'RE LOSING PERHAPS A FAIR AMOUNT OF THE AFTERNOON
19 WITH MR. URQUIZO, SO I WOULD SAY THE MORNING, A.M., AND
20 THEN PERHAPS A FULL DAY, DEPENDING HOW IT GOES, FOR
21 MS. DUVAL. SO IT WOULD BE UNTIL, I EXPECT, THURSDAY
22 MORNING FOR HER IF MR. URQUIZO TAKES THE WHOLE
23 AFTERNOON.

24 THE COURT: ALL RIGHT.

25 MR. GUTERRES: YOUR HONOR, WITH REGARD TO
26 MR. COX, I THINK THE COURT HAS ALREADY INDICATED THAT
27 PLAINTIFF'S COUNSEL SHOULD BE GIVING US SOME KIND OF
28 DIRECTION ON WHAT MR. COX IS GOING TO TESTIFY.

1 OTHERWISE OUR POSITION WOULD BE THEN THAT IT WOULD BE
2 CUMULATIVE TO THE ATTORNEYS.

3 THE COURT: YES, LET'S HAVE THAT READY IN THE
4 MORNING. TELL US WHAT IT IS YOU'RE EXPECTING TO ELICIT
5 FROM MR. COX SO WE CAN DETERMINE WHETHER WE'LL BE
6 HEARING THAT TESTIMONY.

7 MR. PRAGER: VERY GOOD. THANK YOU, YOUR
8 HONOR.

9 MR. GUTERRES: THANK YOU, YOUR HONOR.

10 THE COURT: THANKS VERY MUCH.

11 (RECESS)

12

13 (WHEREUPON, AT THE HOUR OF 4:38 P.M.,
14 THE PROCEEDING ADJOURNED.)

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(NEXT PAGE IS 5401.)