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REPORTER'S RECORD  
VOLUME 1 OF 1 VOLUME  
TRIAL COURT CAUSE NO. D-1-FM-10-003133

IN THE MATTER OF ) IN THE DISTRICT COURT  
THE MARRIAGE OF )  
)  
KRISTIN NICOLE MORGAN )  
AND ) TRAVIS COUNTY, TEXAS  
JOSHUA JAMES MORGAN )  
)  
AND IN THE INTEREST OF )  
HANNAH ELIZABETH MORGAN, )  
A MINOR CHILD ) 345TH JUDICIAL DISTRICT

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TRIAL ON THE MERITS

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On the 31st day of January, 2011, the following  
proceedings came on to be heard in the above-entitled  
and numbered cause before the Honorable Scott H.  
Jenkins, Judge presiding, held in Austin, Travis County,  
Texas;

Proceedings reported by machine shorthand.

**A P P E A R A N C E S**

1  
2 FOR THE PETITIONER, KRISTIN NICOLE MORGAN:

3 **WILLIAM H. ALBERTS**

4 SBOT NO. 00971500  
5 McELROY, ALBERTS & BENJAMIN, P.C.  
6 608 West 12th Street  
Austin, Texas 78701  
(512) 472-7893

7  
8 PRO SE RESPONDENT:

9 **JOSHUA MORGAN**

10 1800 Bowerton Drive  
Austin, Texas 78754  
11 (512) 809-8068

12 ALSO PRESENT:

13 Leslie Massad, Guardian Ad Litem  
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**PROCEEDINGS**

1  
2 THE COURT: All right. We're on the  
3 record in Cause No. FM-10-3133, In the Matter of the  
4 Marriage of Kristin Nicole Morgan and Joshua James  
5 Morgan and, more importantly, in the interest of their  
6 child, Hannah. Would you announce your presence for the  
7 record, please.

8 MR. ALBERTS: William Alberts representing  
9 Kristin Morgan.

10 MR. MORGAN: Josh Morgan, pro se.

11 THE COURT: Mr. Morgan, you are not a  
12 lawyer; is that right?

13 MR. MORGAN: Yes, sir.

14 THE COURT: It's correct that you're not a  
15 lawyer?

16 MR. MORGAN: I'm not a lawyer.

17 THE COURT: All right. And you're  
18 representing yourself.

19 MR. MORGAN: Yes, sir.

20 THE COURT: Okay. Also here is the  
21 ad litem.

22 MS. MASSAD: Leslie Massad here for Hannah  
23 Morgan.

24 THE COURT: All right. Thank you all for  
25 being here. We just had a brief discussion off the

1 record. I have looked through the file, looked at the  
2 temporary orders, looked at the pleadings, looked at  
3 proposed disposition of issues, looked at the guardian  
4 ad litem report, and read the docket entries of the  
5 judges who have touched this case so that I could be  
6 ready for you and hopefully save you some time.

7           You have announced that you will complete  
8 your evidence in this case, that is to say, you will  
9 announce I close or I will announce it for you at two  
10 and one-half hours. It's two and one-half hours  
11 per side to close. If you run out of time, you will not  
12 have any other minutes to ask a question of whoever is  
13 still going to testify after that point. That will  
14 reserve a little bit of time for final argument or, more  
15 likely, questions being asked of the Court that you  
16 might need to answer.

17           Any questions about the time schedule?

18           MR. ALBERTS: One. May we ask  
19 occasionally for an update?

20           THE COURT: Absolutely. I keep that on my  
21 accurate watch here and I'll let you know.

22           MR. ALBERTS: And second, Ms. Massad is  
23 going to want some time typically at the end of this.

24           THE COURT: I'm assuming that you will be  
25 calling her as a witness. In every case I have, someone

1 wants to call her because usually one side or the other  
2 likes at least part of what she has to say and you will  
3 be calling her as a witness. If you don't, I may call  
4 her, but --

5 MR. ALBERTS: I --

6 THE COURT: -- I would -- I would assume  
7 the parties would do some of that.

8 MR. ALBERTS: Normally I would do that as  
9 the petitioner. As many ad litem do, they generally  
10 want to sit all the way through the hearing before  
11 testifying, and thus I would have to call her before  
12 that.

13 THE COURT: You can rest subject to  
14 calling her --

15 MR. ALBERTS: Excellent.

16 THE COURT: -- and reserve some time.  
17 That's what I would suggest because I would prefer that  
18 you ask whatever questions you have. I've read her  
19 report.

20 MR. ALBERTS: Great.

21 THE COURT: I would like for you to take  
22 your shot -- sorry -- at whatever you want to ask of the  
23 ad litem. And then to the extent I don't feel that you  
24 have exhausted issues of concern for me, I will ask  
25 questions of her or give her an open-ended opportunity

1 to discuss things maybe no one has thought of. Does  
2 that make sense?

3 MR. ALBERTS: Yes.

4 THE COURT: Great.

5 MR. MORGAN: Your Honor, I have a  
6 question. There seems to be confusion --

7 THE COURT: And you have to stand to  
8 address the Court. That's in the local rules that have  
9 been around here --

10 MR. MORGAN: My apologies.

11 THE COURT: -- since before I became a  
12 lawyer in '78.

13 MR. MORGAN: There seems to be some  
14 confusion about who the petitioner is. I was told by  
15 four different attorneys that I was the petitioner.

16 THE COURT: You are not the petitioner. I  
17 see it here in the pleadings you are not the petitioner.  
18 She filed the first petition and she's listed first in  
19 the case.

20 MR. MORGAN: I filed the first SAPCR  
21 petition. I also filed a counterpetition.

22 THE COURT: Okay. Well, we're here in the  
23 divorce action, and in the divorce she's the petitioner  
24 in the divorce. And you're not divorced yet, are you?

25 MR. MORGAN: No, sir.

1 THE COURT: Okay. Then that -- then  
2 she'll be the petitioner. All right. You understand  
3 and agree to the time schedule, two and a half hours  
4 per side?

5 MR. ALBERTS: Yes, Your Honor.

6 MR. MORGAN: Yes, sir.

7 THE COURT: All right. With that, you may  
8 go.

9 MR. ALBERTS: Just a very, very brief  
10 opening. I know you've read everything and I don't want  
11 to beat on it. This case began back in the summer of  
12 2010. This unfortunate marriage was reaching a crisis  
13 at that point. Ms. Morgan had gone to Houston for a  
14 weekend after a particularly bad fight with Mr. Morgan  
15 whereupon she received a text message from him, and I  
16 will apologize to the Court because some of this will be  
17 repeated, which is basically don't ever come back here,  
18 rot in hell, you stupid fucking cunt. Accordingly, she  
19 moved to Tennessee with her daughter and did not come  
20 back here. We came back in August for a temporary  
21 orders hearing, and temporary orders were rendered on  
22 August 6th.

23 This is a very peculiar case in that  
24 Mr. Morgan is in here asking for sole managing  
25 conservatorship despite his complete disregard for the

1 Court's prior orders about child support. The evidence  
2 will show that Mr. Morgan has intentionally failed to  
3 pay any but his first child support payment. I have no  
4 understanding. He was allowed visitation every other --  
5 a minimum of every other month with Ms. Morgan bringing  
6 the child here in even-numbered months and him having  
7 the right to travel to Tennessee or pay for --

8 THE COURT: Every other month?

9 MR. ALBERTS: Every month -- he would  
10 travel every other month; she would travel every other  
11 month. So each month there would be a weekend.  
12 Unfortunately, Mr. Morgan exercised none of that.  
13 Ms. Morgan did bring the child back for visitation in  
14 October. In December we could not get any agreement  
15 from Mr. Morgan about that, as the evidence will show.  
16 So the only time Mr. Morgan has visited this child since  
17 the hearing in August is one weekend in October. I have  
18 no understanding of this. I'm concerned about it. We  
19 do want him involved, very much so. I don't know what  
20 we can do about it.

21 I'm a little concerned that he's pro se,  
22 and I have a contempt action as part of this motion  
23 before the Court as part of this hearing. If the  
24 Court's concerned about that, we're willing to waive  
25 jail as a possibility as far as our request, because I

1 do want to proceed on that and we need that done.

2 THE COURT: Well, then we'll have to spend  
3 some of everyone's time going through the process of  
4 determining why he's not represented. So are you  
5 announcing that you are waiving jail time?

6 MR. ALBERTS: Yes. I meant to say that.

7 THE COURT: Well, you said if the Court is  
8 concerned. Yes, I'm concerned about whether he has  
9 representation, so yes.

10 MR. ALBERTS: I apologize that I phrased  
11 that poorly. What I'm saying is, yes, we will waive any  
12 request for jail time.

13 THE COURT: Done. Great.

14 MR. ALBERTS: That's all, Your Honor.

15 THE COURT: Do you wish to make an opening  
16 statement?

17 MR. MORGAN: Yes, sir. First of all, I'd  
18 like to thank the Court for your time. I would like to  
19 apologize for the delayed child support. I have all of  
20 my back child support I brought today in cash. My main  
21 goal here today is to make sure that we divorce as man  
22 and wife but not as mother and father.

23 Over -- over our entire marriage I was the  
24 victim of clear -- of a very clear pattern of physical  
25 and emotional abuse. This was not one isolated

1 incident. I know that I used abusive language with her  
2 at that last fight. That was one isolated incident that  
3 I apologize for. I was in a very clear pattern of abuse  
4 that I will show today.

5           This past year has been extremely tragic  
6 for me. When Kristin left with my daughter, fully  
7 intending to leave the state and go to Tennessee -- it  
8 wasn't just to Houston. She took a lot of things that  
9 she never left the house before, and she left on the  
10 same weekend that her cousin was moving to Tennessee.  
11 This was just a few weeks after my father died  
12 unexpectedly of a mysterious infection.

13           So I filed the SAPCR just trying to get my  
14 daughter back here. Her response to that was all of a  
15 sudden these crazy allegations of abuse and alcoholism  
16 that had never shown up before. And these types of  
17 false allegations should not be taken lightly because it  
18 undermines actual cases of abuse whenever those types of  
19 things happen.

20           That case that -- I had to represent  
21 myself in Tennessee. I did hire some attorneys at that  
22 point. I mean, I'm sitting here today \$20,000 in debt.  
23 I've only seen my daughter 48 hours since then.  
24 You know, we had psychological evaluations, and Kristin  
25 has borderline personality features. And I believe that



1 she would be full borderline if she hadn't been so  
2 dishonest on her psychological test that it invalidated  
3 the results.

4 She refused anything to bring Hannah down  
5 for Christmas. I tried everything I could. I've been  
6 extremely financially strapped. My entire family has.  
7 My father died in debt. And they were expecting against  
8 the court orders for me to pay to travel. Even so, I  
9 got a coworker to get some frequent flyer miles, got her  
10 a plane ticket. She never got on the plane to come  
11 bring Hannah down here for me to see her on Christmas.

12 When she left she cut off the phone  
13 service. She cut off the electricity. And basically  
14 this is not somebody who left out of fear. They left  
15 out of anger. And today she's trying to take my child  
16 away. And, quite frankly, I'm afraid that I will never  
17 see my daughter again. I somewhat expect some more  
18 false allegations on me today because she has a pattern  
19 of lying in court, which I will prove today.

20 And the bottom line is my daughter needs a  
21 father. I need to be there. I need to be there as a  
22 good role model. And Kristin has said that she wants  
23 her daughter to have contact with her father. I don't  
24 want contact with my daughter; I want a relationship  
25 with my daughter. And that's why I'm here today. Thank

1 you, Your Honor.

2 THE COURT: Okay. No one has invoked the  
3 rule.

4 MR. ALBERTS: I was about to. May I  
5 invoke the rule?

6 THE COURT: Yes. Well, of course. The  
7 rule has been invoked. It is so ancient we simply call  
8 it the rule, though it has a number in the rules of  
9 procedure and the rules of evidence. I don't know who  
10 your witnesses are. I trust you know who your witnesses  
11 are.

12 Counsel, do you have any witnesses in the  
13 courtroom?

14 MR. ALBERTS: The only witness in the  
15 courtroom would be Kristin --

16 THE COURT: Okay.

17 MR. ALBERTS: -- and myself on attorneys'  
18 fees.

19 THE COURT: Will you have some witnesses  
20 today?

21 MR. ALBERTS: It's possible I will have a  
22 rebuttal witness but probably not.

23 THE COURT: All right. Do you have any  
24 witnesses in the courtroom?

25 MR. MORGAN: Yes, Your Honor. I have four

1 here and --

2 THE COURT: Then you'll have to identify  
3 them by name. As you call out their name, I would ask  
4 for each of them to stand.

5 MR. MORGAN: All right.

6 THE COURT: And you'll need to make sure  
7 the court reporter can hear you at the same time.

8 MR. MORGAN: Jason Sauvain.

9 THE COURT: I'm sorry. Would you give the  
10 name again?

11 MR. MORGAN: Jason Sauvain.

12 THE COURT: Jason Sauvain. Would you  
13 announce -- would you spell his name for the court  
14 reporter?

15 MR. MORGAN: Yes. J-a-s-o-n  
16 S-a-u-v-a-i-n.

17 THE COURT: Next?

18 MR. MORGAN: Zach Morgan.

19 THE COURT: Next?

20 MR. MORGAN: Leanne Wiles.

21 THE COURT: Would you give the spelling?  
22 Leann, L-e-a-n-n?

23 MS. WILES: With an E at the end.

24 THE COURT: And what is the last name? I  
25 couldn't hear.

1 MR. MORGAN: Wiles, W-i-l-e-s. And  
2 Christine Morgan. And also, Your Honor, I may be  
3 bringing up other witnesses who are not in the  
4 courtroom.

5 THE COURT: Okay. Well, you'll have to  
6 make sure they don't come in the courtroom. They cannot  
7 be in the courtroom and hear the testimony of any other  
8 witness --

9 MR. MORGAN: Yes, sir.

10 THE COURT: -- or read or hear a report of  
11 the testimony of any other witness. So Mr. Jason  
12 Sauvain -- will all four of these people testify, or do  
13 you know for sure?

14 MR. MORGAN: Yes, sir.

15 THE COURT: Then I'll have you all please  
16 stand right in front of me and raise your right hand.  
17 Make room for everyone else. All four please raise your  
18 right hands.

19 *(The witnesses were sworn)*

20 THE COURT: All right. You may relax your  
21 hands now. You are Jason Sauvain?

22 MR. SAUVAIN: Yes, Your Honor.

23 THE COURT: Was your name spelled  
24 correctly?

25 MR. SAUVAIN: Yes, it was.

1 THE COURT: Are you Zach Morgan?

2 MR. ZACH MORGAN: Yes, sir.

3 THE COURT: Are you Leanne Wiles?

4 MS. WILES: Yes, sir.

5 THE COURT: And are you Christine Morgan?

6 MS. CHRISTINE MORGAN: Yes, sir.

7 THE COURT: All right. You are now under  
8 the rule, and I instruct you that you may not hear the  
9 testimony of any other witness in this case, nor may you  
10 be told what the testimony is of any other witness in  
11 this case, nor may you read a report of the testimony of  
12 any other witness in this case. And if you do that, you  
13 will be violating the order I just gave you and that  
14 could lead to contempt of court. I've never in my 11  
15 years had to do that, but, of course, I would do that  
16 because it's imperative that you follow court orders and  
17 make sure that's not violated. More importantly perhaps  
18 to the party who wishes to call you as a witness, you  
19 will not be allowed to testify if you violate that rule,  
20 so please be careful that you don't violate that rule.  
21 You'll have to remain in the hallway, and the bailiff  
22 will come and announce your name when it's your turn to  
23 testify. And with that, I'll let you leave the  
24 courtroom. Thank you.

25 MR. MORGAN: Your Honor, I may have also

1 forgotten to mention that I will be calling myself as a  
2 witness if you'd like to swear me in.

3 THE COURT: Well, I'll swear you in at the  
4 time.

5 MR. MORGAN: Okay. Thank you.

6 THE COURT: All right. With that, you may  
7 call your first witness, Counsel.

8 MR. ALBERTS: It is time to swear him in.  
9 Jason -- I'm sorry. Josh Morgan.

10 THE COURT: Please step forward in front  
11 of me and raise your right hand.

12 *(The witness was sworn)*

13 **JOSHUA MORGAN,**

14 having been first duly sworn, testified as follows:

15 **DIRECT EXAMINATION**

16 BY MR. ALBERTS:

17 Q. Please state your name for the record.

18 A. Josh Morgan.

19 Q. How old are you, Mr. Morgan?

20 A. I am 31 years old.

21 Q. Prior to -- I'm sorry. What date were you and  
22 Kristin Morgan married?

23 A. That would be June 28th, 2008.

24 Q. Will you agree that this marriage has broken  
25 down and there's no hope of reconciliation?

1           A.     I believe so.

2           Q.     You were previously represented by counsel in  
3 this case; correct?

4           A.     That is correct.

5           Q.     And on August 6th we had a temporary orders  
6 hearing in which Ms. Morgan came down from Tennessee as  
7 court ordered, and we had a full-day hearing in front of  
8 Judge Hathcock. Do you recall that?

9           A.     I believe it was a four-hour hearing.

10          Q.     You recall that, yes?

11          A.     Yes.

12          Q.     Okay. And your lawyer drafted the temporary  
13 orders, but you had discharged her prior to a hearing on  
14 entry; is that correct?

15          A.     That is correct.

16          Q.     And with minor interlineations, those temporary  
17 orders were entered as your lawyer had drafted; correct?

18          A.     That is not correct. You actually modified one  
19 line of the orders before they were filed. We agreed --  
20 we agreed on that change and signed off on it before  
21 they were filed.

22          Q.     Right, the interlineations. Okay. So except  
23 for that interlineation I made, they're just as your  
24 lawyer drafted?

25          A.     Yes.

1 Q. Did you understand them?

2 A. I would like to think so.

3 Q. You understood them well enough in October to  
4 bring your own contempt action trying to enforce those  
5 orders; is that correct?

6 A. That is correct.

7 Q. And you were denied any relief on that; is that  
8 correct?

9 A. I believe I was actually filing a contempt  
10 order in terms of the Texas standing orders, not in the  
11 temporary orders, and also in contempt of the emergency  
12 orders that were signed and effected in Union County,  
13 Tennessee before the temporary orders hearing.

14 Q. And we had a hearing in front of  
15 Judge Yelenosky who denied your motion; correct?

16 A. He did deny the motion for contempt, yes.

17 Q. He denied your motion in all ways, did he not?

18 A. He did mention that in terms of the money that  
19 Kristin owed me from the travel by the emergency orders  
20 that Travis County could enforce those if it chose to  
21 but did not make a judgment on whether or not it was  
22 going to.

23 Q. And that's your understanding?

24 A. Yes, that's what I heard directly from the  
25 Judge.



1 Q. And so Ms. Morgan had to come down for that  
2 hearing in October; correct?

3 A. Yes. And it was in the same time --

4 Q. Mr. Morgan, I apologize. When I ask you a  
5 question, a simple yes or no question, it's done. I  
6 don't want to interrupt you, but --

7 A. With all due respect, Mr. Alberts, I am  
8 testifying and I --

9 THE COURT: Excuse me. Excuse me. We're  
10 not going to do it this way. You actually are required  
11 to answer whatever question he asks and you don't get to  
12 elaborate. You simply have to answer that question.  
13 Then you will get a chance to ask yourself whatever  
14 questions he doesn't want to ask you.

15 MR. MORGAN: Okay. All right.

16 THE COURT: You see? That's the way  
17 the --

18 MR. MORGAN: Thank you for clarifying.

19 THE COURT: That's the way the system  
20 works.

21 MR. MORGAN: Okay.

22 THE COURT: Next question.

23 Q. (BY MR. ALBERTS) All right. Prior to having  
24 that contempt hearing, the guardian ad litem had  
25 suggested it was a waste of time and money and you

1 shouldn't do it; is that correct?

2 A. No, I don't recall that.

3 Q. Okay. I suggested it was a time and waste of  
4 money and suggested you shouldn't do it. Do you recall  
5 that?

6 A. Yes, I'm sure you did.

7 Q. You have made exactly one child support  
8 payment; is that correct?

9 A. Yes, and I will be fully paid up today. I have  
10 the cash with me.

11 Q. And that child support payment was made when?

12 A. In September when I could get the money.

13 Q. And you fully understand you were ordered to  
14 pay \$775 per month on the 1st of each month starting  
15 September 1; is that correct?

16 A. Yes, I understand that.

17 Q. And you have failed to make any of those  
18 payments on the 1st of the month; is that correct?

19 A. That's correct.

20 Q. And you've made one payment late in September,  
21 and that's all you've paid?

22 A. That is all I've been able to pay.

23 Q. And you have been asked by the ad litem and  
24 myself to make payments and you haven't done it; is that  
25 correct?

1           A.    No.  No.  I've never received requests from  
2 either of you to actually make the payments.  I believe  
3 I was saying that I would make them.  I actually was  
4 proactive about telling you that I was going to get the  
5 money however I needed to.

6           Q.    I'm a little confused.  Did you misunderstand  
7 the court order?

8           A.    I understood the court order, but I also had  
9 other orders in place such as the Texas standing orders.

10          Q.    I'm sorry.  Did the Texas standing order tell  
11 you not to follow the Judge's order on paying child  
12 support?

13          A.    I was under orders at the time to pay more  
14 money than I had.

15          Q.    I'm sorry.  You were under orders to pay child  
16 support of 775.  Were you under orders to pay any other  
17 money?

18          A.    Yes.  I was -- I am instructed under the Texas  
19 standing orders to maintain things like marital property  
20 and certain services and things like that.

21          Q.    Ah.  So you think your bills were ordered to be  
22 paid before your child support; is that correct?

23          A.    I believe that they were equally ordered to  
24 pay.

25          Q.    Yeah.  So you had money.  You just paid your

1 other bills before you paid child support; correct?

2 A. I -- I did pay them, but it was very important  
3 for me to be able to have the ability to be a father,  
4 and I need to maintain the marital residence to have  
5 that.

6 Q. You have the duty to support your child. Do  
7 you understand that?

8 A. Yes, sir.

9 Q. And you absolutely failed to do that since  
10 September of this past year. Do you understand that?

11 A. I'm not really -- I don't think -- the way you  
12 phrased it does not sound right to me, no.

13 Q. Ms. Morgan has a duty to provide for your  
14 daughter when your daughter is in her care; correct?

15 A. That's correct.

16 Q. Feed her, clothe her, and house her; correct?

17 A. That's correct.

18 Q. If she chose to do other things instead of  
19 that, would you believe she's in violation of the court  
20 order?

21 A. I -- I'm not sure.

22 Q. Would you believe she'd be a bad mother?

23 A. Probably so, yes.

24 Q. So if you don't support your child and take  
25 care of your child as you're supposed to in a court

1 order, you're not a good parent, are you?

2 A. No, that's not what I'm saying.

3 Q. Mr. Morgan, so you have no excuse for not  
4 paying your child support other than you wanted to pay  
5 other bills first?

6 A. It was not a desire to pay other bills. I was  
7 under orders to do so.

8 Q. On the 1st of October, did you have \$775 in  
9 your possession?

10 A. No.

11 Q. Okay. When did you last pay a mortgage payment  
12 on your house?

13 A. I'm trying to recall. I believe it might have  
14 been sometime in mid-October.

15 Q. You believe you paid the mortgage in October?

16 A. I don't recall right off the bat. I'm late on  
17 payments and I know that I missed a few.

18 Q. Okay. You were involved in trying to  
19 renegotiate your mortgage; correct?

20 A. That's correct.

21 Q. And in September the mortgage company gave you  
22 back your mortgage payment of September; correct?

23 A. Yeah, that's correct.

24 Q. How much was that?

25 A. About \$1300.

1 Q. What day did you get that money?

2 A. I do not recall.

3 Q. Did you have that money on October 1st?

4 A. No, I did not.

5 Q. You didn't pay any mortgage in October, did  
6 you?

7 A. As I stated before, I do not recall what months  
8 I did pay and what months I didn't.

9 Q. You didn't pay any in November either, did you?

10 A. I know that there were three months that I did  
11 not pay mortgage, and I -- again, I'm not sure which  
12 months those were.

13 Q. So during those periods you had use of \$1300  
14 that normally would have gone to the mortgage; correct?

15 A. That -- yes, that's correct.

16 Q. However, in December and January you managed to  
17 pay the full mortgage; correct?

18 A. No. These are -- these are a certain type of  
19 payment that the mortgage company offered as some sort  
20 of proof that I can pay in order to keep the house from  
21 foreclosing.

22 Q. And the house has not been foreclosed; correct?

23 A. Not as of yet.

24 Q. And you're still living there; correct?

25 A. Yes, sir.

1 Q. How much money have you paid to your mortgage  
2 company since December of last year?

3 A. Since December of last year? About -- I  
4 believe about \$1300.

5 Q. That would be one payment. Have you paid --  
6 you believe you've only made one payment?

7 A. It might have been two, so somewhere around  
8 roughly 2600.

9 Q. And you paid over \$3,000 in property taxes in  
10 December; is that correct?

11 A. From an escrow account, yes, sir.

12 Q. From an escrow account that you held, not that  
13 a bank held?

14 A. That Kristin and I held.

15 Q. You're talking about a bank account you and  
16 Kristin held, not an escrow account held by anybody  
17 else?

18 A. This is an escrow account owned by Kristin and  
19 I managed by the bank.

20 Q. This is an account that you could withdraw from  
21 at any time you wanted; correct?

22 A. No.

23 Q. What prevented you from withdrawing?

24 A. The loan agreement.

25 Q. I'm sorry. Are you telling me that you pay

1 escrow as part of your mortgage?

2 A. Yes, sir.

3 Q. Okay. So those taxes were paid by your  
4 mortgage company, not by you?

5 A. That's correct.

6 Q. Okay. I had understood that you set that money  
7 aside. I'm wrong on that?

8 A. Yes, sir.

9 Q. I'm sorry. My confusion. Also in December,  
10 you managed to pay \$220 for a partial transcript of the  
11 August 6th hearing, didn't you?

12 A. Yes, sir.

13 Q. Did you borrow that money or did you have that  
14 money?

15 A. I had to sell some of my musical equipment to  
16 get it.

17 Q. Okay. And you paid \$2,000 to have  
18 psychological evaluations done of you and Kristin by a  
19 psychologist that you chose and we agreed to; correct?

20 A. No. Actually, my grandmother paid that.

21 Q. Okay. Do you owe her that money?

22 A. It's my grandma. I would like to pay her back,  
23 but she's my grandma.

24 Q. Did you try to borrow money from anyone to pay  
25 the child support?



1 A. Yes. None of my family has any money.

2 Q. Well, your grandmother loaned you 2,000 in,  
3 what, October; is that correct?

4 A. I believe that's correct.

5 Q. Okay. Had you asked her to borrow money to pay  
6 child support?

7 A. No. And to be honest, she didn't even have the  
8 2,000.

9 Q. Have you asked anyone if you can borrow money  
10 from them?

11 A. Yes.

12 Q. Who have you borrowed money from?

13 A. The bank, my 401(k), Citibank, all my friends.

14 Q. I'm sorry. You have borrowed money from your  
15 401(k) during this proceeding?

16 A. Yes.

17 Q. How much?

18 A. About \$6,000.

19 Q. Okay. And yet none of this money you've  
20 borrowed did you put a penny towards supporting your  
21 child; is that correct?

22 A. Most of the money that I borrowed had already  
23 been spent on attorneys at that point.

24 Q. You haven't had an attorney since August of  
25 2010; is that correct?

1           A.     That's correct.  That one hearing that  
2 you're -- that Kristin filed cost me \$6,000 in one day,  
3 just that one hearing with the false allegations.

4           Q.     So did you pay that bill?

5           A.     Yes, I did.

6           Q.     When did you pay that?

7           A.     At the time it was owed.  It was a retainer,  
8 so --

9           Q.     She already had it?

10          A.     It was paid before the hearing.

11          Q.     How much of a retainer did you pay Carly -- I'm  
12 sorry.  What's her last name?

13          A.     Gallagher.

14          Q.     Gallagher.  How much did you give her in  
15 retainer?

16          A.     I believe the retainer was \$3,000.

17          Q.     Okay.  So you came up with another 3,000 on  
18 that day?  I don't understand your testimony.

19          A.     Yes.  There was -- there was -- I retained her.  
20 She had done some work on the case.  I replenished my  
21 retainer.  I also had to retain an attorney in  
22 Tennessee.

23          Q.     Did you have absolutely no money for child  
24 support?

25          A.     No, I didn't.

1 Q. Have you missed any meals?

2 A. Yes, I have.

3 Q. Where are you employed?

4 A. I'm employed at Pervasive Software.

5 Q. And what do you presently make?

6 A. Around 60,000 a year.

7 Q. There were other orders rendered by  
8 Judge Hathcock --

9 THE COURT: What's the name of the company  
10 again?

11 MR. MORGAN: Pervasive Software.

12 THE COURT: Go ahead. Sorry.

13 Q. (BY MR. ALBERTS) Okay. Now -- I'm sorry. Is  
14 there some reason why you didn't file the pretrial forms  
15 that are required by the local rules?

16 A. Which ones are you talking about?

17 Q. Child support, property division, disposition  
18 of other issues.

19 A. I did file those.

20 Q. Okay. Is there a reason I haven't seen them?  
21 Did you serve them?

22 A. I believe I served them. I hand-delivered them  
23 to your office.

24 Q. Okay. All that we have received is two  
25 parenting plans. Is that what you're talking about? Or

1 are you saying that you also have created other  
2 documents that we haven't received?

3 A. I hand-delivered those documents to your  
4 office.

5 Q. Are you saying you hand-delivered the child  
6 support information form?

7 A. Yes, the child support information form as well  
8 as the property division.

9 Q. Do you have any extra copies with you?

10 A. No, not with me. I expected them to be in the  
11 file with the Court.

12 Q. Did you deliver --

13 THE COURT: They were handed to me this  
14 morning by someone. Presumably dad handed them to my  
15 staff. They show file marks of January 18th, the  
16 proposed property division; January 14th, the Texas  
17 parenting plan, what's styled a Texas parenting plan;  
18 and some other documents, one called Tennessee parenting  
19 plan. All of these were filed by dad with file marks  
20 from the district clerk's office of either January 18th  
21 or January 14th.

22 Q. (BY MR. ALBERTS) Mr. Morgan, you came by my  
23 office on the 14th and dropped off the parenting plans.  
24 They were already filed. I have file-marked copies.  
25 When did you file these other documents?

1 A. That following Tuesday.

2 Q. And how were they delivered to my office?

3 A. The same way.

4 Q. You came by and dropped them off?

5 A. Yes, sir.

6 Q. With whom?

7 A. Somebody at the front. I don't recall.

8 Q. Did you deliver them to Ms. Massad?

9 A. No, sir.

10 MR. ALBERTS: I'm going to ask the Court  
11 if we could take a break so I could get a copy or if I  
12 could borrow the Court's copy. I don't have any way to  
13 proceed on these issues without it.

14 THE COURT: Okay.

15 MR. ALBERTS: Can we take a brief break or  
16 can I borrow the Court's copy?

17 THE COURT: Oh, you can't go further  
18 without those now?

19 MR. ALBERTS: Yes. I have not seen his  
20 support information form.

21 THE COURT: Then I'll just let you use the  
22 Court's copy, and you will return them to me I guess at  
23 the first break or something along those lines.

24 MR. ALBERTS: Yes.

25 Q. (BY MR. ALBERTS) Have you received any

1 increase in pay since the August hearing?

2 A. I am scheduled to.

3 Q. What are you scheduled to receive?

4 A. I'm not quite sure yet. There's a review in  
5 process.

6 THE REPORTER: A review?

7 MR. MORGAN: I'm sorry. A performance  
8 appraisal.

9 Q. (BY MR. ALBERTS) And will this be a raise or a  
10 bonus?

11 A. This will be a raise. The company standardly  
12 gives raises once a year based on performance.

13 Q. And when was your last raise?

14 A. The last raise would be last year.

15 Q. What month of last year?

16 A. It would have been retroactive to July of 2009.

17 Q. Am I reading this correctly that you show that  
18 you have money left over at the end of the month?

19 A. That's without paying child support.

20 Q. Right. So you were just fine meeting  
21 everything except your child support obligations; is  
22 that correct?

23 A. Except for other things that came up such as  
24 attorneys' fees. I had some car trouble. I had some  
25 house maintenance that needed to be done.

1 Q. Were you afraid of the impact of you failing to  
2 pay any child support would have on your daughter?

3 A. Absolutely not. Kristin's parents are wealthy.

4 Q. And it's their duty to support your daughter?

5 A. They're the ones who took them -- took her.

6 Q. Do you recall the Judge ordering you to pay  
7 child support? I don't quite get why you say other  
8 people should.

9 A. Yes, and I'm going to pay it.

10 Q. Okay. You say you have how many thousand  
11 dollars in cash here today?

12 A. I have \$2900 in cash.

13 Q. And where did that come from?

14 A. That came from pawning equipment, selling  
15 guitars, selling my musical gear, overdrafting my bank  
16 account, and skipping all my bills this month.

17 Q. How long have you had that money in your  
18 possession?

19 A. Since Friday.

20 Q. Why have you not paid it?

21 A. Would you like me to pay it right now?

22 Q. I'm asking you why you didn't pay it on Friday.

23 A. Because I wanted to make sure that there was a  
24 record in the court that I paid it.

25 THE COURT: And yes, I would like for you

1 to pay it on the very first break.

2 MR. MORGAN: Okay.

3 THE COURT: And you will give it to  
4 counsel, and then counsel will go on the record and  
5 acknowledge it has been paid.

6 Q. (BY MR. ALBERTS) Mr. Morgan, you were also  
7 ordered not to drink any alcohol; correct?

8 A. Yes, sir.

9 Q. You were aware that you were subject to alcohol  
10 testing; correct?

11 A. Yes, sir.

12 Q. How many alcohol tests were you given since  
13 this case started?

14 A. I believe three.

15 Q. How many did you pass?

16 A. I did not hear back about the third one. And  
17 the first one I passed was a breathalyzer, although --

18 Q. How many did you pass? Total number.

19 A. One that I am aware of.

20 Q. And so you're saying you don't know whether or  
21 not you failed this last test?

22 A. Well, with an EtG test, the scientifically  
23 accurate term is actually a non-negative, not a pass or  
24 fail.

25 Q. Did you fail the test?



1           A.    No, I didn't.

2           Q.    You've read the ad litem's report, have you  
3 not?

4           A.    Yes, I have.

5           Q.    Would you be surprised if the test shows you  
6 failed it?

7           A.    Yeah.  Actually, I'm really not sure because  
8 those EtG tests are highly unreliable.  There's been  
9 many suits and the federal government has ruled that  
10 they are not to be used in a regulatory context.

11          Q.    Okay.  So I believe the evidence will show that  
12 you failed two out of three of your alcohol tests after  
13 being prohibited from drinking any alcohol during the  
14 pendency of these temporary orders; correct?

15          A.    I believe I already answered that question.

16          Q.    You're going to deny that they're accurate.  
17 Are you stating to this Court under oath that you have  
18 not been consuming alcohol during this temporary order  
19 period?

20          A.    I have not been consuming alcohol.

21          Q.    Not a drop?

22          A.    Not a drop, other than what may exist in  
23 teriyaki sauce or nonalcoholic beer or other types of --  
24 alcohol is everywhere.

25          Q.    How many days ago was that last test?

1 A. I believe it was on Wednesday last week.

2 Q. Now, in your opening statement you said that  
3 you've been falsely accused of having an alcohol  
4 problem; is that correct?

5 A. That's correct.

6 Q. You recently finished a DWI probation, didn't  
7 you?

8 A. I wouldn't say it was recent.

9 Q. How long ago?

10 A. It was probably around -- it probably ended  
11 around May of 2008, I believe, somewhere around there.

12 Q. And actually, was that when you finished paying  
13 your fees or did you finish paying your fees much later  
14 than that?

15 A. There was some confusion in the early hearings  
16 about that. I've since kind of tried to check on the  
17 facts. I did pass all my tests early in my 18 months  
18 probation period. I paid off all my probation fees, did  
19 all my community service early at that point. My  
20 probation officer didn't want to meet with me anymore.  
21 So there was some confusion there on my part.

22 Q. In August of 2009 you were still on probation  
23 for failure to pay all of your fees, were you not, at  
24 the time of the temporary orders hearing?

25 A. I paid all my fees.

1 Q. How long --

2 THE COURT: The question is were you still  
3 on probation in August of '09.

4 MR. MORGAN: I may have been. I don't  
5 recall exactly when I went on probation and went off.

6 THE COURT: Next question.

7 Q. (BY MR. ALBERTS) Okay. Now, you've  
8 acknowledged drinking a great deal during the marriage;  
9 is that right?

10 A. No. I wouldn't say a great deal, no.

11 Q. What about drug usage? Is that an issue in  
12 this case?

13 A. I wouldn't say it's an issue, no.

14 Q. So you don't consider it of importance  
15 concerning you or Ms. Morgan; is that correct?

16 A. Any sort of alcohol or drug use was done by  
17 both parties in the case, and I don't see how that makes  
18 it an issue against one party or the other.

19 Q. All right. You have stated both to the  
20 psychologist and a number of other people that Kristin  
21 Morgan is a good mother; is that correct?

22 A. Yes, I'd say she's a good mother. I don't know  
23 if she's responsible, but she's good.

24 Q. You had a right to go in September to Tennessee  
25 to see your daughter, a weekend of your choice. Did you

1 go?

2 A. No. I couldn't afford it.

3 Q. You had just gotten a mortgage payment back  
4 sometime before October 1 of \$1300 you said. So  
5 sometime in September you had \$1300. You could not  
6 afford to see your daughter?

7 A. I had to make a decision between seeing my  
8 daughter for a weekend in a hotel room for 48 hours or  
9 doing everything I could to actually have a relationship  
10 with her in the future.

11 Q. And so you think not seeing your daughter for  
12 two days in six or seven months is the best way for you  
13 to develop a relationship with your daughter?

14 A. The best way for me to develop a relationship  
15 with my daughter is to have constant contact with her.

16 Q. All right. You in the temporary orders hearing  
17 testified that you considered moving to Tennessee and  
18 you had looked for jobs in Tennessee; is that right?

19 A. I've looked for jobs in both Tennessee and in  
20 Texas.

21 Q. When's the last time you looked for a job in  
22 Tennessee?

23 A. I've had a resume posted in both places since  
24 September.

25 Q. Have you had any job offers?

1           A.    No, none from Tennessee.  I had one lead from a  
2  guy in Memphis which was just a recruiter collecting  
3  information.  That turned out to be bogus.  When I  
4  followed up on it, it wasn't actually a real job lead.  
5  I've had over 70 in Austin since then.

6           Q.    So you didn't go in September.  Did you go and  
7  see your daughter in November?

8           A.    No.  Again, the money needed to be used so that  
9  I could have a permanent relationship with my daughter  
10 rather than just --

11                   THE COURT:  We're going to -- we're going  
12 to need to just answer the questions.  Did you go in  
13 November?  The answer would be yes or no.

14                   MR. MORGAN:  Okay.

15                   THE COURT:  The answer is?

16                   MR. MORGAN:  No.

17                   THE COURT:  Next question.

18           Q.    (BY MR. ALBERTS)  Did you go to see your  
19 daughter this month?  You had a right in an odd-numbered  
20 month, January.  Did you go see your daughter?

21           A.    No.

22           Q.    Mr. Morgan, you've seen Ms. Morgan's statement  
23 concerning the property she left in the house.  Is that  
24 house still -- that property still there?

25           A.    Yes, sir.

1 Q. Mr. Morgan, I'm showing you what's been marked  
2 Petitioner's Exhibit 2. It's the proposed property  
3 division that Ms. Morgan filed with her pretrials.  
4 You've looked that over?

5 A. Yes, sir.

6 Q. Okay. Do you object to any of her requests?

7 A. Well, I believe that it's inaccurate in a few  
8 ways. I mean, just a couple things off the top, we  
9 didn't even pay \$75 for that umbrella, and it's two  
10 years old now. I checked the value of the --

11 Q. I'm sorry. I apologize.

12 A. Okay.

13 Q. Not discussing values but simply discussing her  
14 desire -- division of the property, what pieces of  
15 personal property she'd like to get. Do you have any  
16 objection to those?

17 A. The only thing I would object to would be in my  
18 proposed property division. There are three items that  
19 she requested that I believe should stay with the  
20 property.

21 Q. And what three items are those?

22 A. It would be the couch and the washer and dryer.

23 Q. Other than that, you're in agreement with how  
24 she --

25 THE COURT: Counsel, would you please hand

1 me your proposed distribution of property so that I can  
2 follow along? It may have been in the papers that you  
3 took back from me.

4 MR. ALBERTS: Mine? It's attached to the  
5 pretrials.

6 THE COURT: Well, that's what I'm saying.  
7 I don't have that.

8 MR. ALBERTS: Oh.

9 THE COURT: I have your proposed -- let's  
10 see -- proposed parenting plan. Hang on just one  
11 second. But it does not contain a distribution of the  
12 estate.

13 MR. ALBERTS: Keep going.

14 THE COURT: Would you get me a copy of  
15 that?

16 MR. ALBERTS: It's really not --

17 THE COURT: I don't have it. It may have  
18 been -- and that's what I tried to say. It may have  
19 been in the packet of materials I handed to you because  
20 I gave you everything I had --

21 MR. ALBERTS: Oh, I'm sorry.

22 THE COURT: -- that dad had given me, and  
23 it may have been somehow included among those, because I  
24 wanted you to have everything so that you could complete  
25 your examination of the witness.

1 MR. ALBERTS: I understand. Let me just  
2 grab another one. I'm sorry. And I apologize to the  
3 Court. I didn't know that they had been separated.

4 THE COURT: It's not in the group of  
5 materials I gave you?

6 MR. ALBERTS: I don't believe so.

7 THE COURT: Okay. I don't think it is  
8 either because I have not seen this before.

9 MR. ALBERTS: Okay. That was filed as one  
10 document at one time.

11 THE COURT: Okay.

12 MR. ALBERTS: So I don't know how it  
13 separated.

14 THE COURT: Okay. So now I can follow the  
15 Q&A on this. You were asking him --

16 MR. ALBERTS: And I apologize.

17 THE COURT: That's all right. It's just  
18 one of those things. You were asking him the extent to  
19 which he disagrees with this. May I keep this and make  
20 notes on it?

21 MR. ALBERTS: Please, Your Honor.

22 THE COURT: Great.

23 Q. (BY MR. ALBERTS) So, Mr. Morgan, your only  
24 disagreement with Ms. Morgan's suggested division of  
25 property are those three items; is that correct? The



1 couch and the washer and dryer?

2 A. Yes, sir.

3 Q. And are you in the agreement that she can go  
4 and get all those items after this hearing, all the  
5 other items that aren't in contest?

6 A. After this hearing, depending on who's going to  
7 be there.

8 THE COURT: I'm sorry. The couch, the  
9 washer and dryer, and what?

10 MR. ALBERTS: The couch and washer and  
11 dryer are all he disagrees with.

12 THE COURT: Okay. And your proposed  
13 distribution says an amount, and it says it goes to  
14 wife, and he disagrees with that.

15 You think it should go to you?

16 MR. MORGAN: I believe those three items  
17 should stay with the house.

18 THE COURT: Which means you should get  
19 them? Is that --

20 MR. MORGAN: Depending on who lives there.

21 THE COURT: Okay.

22 MR. MORGAN: She may -- she may end up  
23 having the house.

24 THE COURT: Okay. All right. I just  
25 wanted to be clear. Thank you.

1 Q. (BY MR. ALBERTS) Mr. Morgan, have you ever  
2 struck Ms. Morgan?

3 A. Never.

4 Q. Did you ever drag her outside against her will  
5 and throw her out in the middle of the night naked and  
6 lock the door?

7 A. No.

8 Q. How was she dressed?

9 A. How was she dressed when?

10 Q. Are you denying that you drug her out and  
11 locked her out of the house?

12 A. Yes. I drug her out of the room because she  
13 was punching me in the face at the time.

14 Q. So you chose to drag her out of the room when  
15 she was punching you in the face. Why would you drag  
16 her somewhere?

17 A. In self defense.

18 Q. Why didn't you leave?

19 A. I had been drinking. I had nowhere to go. We  
20 had both been drinking.

21 Q. Do you recall getting into a tussle with your  
22 wife on New Year's, over the New Year's holiday?

23 A. Which New Year's?

24 Q. 2009.

25 A. And could you clarify what you mean by tussle?

1 Q. Were you -- who was at your house New Year's  
2 2009?

3 A. I believe we had some friends over and she was  
4 there as well. We were all there.

5 Q. And among --

6 THE COURT: Do we mean -- excuse me. Do  
7 we mean December 31st, 2009, or January 1st, 2009?

8 MR. ALBERTS: January 1st, Your Honor. I  
9 apologize. January 1st, 2010. December 31st, 2009.

10 Sorry. I got it all wrong. January 1st,  
11 2009 is what we're talking about, so it was New Year's  
12 December 31st, 2008.

13 THE COURT: Thank you.

14 MR. ALBERTS: January 1st, 2009.

15 Q. (BY MR. ALBERTS) That's what we're talking  
16 about; right?

17 A. Yes.

18 Q. Okay. And among the people there were  
19 Jason Sauvain; is that correct?

20 A. That's correct.

21 Q. He had flown in. And you and Jason and who  
22 else was there?

23 A. I believe that our mutual friend Alan was there  
24 as well.

25 Q. And you, Alan, and Jason were all drinking,

1 were you not?

2 A. Yeah. Kristin was drinking also. We were all  
3 drinking.

4 Q. Kristin went to bed hours and hours and hours  
5 before you did, did she not?

6 A. Not that I recall.

7 Q. You don't recall much about that evening  
8 because you were dead drunk; is that correct?

9 A. That's definitely not correct.

10 Q. Do you recall going into the bedroom and  
11 assaulting her?

12 A. That's not true.

13 Q. Do you recall going into the bedroom and trying  
14 to have sex with her at 4:00 a.m. when she was asleep?

15 A. No, I don't recall that.

16 Q. You don't deny it and you don't recall it; is  
17 that correct?

18 A. I'll deny that. That's not something I would  
19 do.

20 Q. Did you have a fight that night with her?

21 A. I believe so.

22 Q. Why do you believe so? Do you not know?

23 A. Well, that's one of the reasons why Jason is a  
24 witness here, because he can speak to what happened that  
25 night.

1 Q. Because you were too drunk to remember?

2 A. Because being assaulted and having my wife  
3 fight with me was so common that I can't really --  
4 you know, I can't remember one incident from the other  
5 because it was almost a daily thing.

6 Q. Well, but you have Jason here to testify, don't  
7 you?

8 A. Yes.

9 Q. Has that not refreshed your memory talking to  
10 him about the incident?

11 A. He recalled that there was an incident. I did  
12 not really dig deeper as to the specifics. I plan to do  
13 so in court today.

14 Q. You don't remember because you were too drunk;  
15 isn't that correct?

16 A. I believe I already answered that question.

17 Q. No, I don't believe you did. Were you too  
18 drunk or not?

19 A. I was not too drunk to remember.

20 Q. That --

21 A. The problem is that --

22 Q. Go ahead.

23 A. I have been through -- I've been assaulted by  
24 my wife and been emotionally abused by my wife so many  
25 times that I cannot differentiate one incident -- one

1 incident from the other.

2 Q. And, of course, you have numerous police  
3 reports to verify this; correct?

4 A. No, I don't.

5 Q. Oh, none?

6 A. None.

7 Q. Police have never been called to your house for  
8 a domestic disturbance, have they?

9 A. No, they haven't.

10 Q. So on the December 31st, 2008, to January 1,  
11 2009, you were too drunk to leave the house but not too  
12 drunk to remember; correct? Is that what you said?

13 A. I think -- are we talking about two different  
14 incidents here?

15 Q. No. I'm talking about one. If I messed up the  
16 dates again, I'm sorry.

17 A. Well, you were stating when I --

18 THE COURT: Let's go back to a question.  
19 We're not going to do a statement, statement, statement.

20 MR. MORGAN: Okay.

21 THE COURT: Question. What is the  
22 question?

23 Q. (BY MR. ALBERTS) You acknowledged that you  
24 were too drunk to leave the house -- correct? -- on the  
25 evening we've been talking about, the New Year's Eve

1 2008, New Year's Day 2009?

2 THE COURT: The question is: Was he too  
3 drunk to leave the house?

4 MR. ALBERTS: Yes.

5 A. Yes, I would -- I would say so, probably over  
6 the -- probably over the limit.

7 Q. (BY MR. ALBERTS) You understand -- I'm sorry.  
8 Have you completed your parenting course?

9 A. I have not fully completed it. I've taken --  
10 let me do the math real quick. I've taken 12 hours'  
11 worth at this point.

12 Q. You were ordered to do this parenting course  
13 back with the temporary order; correct?

14 A. That's correct.

15 Q. When did you start doing it?

16 A. I started in early December.

17 Q. So you waited until December to do your  
18 parenting class that was ordered in August, and you  
19 still haven't done it; correct?

20 A. That's right. At the time I had no idea that  
21 it was a six-week class and that they would restart the  
22 class at the beginning of the year. Otherwise, I would  
23 have done it a lot sooner. I was under the impression  
24 it was one class, it was a one-night thing.

25 MR. ALBERTS: I'll pass the witness.

1 THE COURT: All right. Do you wish to ask  
2 yourself questions at this time?

3 MR. MORGAN: Do I actually have to ask  
4 myself questions or can I just speak?

5 THE COURT: You can do it in narrative  
6 form. Just make sure you don't get into hearsay. Just  
7 don't start telling us what other people said.

8 MR. MORGAN: Very well. Thank you,  
9 Your Honor.

10 THE COURT: Other than what your wife  
11 said.

12 **DIRECT TESTIMONY (AS CROSS)**

13 MR. MORGAN: About -- about using the  
14 house, one thing that I think is very important to bring  
15 up is that this house is in both our names and that if  
16 it forecloses or either of us move out of the house, not  
17 only will that be extremely bad for our credit, but  
18 we'll both be required to pay the IRS back, \$8,000 back.  
19 So losing the house in any way, if I were to stop paying  
20 the mortgage, it would actually be more expensive than  
21 paying the mortgage.

22 And my concerns with keeping the house  
23 were all about Hannah. This is a house that we bought  
24 for Hannah. Her name is literally on the wall. This  
25 was -- when we got married -- we bought the house when



1 she was pregnant. This is where we were going to raise  
2 our child. It's a great neighborhood. They just built  
3 a new elementary school there. And I believe that  
4 that's where Hannah needs to be raised. And that is why  
5 keeping the house has been such a priority to me, even  
6 over paying child support. Again, I really apologize  
7 for that, and I have it here today. I just -- even --  
8 you know, regardless of the orders, I was doing what I  
9 did for Hannah's best interest. You know, in terms of,  
10 you know -- I believe that's all I need to say at this  
11 point.

12 THE COURT: Okay. No more questions?

13 MR. MORGAN: No more questions.

14 **REDIRECT EXAMINATION**

15 BY MR. ALBERTS:

16 Q. Mr. Morgan, where exactly do you find this  
17 order that tells you to pay the mortgage or any other  
18 bills?

19 A. It's the Texas standing order regarding  
20 property and all that stuff that gets stapled to the,  
21 you know, SAPCR -- not the SAPCR apparently, but the --  
22 you know, the divorce suit.

23 Q. You were represented at the time and you  
24 initiated this lawsuit through an attorney; correct?

25 A. Yes, I did.

1 Q. And you're telling me that you believe that the  
2 Travis County standing order directs that you are to pay  
3 the community bills; is that correct?

4 A. No. I believe that -- I believe that they  
5 continue -- they needed to be paid, yes. And I was told  
6 by several attorneys to not stop paying them.

7 Q. Did your mother know you weren't paying child  
8 support?

9 A. I -- I believe answering that question would be  
10 hearsay. I really don't know.

11 Q. Did you and your mother ever discuss whether  
12 you were paying child support?

13 A. Yes, we have.

14 Q. Did you tell her that you weren't paying your  
15 child support?

16 A. Yes, I did.

17 Q. When did you last tell her this?

18 A. I don't recall.

19 Q. Did you tell your brother that you weren't  
20 paying child support?

21 A. I -- I don't recall. Maybe.

22 Q. The lawyers have told you to keep paying these  
23 bills. Did you tell them you weren't paying child  
24 support?

25 A. Well, at that time I didn't have any lawyers.

1 Q. I'm sorry. I thought you just said that you  
2 talked to lawyers about paying your bills.

3 A. I talked to lawyers immediately after the  
4 temporary orders hearing and that was -- that was before  
5 I was required to pay any child support.

6 Q. Well, you had already been ordered to pay child  
7 support, so --

8 A. I had been ordered --

9 Q. -- the first one --

10 A. I had been ordered --

11 THE COURT: Excuse me. She can't take it  
12 down at the same time. Make sure he finishes his  
13 question before you start your answer.

14 Make sure he finishes his answer before  
15 you start your next question.

16 MR. ALBERTS: I'm sorry, Your Honor.

17 THE COURT: Next question.

18 Q. (BY MR. ALBERTS) I'm going to ask this at the  
19 risk of repeating myself and wasting my time, but I want  
20 to make sure I get a clear answer. Have you tried to  
21 borrow money from anybody to pay your child support?

22 A. Yes.

23 Q. Who did you ask for money to pay your child  
24 support?

25 A. All my family members and a few friends of

1 mine.

2 Q. Okay. You asked your mother to loan you money  
3 for child support? Yes?

4 A. Not specifically for child support, no, but I  
5 did ask for money.

6 Q. Did she loan you money?

7 A. No, she didn't have any.

8 Q. She's never loaned you any money?

9 A. No.

10 Q. Who else did you ask to borrow money from?

11 A. I should probably rephrase. I didn't  
12 specifically go up and ask can I borrow some money, but  
13 everybody knew that I was in a very dire financial  
14 situation, and I told them that I was in a dire -- I'm  
15 not really the type of guy to say can I borrow some  
16 money, you know.

17 Q. Are you the type of guy to say that I need to  
18 pay child support for my daughter; can I borrow some  
19 money to help my daughter?

20 A. Not in those exact words, no.

21 Q. Have you ever asked to borrow money to pay  
22 child support?

23 A. No, not specifically in that manner.

24 Q. In any manner did you ask to pay -- to borrow  
25 money to pay child support?

1           A.     I'm not -- in any manner.  I mean, like I said,  
2 I've been telling people that I need to pay child  
3 support and I did not have the money to do so.

4           Q.     Where did you get the \$220 for the transcript  
5 that you ordered in October or November?

6           A.     I believe you already asked that question.

7           Q.     And I'm asking again because I don't remember.

8           A.     I sold musical equipment.

9           Q.     Okay.  And why did you not pay a penny in  
10 October?  Could you have sold something and paid \$20?

11          A.     I suppose I probably could have, yes.  But  
12 again, I was not worried about Kristin's financial  
13 situation.  I knew that she was taken care of.  She  
14 obviously has the money to hire you.  She has the money  
15 to just up and move to Tennessee and she has -- and hire  
16 an attorney in Tennessee as well as here.  She's living  
17 at a lake resort right now.

18          Q.     Is that where your daughter's living?

19          A.     I'm not sure.  I don't know.

20          Q.     Wait.  You know where Kristin's living, but you  
21 don't know where your daughter is living?

22          A.     Well, I mean, she could either be either with  
23 Kristin's mother, I assume, or Kristin, so I really  
24 don't know what house she lives in.

25          Q.     The lake resort you're talking about is her

1 mother's house; correct?

2 A. No.

3 Q. Oh, you believe that Kristin's living somewhere  
4 else?

5 A. Well, there was another house that they had  
6 next door that they were renting out as a lake resort  
7 that Kristin said in the previous -- in a previous  
8 hearing that that's where she was planning on moving  
9 into. So again, I'm not sure if she moved in there or  
10 not.

11 Q. Have you visited there?

12 A. Ever?

13 Q. Yes.

14 A. I visited there once in December of 2008.

15 Q. You described it as a resort. Is it nice?

16 A. Yes, it's very nice.

17 Q. Is her mother's house nice?

18 A. It's -- it seems nice. It's small, but it's  
19 nice. It's on the lake. They've got a bunch of boats  
20 and a lot of fun stuff there.

21 Q. Look like a good place to be a child?

22 A. No. This is more like a retirement community.

23 MR. ALBERTS: Pass the witness.

24 THE COURT: Do you have any other  
25 questions for yourself now?

1 MR. MORGAN: Not necessarily in this  
2 context, although I'll probably bring myself up later.

3 THE COURT: All right. Then you may step  
4 down.

5 MR. MORGAN: Thank you.

6 MS. MASSAD: Your Honor, if I may, I am  
7 requested to be in Judge Livingston's court to testify  
8 briefly and I will come back. Is that all right?

9 THE COURT: That's fine, but I don't want  
10 you to miss any of the testimony here. What time do you  
11 need to be there?

12 MS. MASSAD: Right now.

13 THE COURT: Oh, they just poked their head  
14 in?

15 MS. MASSAD: Yes.

16 THE COURT: Oh, I missed -- somehow I  
17 missed that. Will you let us know as soon as you're  
18 through and then we'll resume the --

19 MR. ALBERTS: Want to take a break?

20 THE COURT: -- we'll resume the trial at  
21 that time. Yeah, it's a good break time anyway. Just  
22 let the staff know as soon as you're going to be back.  
23 If there's going to be a delay, if you'd let them know  
24 how long it's going to be, I'd appreciate it. Thank  
25 you. We'll resume when we can.

1                   *(Recess taken)*

2                   THE COURT: All right. Counsel, you're  
3 prepared to acknowledge the child support?

4                   MR. ALBERTS: I have received \$2900 in  
5 cash from Mr. Morgan during the break.

6                   THE COURT: All right. And is that the  
7 amount of outstanding child support to date?

8                   MR. ALBERTS: Not by my calculation. I  
9 believe it's higher than that.

10                  THE COURT: All right. Well, then I'll  
11 let you put on whatever record you want about that.

12                  MR. ALBERTS: Sure. I indicate \$3100.

13                  THE COURT: Okay. Well, then you can walk  
14 through that as necessary with your client or call him  
15 back to the stand as necessary.

16                  MR. ALBERTS: During the break I made  
17 copies. Those are your documents back.

18                  THE COURT: Thank you very much. You may  
19 call your next witness.

20                  MR. ALBERTS: Kristin Morgan.

21                  THE COURT: Please step forward in front  
22 of me and raise your right hand.

23                                 *(Witness sworn)*

24   **KRISTIN MORGAN,**

25 having been first duly sworn, testified as follows:



**DIRECT EXAMINATION**

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BY MR. ALBERTS:

Q. Ms. Morgan, you're the petitioner in this action for divorce; correct?

A. Of the divorce?

Q. Yes.

A. Yes.

Q. And at the time you filed this action for divorce, your husband had been a resident of Travis County, Texas for more than six months; is that correct?

A. That's correct.

Q. And is it your testimony that there's no hope this marriage is going to be reconciled?

A. There is no hope.

Q. The only child born of this marriage is Hannah; is that correct?

A. That's correct.

Q. You're not presently pregnant; is that right?

A. That's correct.

Q. Y'all have not adopted anyone?

A. No.

Q. Okay. Where do you live?

A. 224 Lakeshore Drive in Maynardville, Tennessee.

Q. And is this the address that you lived at at the time of the temporary orders hearing?

1 A. Yes, sir.

2 Q. And you have lived there since when?

3 A. I arrived there on June the 8th of 2010.

4 Q. Could you describe the house that you and  
5 Hannah are in?

6 A. It's a house that's up a hill on a street near  
7 the lake. Are you wanting me to describe the inside of  
8 the house?

9 Q. Yes. What size? What kind of bedrooms?

10 A. What size? It's a three bedroom, one and a  
11 half bath. It has a large living room, an open kitchen  
12 with dining room, a laundry room, a -- what do you call  
13 it? Kind of like a den or a -- not a living room, but  
14 like a family room I guess is what I would call it.

15 Q. Do you have a bedroom?

16 A. Yes.

17 Q. Where does Hannah sleep?

18 A. She sleeps in the bedroom with me.

19 Q. And who else lives in the house?

20 A. My mother and my stepfather and my  
21 recently-adopted sister.

22 Q. How old's your sister?

23 A. She's ten.

24 Q. And how old's Hannah right now?

25 A. Hannah will be 14 months on the 12th of

1 February.

2 Q. How's Hannah doing?

3 A. She's doing great.

4 Q. And how does Hannah and your sister get along?

5 A. They're more like sisters than aunt and niece.

6 Q. And how old are you, Kristin?

7 A. How old am I?

8 Q. Yes.

9 A. 27.

10 THE COURT: 27?

11 THE WITNESS: 27.

12 Q. (BY MR. ALBERTS) What's your education?

13 A. I am a registered radiologic technician or an  
14 X-ray tech.

15 Q. And are you employed?

16 A. Yes, I am.

17 Q. How are you employed?

18 A. By a mobile X-ray company full time.

19 Q. When did you go full time?

20 A. January the 3rd of this year.

21 Q. Prior to that, since moving to Tennessee, how  
22 has your working situation been?

23 A. Prior to that what?

24 Q. Prior to getting full-time employment, what  
25 kind of employment did you have in Tennessee?

1 A. I had a part-time PRN job before that.

2 Q. And what are the hours of your current job?

3 A. Currently?

4 Q. Yes.

5 A. Monday through Friday from 3:00 p.m. to  
6 10:30 p.m., and then some Thursdays I work 10:00 a.m. to  
7 5:30 p.m., and some Fridays I work 10:00 a.m. to 5:30  
8 p.m.

9 Q. When you're not working, where is Hannah?

10 A. With my mother.

11 Q. When you're not working?

12 A. When I'm not working. I'm sorry. When I'm not  
13 working, she's with me.

14 Q. And when you are working?

15 A. When I am working she's with my mother.

16 Q. Is Hannah in daycare?

17 A. No, she is not.

18 Q. Has she ever been in daycare?

19 A. Only whenever she was here for the two-week  
20 visit whenever she visited Josh before the temporary  
21 hearing.

22 Q. And -- I'm sorry. So those two weeks before  
23 the August hearing that Mr. Morgan was given directly  
24 before that hearing, it's your understanding that Hannah  
25 was in daycare; is that correct?

1           A.     While he had her for the -- while he had her  
2 for the two weeks prior to the hearing, yes.

3           Q.     Had you and Mr. Morgan discussed whether you  
4 wanted Hannah in daycare? -- I'm sorry -- before you  
5 broke up?

6           A.     Yes, we did.

7           Q.     And what was the decision y'all had come to?

8           A.     That it was best for Hannah for me to stay home  
9 with her and not put her in daycare.

10          Q.     And so even though you have to work, you found  
11 a way not to put her in daycare; is that correct?

12          A.     That is correct.

13          Q.     Are you paying your parents anything?

14                   THE COURT:  Are you paying what?

15                   MR. ALBERTS:  I'm sorry.

16          Q.     (BY MR. ALBERTS)  Are you paying your parents  
17 anything for living in the house?

18          A.     I pay them around 150 to \$200 per month towards  
19 any finances they have at this point.

20          Q.     Are your parents rich?

21          A.     No, not by any means.

22          Q.     Is this a resort?

23          A.     It is not a resort, no.

24          Q.     Is it nice?

25          A.     I think it's nice.

1 Q. And so how has Hannah been doing? She's been  
2 there since she was about eight months; is that correct?

3 A. We got there in June, so she was six months,  
4 almost six months, not quite.

5 Q. How's she doing health-wise?

6 A. She is very healthy.

7 Q. Does she get regular checkups?

8 A. She does.

9 Q. Regular immunizations?

10 A. Yes.

11 Q. Would Mr. Morgan be welcome to come visit there  
12 in Tennessee?

13 A. Yes, any time he wanted to.

14 Q. He has expressed fear about going there, has he  
15 not?

16 A. Yeah, to everybody.

17 Q. Do you believe it's sincere?

18 A. Sincere?

19 Q. Do you believe he's sincerely scared of going  
20 to Tennessee?

21 A. I do not.

22 Q. Prior to marrying Mr. Morgan, where did you  
23 live?

24 A. Prior to marrying Mr. Morgan? In Knoxville,  
25 Tennessee.

1 Q. And prior to returning to Knoxville, how long  
2 did you live in Austin?

3 A. I had lived in Austin from May of 2008 until  
4 June of 2010.

5 Q. And had you grown up in Knoxville?

6 A. Had I what?

7 Q. Grown up in Knoxville.

8 A. I moved there in December of 1999.

9 Q. Where did Mr. Morgan propose to you?

10 A. At my townhouse in Knoxville, Tennessee.

11 Q. And did he ask you to come live with him in  
12 Austin?

13 A. He did.

14 Q. How did that work out?

15 A. It didn't work out too well.

16 Q. Did y'all have a good marriage?

17 A. No.

18 Q. What sort of problems, without going into great  
19 detail, did y'all suffer from?

20 A. His alcoholism, arguing, fighting.

21 Q. His alcoholism. In your observation --  
22 obviously you have not lived with him since you left  
23 here last June. How often did your husband drink?

24 A. Almost every single day.

25 Q. How much did he drink?

1           A.     At least three or four beers a day.

2           Q.     Had y'all gone to counseling and raised this  
3 issue?

4           A.     Whenever we went to marriage counseling, I  
5 tried to raise the issue, but I felt like it was  
6 dismissed.

7           Q.     Has Mr. Morgan defended his drinking to you?

8           A.     Defended it?

9           Q.     Believe there's some reason or religious reason  
10 to drink?

11          A.     He said that we should drink in Godly  
12 moderation.

13          Q.     What does that mean?

14          A.     I don't know.

15          Q.     What did God have to do with it?

16          A.     I don't know.

17          Q.     Is Mr. Morgan a religious person?

18          A.     He's supposed to be.

19          Q.     He in his opening statement and his testimony  
20 said that he had been the victim of abuse and violence  
21 from you. Is that true?

22          A.     I think that we were both guilty of that.

23          Q.     Did you ever hit him other than in  
24 self-defense?

25          A.     No.



1 Q. Was there an incident where he drug you out of  
2 the house?

3 A. Yes, there was.

4 Q. When was that?

5 A. That was during South by Southwest I think in  
6 two thousand and -- I don't know if it was 2008 or 2009.  
7 I think it might have been March of 2009.

8 Q. And what happened?

9 A. What happened? We came home and --

10 Q. I'm sorry. Let me make it brief because of our  
11 time. Did he drag you outside?

12 A. Yes, he did.

13 Q. Did he lock you outside?

14 A. Yes, he did.

15 Q. How were you dressed?

16 A. I was nude.

17 Q. What time of day was it?

18 A. It was probably about 2:00 or 3:00 o'clock in  
19 the morning.

20 Q. Going back to December 31st, 2008, January 1,  
21 2009, do you recall an incident then?

22 A. I do.

23 Q. What occurred that evening?

24 A. Josh and his friends were in the living room  
25 drinking. I had to go to bed the next -- I had to go to

1 work the next morning, had to be there at 7:00 o'clock,  
2 and so I had to go to bed early.

3 Q. What time did you go to bed?

4 A. What time did I go to bed?

5 Q. Yes.

6 A. Probably around 10 or 11:00 o'clock p.m.

7 Q. What's the next thing that happened?

8 A. Josh was completely intoxicated, and he comes  
9 into the bedroom and starts groping on me, and I told  
10 him to leave me alone and pushed him away. At that  
11 point he -- I remember him at some point pinning my arms  
12 down on the bed and me yelling for him to get off of me.

13 Q. Were there other people in the house?

14 A. His friend Jason and Alan were in the  
15 living room.

16 Q. Is there any way they didn't hear you yelling?

17 A. I would assume they probably would have if they  
18 had not been outside or they could have been in the  
19 living room.

20 Q. Did anybody come to help you?

21 A. No.

22 Q. Does -- has Mr. Morgan ever asked you to hit  
23 him?

24 A. At that point in time, whenever he did have me  
25 pinned on the bed, I did slap him and he kept telling me

1 to hit him again, that didn't hurt, hit me again.

2 Q. Did he ever say that before or since?

3 A. I don't believe so.

4 Q. What kind of language does Mr. Morgan use in  
5 talking with you?

6 A. What kind of language does he use talking with  
7 me?

8 Q. Yes.

9 A. Currently?

10 Q. During your marriage. Let me ask a better  
11 question. Do you feel that his language toward you was  
12 appropriate?

13 A. I don't feel like either one of our language  
14 was appropriate.

15 Q. My question was, do you feel his language was  
16 appropriate?

17 A. I do not.

18 Q. Did he call you foul names regularly?

19 A. Regularly.

20 Q. During the marriage -- Hannah was born on what  
21 date?

22 A. Hannah was born on what date?

23 Q. Yeah. What was Hannah's birth date?

24 A. December 12th, 2009.

25 Q. And how was your pregnancy? Anything

1 remarkable about it? Anything remarkable about your  
2 pregnancy?

3 A. Remarkable about it?

4 Q. Unusual? Troublesome?

5 A. I had a lot of swelling, a lot of swelling, and  
6 I was -- I feel like I was very hormonal.

7 Q. And how about after the birth?

8 A. I believe I was very protective over Hannah.

9 Q. Was your husband supportive?

10 A. He didn't -- no, not very much.

11 Q. Was he supportive during the pregnancy?

12 A. Not very much.

13 Q. Could you count on him being there?

14 A. Sometimes and sometimes not.

15 Q. And after the child was born, did he help you  
16 take care of Hannah?

17 A. I think he tried to.

18 Q. Did he ever bathe Hannah?

19 A. No.

20 Q. So you bathed Hannah 100 percent of the time?

21 A. Yes.

22 Q. Did he ever feed Hannah?

23 A. Whenever I -- I had to work a couple of  
24 weekends, I think maybe two or three weekends after she  
25 was born, and he fed her while I was working and then

1 sometimes whenever I would cook dinner.

2 Q. On how many occasions prior to you leaving did  
3 Mr. Morgan ever take care of Kristin by himself?

4 A. Of Hannah?

5 Q. I'm sorry. Of Hannah, yes.

6 A. Maybe five or six times.

7 Q. And who diapered her?

8 A. I did the majority of the time.

9 Q. What percentage of the time would Mr. Morgan  
10 change a diaper?

11 A. Whenever he would watch her on the five or six  
12 days if I -- you know, if I were cooking dinner, he  
13 would --

14 Q. If you were both present, did he ever change a  
15 diaper?

16 A. If he didn't -- not if he didn't have to.

17 Q. Well, how would he have to if you're both  
18 present? Maybe I misunderstood. I'm saying if you and  
19 he are both present, who would change the diaper?

20 A. I would most of the time.

21 Q. Did he ever?

22 A. If I asked him to.

23 Q. Ms. Morgan, I'm showing you what's been marked  
24 Petitioner's Exhibit Number 3 and ask you if you'd take  
25 a look at that and see if you recognize it.

1           A.     They're looking like updates from me to Josh  
2 about Hannah.

3           Q.     And so -- I'm sorry. Did you say updates?

4           A.     Uh-huh.

5           Q.     What are those? What are they? They're emails  
6 from you to Josh?

7           A.     They're emails from me to Josh giving him an  
8 update on Hannah every week.

9           Q.     And are these true and correct copies of those  
10 emails?

11          A.     Yes, sir.

12                   MR. ALBERTS: I'm going to offer  
13 Respondent -- or Petitioner's 3.

14                   THE COURT: Any objection to the  
15 admissibility of Plaintiff -- Petitioner's 3?

16                   MR. MORGAN: No, sir.

17                   THE COURT: Thank you. There being no  
18 objection, Petitioner's 3 is admitted.

19                           *(Petitioner's Exhibit 3 admitted)*

20          Q.     (BY MR. ALBERTS) And do these pretty much  
21 detail the development?

22                   THE COURT: Now, are we admitting them  
23 with the -- we're not admitting them with the stickies  
24 on there? That's just for --

25                   MR. ALBERTS: No. Those are just --

1 THE COURT: She can't take this down.  
2 That's just for ease of me reviewing it?

3 MR. ALBERTS: That's correct. That's  
4 merely indexing the years.

5 THE COURT: Great. And she'll -- that  
6 won't be a permanent part of the exhibits.

7 MR. ALBERTS: Let's make it clear.

8 Q. (BY MR. ALBERTS) The stickers -- the orange  
9 stickers that have the numbers on them, I added those.  
10 Those are not part of your emails; correct?

11 A. That is correct.

12 THE COURT: Thank you, Counsel.

13 Q. (BY MR. ALBERTS) Has money been tight?

14 A. Yes, it has.

15 Q. How have you been making ends meet?

16 A. I've been working.

17 Q. Do your parents have the ability to support you  
18 and Hannah?

19 A. No.

20 Q. Do you believe your parents should be  
21 supporting you and Hannah at this stage?

22 A. I do not.

23 Q. How did not receiving child support affect you?

24 A. I've gone into quite a bit of debt.

25 Q. And how has this litigation affected your

1 finances?

2 A. It's hurt them.

3 Q. Has it been expensive?

4 A. It has been, yes.

5 MR. ALBERTS: May I approach the witness?

6 THE COURT: You may.

7 Q. (BY MR. ALBERTS) Ms. Morgan, I'm showing you  
8 what's been marked Petitioner's Exhibit Number 1. This  
9 is the proposed support decision that's previously been  
10 submitted as part of your pretrials. Is that a true and  
11 accurate copy of this document?

12 A. It is except --

13 Q. Is that the wrong one?

14 A. I gave you an updated one this morning.

15 Q. I understand. As of the date that this thing  
16 was signed and filed, is that accurate?

17 A. Yes, it is.

18 Q. And to save time, if I went through every item  
19 on Petitioner's Exhibit 1, would it be your testimony  
20 that those are the amounts?

21 A. Yes.

22 Q. Okay. So this is a -- one other question --

23 MR. ALBERTS: I'm going to offer  
24 Petitioner's 1 as a compilation of her proffered  
25 testimony.



1 MR. MORGAN: This is the same as what you  
2 filed?

3 MR. ALBERTS: Yes.

4 MR. MORGAN: Okay.

5 THE COURT: I'm sorry. Petitioner's 1 is  
6 what?

7 MR. ALBERTS: It's her financial  
8 information form.

9 THE COURT: All right. Any objection to  
10 Petitioner's 1?

11 MR. MORGAN: No, Your Honor.

12 THE COURT: Thank you. Petitioner's 1 is  
13 admitted.

14 *(Petitioner's Exhibit 1 admitted)*

15 Q. (BY MR. ALBERTS) Ms. Morgan, you indicated  
16 that -- we show your salary at \$1700 on that; is that  
17 correct?

18 A. At the time we filled it out, yes.

19 Q. Has that changed?

20 A. That was -- that was one of my check stubs  
21 prior to me coming on full time on there. It has  
22 changed a little bit, yes.

23 Q. Okay. And so what are you earning now?

24 A. I'd have to look at my check stub because I  
25 just received one. I think it was around \$1200 every

1 two weeks, so about \$2400 a month.

2 Q. And that's just been since early this month?

3 A. Since January 3rd, yes.

4 Q. How did you get here today?

5 A. I flew.

6 Q. And did you come alone?

7 A. No. My mother and Hannah came with me.

8 Q. Okay. Why did you bring Hannah?

9 A. So that she could visit with Josh and have some  
10 time with him.

11 Q. And when do you intend to go back if you're  
12 allowed to go back soon?

13 A. I was going to stay a couple days after the  
14 hearing and then return.

15 Q. Okay. Did you specifically block out a couple  
16 of days so Mr. Morgan could have tonight and tomorrow  
17 night with Hannah?

18 A. Yes.

19 Q. And is that all right with you?

20 A. That's fine with me.

21 Q. You heard Mr. Morgan testify that your proposed  
22 property division was all right except for the couch and  
23 the washer and dryer. Do you have a strong opinion  
24 about the washer and dryer?

25 A. Well, I just feel like I would need that to

1 wash Hannah's clothes; otherwise, I'd have to purchase  
2 it again.

3 Q. Now, do you plan to stay at your folks' house?

4 A. I'm sorry?

5 Q. Do you plan to stay at your folks' house?

6 A. I do not.

7 Q. How long do you plan to stay at your folks'  
8 house?

9 A. Probably no more than three to six months until  
10 I get some debt paid off.

11 Q. Other than the two years you spent here in  
12 Austin with Mr. Morgan, have you had any other  
13 connection to Texas?

14 A. No, other than talking to a few people online  
15 here and there.

16 Q. How long had you known Mr. Morgan before he  
17 asked you to marry him?

18 A. Only a few months maybe.

19 THE COURT: Eighteen months?

20 THE WITNESS: A few.

21 THE COURT: A few months?

22 THE WITNESS: Yeah.

23 Q. (BY MR. ALBERTS) How many?

24 A. I think we started talking on Facebook the  
25 second time, which we had talked once before that -- we

1 actually started talking in October, I think it was, of  
2 2007. And then he flew down to Tennessee because he  
3 wanted to take me out to dinner. I think it was in  
4 March of 2008.

5 Q. Okay. And is that when he proposed to you?

6 A. No. I went and visited him in April here in  
7 Texas, and then he came back in May and proposed to me  
8 whenever I was supposed to be moving here.

9 Q. Okay. And since moving here, the two years you  
10 were here, were you happy?

11 A. Sometimes and sometimes not.

12 Q. Did you have any existing friends here?

13 A. No.

14 Q. Do you have any existing friends here?

15 A. I do not, no.

16 Q. Did you make any?

17 A. I have only a few co-workers at work.

18 Q. Did you have any family here?

19 A. No.

20 Q. Do you feel like you had any support here?

21 A. No.

22 Q. When is the first time you told Mr. Morgan that  
23 you very much wanted to move back to Tennessee?

24 A. About six months after I moved here. It could  
25 have been before.

1 Q. Did that ever change?

2 A. It never changed.

3 Q. Did things get better here?

4 A. It seems like they would get better and then  
5 they wouldn't. There was constant conflict it seems  
6 like.

7 Q. Did you feel removing Hannah from that was a  
8 good idea?

9 A. I do, very much so.

10 MR. ALBERTS: Pass the witness.

11 **CROSS-EXAMINATION**

12 BY MR. MORGAN:

13 Q. You said that you were planning on moving out  
14 of your mother's house. Where were you planning --

15 THE COURT: Would you use the microphone  
16 for me?

17 MR. MORGAN: Sure.

18 THE COURT: Mr. Alberts is so used to  
19 speaking, he doesn't necessarily need it, although by  
20 the end of the day he probably will. The switch turns  
21 it both on and off. If the light is bright green it's  
22 on, and it goes dull when the --

23 MR. MORGAN: Can you hear me now?

24 THE COURT: It's much better. Thank you.

25 Q. (BY MR. MORGAN) All right. You said that you

1 were going to move out of your mother's house soon.

2 Where were you planning on moving?

3 A. I had originally planned on moving next door,  
4 but that house is going to take more renovations than I  
5 can afford at this time, so I'll probably move to a  
6 townhouse or a rental house.

7 Q. So somewhere in Knoxville?

8 A. Somewhere either in Maynardville or closer to  
9 the Maynardville/Knoxville area.

10 Q. So you would like to stay in Maynardville close  
11 to your mother. Is that to keep Hannah out of daycare  
12 so that your mother could watch her?

13 A. Yes, it is.

14 Q. Now, if somebody told you that they were going  
15 to kill you or that they were going to hurt you or that  
16 they'd hurt somebody, would you take that seriously?

17 A. If they told me they were going to kill --

18 Q. If they told you they were going to kill you  
19 and that they knew hit men, would you take that threat  
20 seriously?

21 A. And they knew what?

22 Q. Hit men.

23 A. I guess if they knew hit men, maybe.

24 Q. Somebody you didn't know. If somebody you  
25 didn't know told you I know a hit man and I'm going to

1 kill you, would you take that threat seriously?

2 A. Probably, yeah.

3 Q. Okay. Are you a Christian?

4 A. I am.

5 Q. You are?

6 A. Uh-huh.

7 Q. Were you a Christian when we met?

8 A. I was.

9 Q. And you stated that -- you stated that you  
10 wanted to move to Tennessee earlier. That's your  
11 testimony?

12 A. I think he asked me how long I had been wanting  
13 to move back to Tennessee.

14 Q. So you did want to move back to Tennessee?

15 A. Of course I did.

16 Q. Did you ever tell me that you did not want to  
17 move to Tennessee?

18 A. I may have whenever we were trying to make up  
19 or something maybe.

20 Q. So you wanted to move back to Tennessee, but  
21 you told me that you didn't want to move back to  
22 Tennessee?

23 A. I wanted to move back to Tennessee, but if I  
24 told you that I didn't want to move back to Tennessee,  
25 it was because I was trying to work our marriage out.

1 Q. How much debt are you in right now?

2 A. Thousands of dollars.

3 Q. Thousands of dollars. Can you afford to pay  
4 back the \$8,000 tax credit refund?

5 A. Do they let you pay in payments?

6 Q. Maybe.

7 A. Or they take it out of your tax return  
8 probably, yes.

9 Q. So you can afford to pay the moving expenses to  
10 move all your stuff from here to Tennessee?

11 A. I've been saving money to try to do that, yes.

12 Q. Where did you grow up?

13 A. Where did I grow up?

14 Q. Yes.

15 A. In Kentucky and Tennessee.

16 Q. So you were -- you were born in Kentucky?

17 A. Yes.

18 Q. And when did you move from Kentucky to  
19 Tennessee?

20 A. In December of 1999.

21 Q. And were you in school at the time?

22 A. I was.

23 Q. And why did -- why did you move while you were  
24 in school?

25 A. It was actually over I think Christmas break.



1 And my mother knew my stepfather in Kentucky, and he had  
2 moved to Tennessee, and they got married and we moved to  
3 Tennessee.

4 Q. And so she took you out of high school and just  
5 moved to marry your current stepfather?

6 A. She wanted to help give us a better life by  
7 doing that, yes.

8 Q. Did you have any friends in Kentucky at the  
9 time?

10 A. I had lots of friends.

11 Q. Did it hurt you to move from Kentucky?

12 A. I was 16. Of course it hurt me.

13 Q. Did you have any friends in Tennessee at the  
14 time?

15 A. Whenever I moved there?

16 Q. Yes, when you moved to Tennessee.

17 A. My stepsister, yes. I had known her. Her name  
18 is Kristin Dotson. So she was very close to me whenever  
19 I moved there.

20 Q. Any other friends? Did you know anybody else?

21 A. I think my grandparents lived in Dandridge, but  
22 it was about 30 or 45 minutes away whenever we moved  
23 there.

24 Q. Do you and your mother get along?

25 A. Yes, we do.

1 Q. Have you ever fought with your mother?

2 A. We get in arguments just like any other mother  
3 and daughter do.

4 Q. So that's what mothers and daughters do? They  
5 get in arguments?

6 A. Sometimes they do.

7 Q. Now, in an earlier hearing you had mentioned a  
8 story about after Hannah was born when you and your  
9 mother got into a fight while you were on your way back  
10 from the hospital and she just up and left. She got on  
11 the next flight and just left, didn't really say  
12 anything. What was that fight about?

13 A. To be honest with you, I think a lot of the  
14 stress that she was under because of the threats that  
15 you made to arrest her caused her to be under a lot of  
16 stress whenever she was there. My brother was in the  
17 hospital seriously injured, and I was on pain  
18 medication, which caused me to be very irritable, so  
19 there was a lot of stress involved in that situation.

20 Q. So she was afraid because I was going to arrest  
21 her?

22 A. You had sent me an email stating that you were  
23 going to have her arrested if she did anything illegal  
24 or anything like that.

25 Q. So if she wasn't planning on doing something

1 illegal, why was she afraid of getting arrested?

2 A. I think she was afraid of being arrested  
3 because you like to manipulate situations. And I don't  
4 think she was really afraid of being arrested. She was  
5 just afraid of the conflict between you and her that you  
6 may cause.

7 Q. That I would cause?

8 A. That you made or would cause because of the  
9 email.

10 Q. So she left angry at you because she was afraid  
11 of me?

12 A. I never said she was afraid of you.

13 Q. You said -- you said that she was --

14 A. We were angry at each other. We were  
15 arguing -- I mean, not arguing, but we had gotten into  
16 an argument because of the stresses involved in the  
17 situation. I don't think it was over anything in  
18 particular.

19 Q. So she just up and left for no reason in  
20 particular?

21 A. Because we were arguing.

22 Q. Do you believe that that is abusive behavior?

23 A. I don't know if I believe that that's abusive  
24 behavior, no.

25 Q. So if Hannah was pregnant and she just had a

1 child and you got into a fight with her and you were to  
2 leave, you don't think that would be abusive? You don't  
3 think that's abusive?

4 A. I wouldn't leave.

5 Q. If you were to leave, would that be abusive?

6 A. I don't really think it would be abusive. It  
7 might be a mistake, but it wouldn't be abusive.

8 Q. Would you consider yourself a patient person?

9 A. A patient person?

10 Q. Yes.

11 A. Most of the time.

12 Q. Most of the time. Early in 2010 we filed our  
13 taxes together; is that correct?

14 A. I believe so. Maybe. I'm not really sure.

15 Q. Did we file a joint return?

16 A. We did.

17 Q. Was there a tax -- was there any money in the  
18 tax return for that year, for 2009?

19 A. I think around \$5,000.

20 Q. Around \$5,000. And where did that money go?

21 A. It went to a lot of things, groceries and some  
22 bills, and we bought -- what was it? I can't even  
23 remember everything that was bought, but it was mostly  
24 used for household items or supplies that we needed for  
25 the house. And I think I spent a couple hundred dollars

1 on a plane ticket for me and Hannah to come see my  
2 family.

3 Q. Now --

4 A. I really can't remember what else.

5 Q. Now, later in that summer you had complained  
6 that the AC was broken; is that correct?

7 A. That is true.

8 Q. And you did not have the money at that time to  
9 fix the AC?

10 A. Not at that time, no.

11 Q. And that's because all the money from the tax  
12 return had been spent; is that correct?

13 A. It may have been.

14 Q. Did you pay any medical bills with that?

15 A. With what?

16 Q. With the tax return money.

17 A. I think I paid on a few of them, yes.

18 Q. Are any of those bills that you paid off listed  
19 in your debts in your support amount?

20 A. That I paid off? That wouldn't be a debt if I  
21 paid on it, would it? Some of the medical bills that  
22 are on there is listed on there, yes, that we still have  
23 currently.

24 Q. So you spent -- can you tell me when the AC was  
25 broken? Was it when it starts getting hot here in

1 Texas?

2 A. I can't remember the exact date, no.

3 Q. But you're saying that you spent \$5,000 on  
4 groceries and household items before the AC broke?  
5 That's your testimony?

6 A. I believe so. It might have even been a year  
7 after that -- or no. I can't remember. I'm sorry.

8 Q. Do you have a brother?

9 A. I do.

10 Q. What's he like?

11 A. What is he like?

12 Q. Does he do drugs?

13 A. Not that I'm aware of.

14 MR. ALBERTS: Objection to relevance,  
15 Your Honor.

16 THE COURT: Well, I don't know where it's  
17 going to head and the extent to which she might have the  
18 child around her family members. I'm going to allow a  
19 certain amount of latitude along those lines --

20 MR. ALBERTS: Just some predicate for  
21 that.

22 THE COURT: -- just as I will with you.  
23 Go ahead.

24 Q. (BY MR. MORGAN) So you're not aware if he does  
25 drugs. Does he drink?

1 A. Not around me.

2 Q. Would you trust Hannah in his care, his sole  
3 care?

4 A. If I didn't know if he did those things, then  
5 no.

6 THE COURT: I'm sorry. I didn't  
7 understand your answer. If I didn't know that he did  
8 those things, no?

9 THE WITNESS: If I wasn't sure whether or  
10 not he was doing those things, I would not trust her in  
11 his care.

12 Q. (BY MR. MORGAN) If Hannah was restricted to  
13 Travis County or any contiguous county, would you move  
14 back to Austin?

15 A. If I had to. I don't think it would be best,  
16 but I would if I had to for her.

17 Q. Can you tell me how much money you made in 2009  
18 while you were in Texas?

19 A. 2009? I can't remember without looking at my  
20 W-2s.

21 Q. I may have a copy --

22 A. 2009, I didn't work part of that year, so it  
23 wouldn't have been the norm.

24 Q. Do you know how much money we both made  
25 together in 2009?

1           A.     If you say you make 60,000 a year, in 2009, if  
2 I didn't work part of the year -- if it were a normal  
3 year and it was before 2009, I was working full time and  
4 you were working full time. It would probably be around  
5 90 to 100,000 a year.

6           Q.     So we --

7           A.     But I don't specifically remember 2009. I'm  
8 sorry.

9                         MR. MORGAN: I'll go on and pass the  
10 witness.

11                                 **REDIRECT EXAMINATION**

12 BY MR. ALBERTS:

13           Q.     Do you and your mom get along?

14           A.     We do.

15           Q.     Do you and your stepdad get along?

16           A.     We do.

17           Q.     Is there peace in that house?

18           A.     There is.

19           Q.     Does your brother live there?

20           A.     He does not.

21           Q.     But you do have a younger sister that lives  
22 there as well?

23           A.     Yes.

24           Q.     Does she help care for Hannah?

25           A.     She does a lot.



1 Q. And do you know how she and Hannah feel about  
2 each other?

3 A. They absolutely love each other.

4 Q. When did Hannah turn one?

5 THE COURT: Excuse me. How old is she?

6 THE WITNESS: Victoria, she's ten. She  
7 just turned ten in December, two days after Hannah, two  
8 or three days after Hannah.

9 THE COURT: And you said that earlier. I  
10 remember now. Go ahead.

11 Q. (BY MR. ALBERTS) And I'm sorry. Hannah's  
12 birthday was?

13 A. December the 12th.

14 Q. And did Hannah get a call from Josh?

15 A. No, she didn't.

16 Q. Did she get a card?

17 A. No.

18 Q. Did she get a present?

19 A. No.

20 Q. Any kind of acknowledgement of her birthday?

21 A. None whatsoever.

22 Q. Any acknowledgement of her birthday from anyone  
23 that Josh is related to?

24 A. No.

25 Q. Other than by -- well, I mean, by your family.

1 A. Right.

2 Q. Other than by marriage?

3 A. No.

4 Q. Christmas?

5 A. Nothing.

6 Q. Do y'all celebrate Christmas?

7 A. We do.

8 Q. Josh celebrates Christmas?

9 A. Uh-huh.

10 Q. Did Josh or any member of his family  
11 acknowledge Christmas?

12 A. No.

13 Q. Did they send anything for Hannah?

14 A. No.

15 Q. Did they even send a card?

16 A. No.

17 Q. Did they call?

18 A. No.

19 Q. Do you have any idea why?

20 A. Because he says we're hostile.

21 Q. Has anybody ever prevented him from calling?

22 A. No.

23 Q. Anybody ever prevent him from emailing or  
24 sending cards?

25 A. No.

1 Q. And he had a right to visit, didn't he?

2 A. Yes.

3 Q. Does that concern you?

4 A. It does.

5 Q. Do you have any understanding of why Mr. Morgan  
6 has not been visiting his daughter?

7 A. I couldn't come up with a reason not to visit  
8 my daughter.

9 THE COURT: I'm sorry. I couldn't hear  
10 your answer. Again, please. I couldn't what?

11 THE WITNESS: I couldn't come up with any  
12 reason myself not to visit my daughter, so I don't know  
13 what reason he had.

14 Q. (BY MR. ALBERTS) Did he ever give you any  
15 reasons?

16 A. He couldn't afford to and he was afraid he  
17 would be murdered.

18 Q. By hit men that your mother would hire?

19 A. He never said that before, but ...

20 Q. And does your mother know any hit men to your  
21 knowledge?

22 A. No.

23 Q. Do hit men to your knowledge limit their work  
24 to Tennessee?

25 A. I'm sorry?

1 Q. Do hit men work in Austin as well as Tennessee?

2 A. Not that I'm aware of. I've never met any.

3 Q. Are you concerned about how Mr. Morgan has  
4 behaved since y'all split up?

5 A. Very much so.

6 Q. Why?

7 A. Because it seems like he has a negative  
8 attitude no matter what anybody does about the  
9 situation.

10 Q. In your opinion, is this about him or about  
11 Hannah today?

12 A. I think it's more about him. To him or to me?

13 Q. To him. To you what is this about?

14 A. About Hannah.

15 Q. If you were to move back here with Hannah, do  
16 you think life would be good for you?

17 A. I don't, no.

18 Q. Why?

19 A. Because I would have nobody to help me.

20 Q. How is the tech -- the radiology tech business  
21 here?

22 A. I have searched several times on different  
23 websites, like healthcare websites, MD.com,  
24 RadWorking.com, SimplyHired.com, several. And I've even  
25 searched through Google trying to look for openings and

1 there are none. The only thing that I found was one PRN  
2 job at St. David's Hospital, and I can't even work at a  
3 hospital.

4 THE COURT: And I can't -- and I can't  
5 even what?

6 THE WITNESS: Even work at a -- I can't  
7 work at a hospital because I haven't had the proper  
8 training in an actual hospital setting.

9 Q. (BY MR. ALBERTS) What do you lack to be able  
10 to work in a hospital?

11 A. They require that you know about  
12 fluororadiography and surgical radiography, which I  
13 haven't had very much experience with those two things  
14 since being out of school. I applied at St. David's  
15 whenever I moved here before, and none of them called or  
16 returned my call about any jobs.

17 Q. How is your employment in Tennessee?

18 A. I have a full-time job there.

19 Q. Is it a good job?

20 A. A wonderful job.

21 THE COURT: What kind of work do you do?

22 THE WITNESS: A mobile X-ray tech.

23 THE COURT: For a radiology group?

24 THE WITNESS: It's a mobile radiography  
25 company.

1 Q. (BY MR. ALBERTS) And do you have to drive or  
2 what do you do?

3 A. Yeah. We drive vans around to nursing  
4 facilities and mental institutions, correction  
5 facilities, people's houses, labs and stuff like that,  
6 and take X-rays and do EKGs and bone densities and all  
7 that.

8 Q. Now, you had to fly down here with Hannah;  
9 correct?

10 A. Correct.

11 Q. And how are you planning to get back?

12 A. We're going to drive.

13 Q. Have you rented a truck?

14 A. I reserved one, yes.

15 Q. By the time you've made this trip, not counting  
16 attorneys' fees, and you get back to Tennessee, how much  
17 money will you have in the bank?

18 A. I'm sorry. Could you --

19 Q. When you complete this trip and not counting  
20 what you owe me --

21 A. Okay.

22 Q. -- when you drive back to Tennessee, after  
23 renting the truck and driving back there, how much money  
24 are you going to have left in your bank account or to  
25 your name?

1 A. Probably about a thousand dollars or less.

2 Q. Do you have any retirement?

3 A. No.

4 Q. Do you have any other savings?

5 A. No.

6 Q. Do you have any bonds?

7 A. No.

8 Q. 401(k)?

9 A. No.

10 MR. ALBERTS: Pass the witness.

11 **RECROSS-EXAMINATION**

12 BY MR. MORGAN:

13 Q. Do you have a telephone?

14 A. I do.

15 Q. Did you give me that phone number?

16 A. I haven't had it very long and nobody asked.

17 Q. Have you told me if I wanted to talk to Hannah,  
18 that I would have to call your mother's cell phone?

19 A. At the time -- that's my home phone number.  
20 That's my home. And then she has a cell phone number.  
21 Those were the only numbers --

22 THE COURT: No, the question is, have you  
23 told him that he would have to call your mother's  
24 cell phone? Just answer that, and then there may not be  
25 another question.

1           A.    No, I haven't told you that you'd have to call  
2 her cell phone specifically.

3           Q.    (BY MR. MORGAN) Now, do me and your mother get  
4 along?

5           A.    You don't communicate at all, so I don't know  
6 if you would or not.

7           Q.    Well, earlier you said that she left the house  
8 because she was afraid that I would arrest her. She was  
9 afraid of the conflict.

10          A.    She was afraid of the allegations.

11          Q.    So would you say that there are conflicts  
12 between me and your mother?

13          A.    There have been in the past, I guess. I  
14 haven't really seen -- witnessed any, but ...

15          Q.    Now, what does your stepdad do for a living?

16          A.    He drives a truck sometimes.

17          Q.    Is it a tow truck?

18          A.    It might be a tow truck. Sometimes he -- a tow  
19 truck? No, not a tow truck.

20          Q.    Does -- does he -- did he sell tow trucks?

21          A.    He used to work at a rigger supply store or  
22 something I think.

23          Q.    So he knows a lot of tow truck drivers?

24          A.    He may. I don't know who he knows.

25          Q.    Have you had any other jobs since this suit's



1 been filed?

2 A. Since the suit has been filed?

3 Q. Since the suit has been filed, have you had any  
4 other jobs other than working at --

5 A. No.

6 Q. -- working at Mobile Images?

7 A. I have not -- well, no, I had a PRN job, yeah,  
8 at an orthopedic office. I'm sorry. Excuse me.

9 Q. Did you notify me that you had another job?

10 A. Why would I have to notify you that I have that  
11 job?

12 Q. Texas standing orders require you to notify if  
13 there's a change --

14 THE COURT: Let's don't make any  
15 statements. Let's just ask questions.

16 MR. MORGAN: My apologies. No more  
17 questions, Your Honor.

18 **FURTHER REDIRECT EXAMINATION**

19 BY MR. ALBERTS:

20 Q. Has your mother ever done anything violent?

21 A. I'm sorry?

22 Q. Has your mother ever done anything violent?

23 A. Violent?

24 Q. Yeah.

25 A. To whom? Anyone?

1 Q. Anyone. Is she a dangerous, violent person?

2 A. I do not believe so, no.

3 Q. Any reason in the world that Josh Morgan should  
4 be scared of your mother?

5 A. No.

6 Q. Who's bigger, Josh Morgan or your mother?

7 A. Josh Morgan.

8 Q. Okay. Has your mother ever been arrested for  
9 anything?

10 A. No, not that I'm aware of.

11 Q. Your stepfather who knows tow truck drivers,  
12 nice guy or a mean guy?

13 A. He's pretty nice. He's laid back and --

14 THE COURT: I'm sorry. He's pretty nice  
15 what?

16 THE WITNESS: And laid back. I'm sorry.

17 Q. (BY MR. ALBERTS) Is there -- you've talked to  
18 your mom about this situation; correct?

19 A. About what situation?

20 Q. Your divorce and Hannah.

21 A. Oh, of course.

22 Q. Is she supportive of Mr. Morgan having a  
23 relationship with Hannah?

24 A. Absolutely.

25 Q. Is she concerned that he hasn't been?

1 A. She is, very much so.

2 Q. Has she made clear that he is completely  
3 welcome to come visit?

4 A. Yes.

5 Q. Did she make that clear in testimony before  
6 Judge --

7 MR. MORGAN: Objection, hearsay.

8 THE COURT: I'm sorry?

9 MR. MORGAN: We're talking about what --

10 THE COURT: You have to stand if you wish  
11 to make an objection.

12 MR. MORGAN: My apologies. Objection,  
13 hearsay.

14 THE COURT: Objecting to hearsay. And  
15 what are we asking?

16 MR. ALBERTS: It was hearsay.

17 THE COURT: And you have to stand also --

18 MR. ALBERTS: I'm sorry.

19 THE COURT: -- if you wish to address the  
20 Court.

21 MR. ALBERTS: It was hearsay. I'll  
22 withdraw it.

23 THE COURT: All right. Great.

24 Q. (BY MR. ALBERTS) Did your mom testify before  
25 Judge -- at the temporary orders hearing?

1           A.    No, I don't think so.  She didn't testify.  At  
2 the temporary orders hearing?

3           Q.    Okay.  That's my memory.

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

5                   MR. MORGAN:  No further questions,  
6 Your Honor.

7                   THE COURT:  You may step down.

8                   Your next witness.

9                   MR. ALBERTS:  I would like to briefly  
10 testify.

11                   THE COURT:  I'm sorry?

12                   MR. ALBERTS:  I would like to briefly  
13 testify on attorneys' fees.

14                   THE COURT:  All right.  So step forward in  
15 front of me and raise your right hand.

16                           *(The witness was sworn)*

17                   MR. ALBERTS:  May I proceed?

18                   THE COURT:  You may.

19                           **WILLIAM ALBERTS,**

20 having been first duly sworn, testified as follows:

21                           **DIRECT TESTIMONY**

22                   MR. ALBERTS:  My name is William Alberts.  
23 I'm an attorney licensed to the practice law in the  
24 state of Texas.  I've been so licensed since 1979.  And  
25 I have continually practiced family law in Travis County

1 and Central Texas since 1979 to this date. I am a  
2 former chair of the Travis County Family Bar  
3 Association. I have served on the Travis County Bar  
4 board in the capacity of representing the family law  
5 section.

6 I charge -- I'm charging Ms. Morgan \$300  
7 per hour for this case. Actually, my normal fee is \$350  
8 per hour. Both of those fees are very reasonable in  
9 Travis County, Texas for an attorney with my experience  
10 at this time.

11 Coming into today's hearing, I had 46  
12 billable hours at \$300 per hour on Ms. Morgan's case,  
13 which is \$13,800. Of those coming into today,  
14 approximately four of those could be isolated to the  
15 child support contempt issue.

16 THE COURT: I'm sorry. Say that again.  
17 Of those what?

18 MR. ALBERTS: Of the 46 hours that I  
19 billed, four of those hours I can separate out as being  
20 spent specifically on the issue of child support  
21 enforcement. It's my testimony that the fees incurred  
22 by Ms. Morgan have been reasonable. Although perhaps  
23 not through her fault or mine, this has been unduly  
24 expensive for what it should have been. It is my  
25 testimony, therefore, that to date with whatever it

1 costs today at \$300 per hour, \$13,800 have been incurred  
2 by Ms. Morgan.

3           If this case is appealed and an appeal is  
4 perfected to the Court of Appeals, it would be my  
5 testimony that an additional \$5,000 would be an  
6 appropriate fee. If writ or discretionary appeal is  
7 taken from the Court of Appeals to the Supreme Court, it  
8 would be my testimony that an additional \$2500 would be  
9 a reasonable fee. In the event that the Supreme Court  
10 should either accept the case or, as it has done to me  
11 on several occasions, required me to brief without  
12 accepting the case, either way it would be my testimony  
13 that an additional \$5,000 would be an appropriate fee on  
14 appeal.

15           I pass myself to Mr. Morgan.

16           **CROSS-EXAMINATION**

17 BY MR. MORGAN:

18           Q. Are you saying that the balance is -- this is  
19 the current balance? She has not paid that \$13,000?

20           A. I believe that she's paid 5,000 of that. There  
21 may have been another payment. That was her initial  
22 retainer. I think that's all that's been paid.

23           Q. So that's an additional \$7,000 that is owed to  
24 you for legal fees?

25           A. More than that, yes.

1 Q. More than that.

2 A. 8,800 before this hearing.

3 Q. Ms. Morgan, is she required by law to have an  
4 attorney?

5 A. No.

6 Q. So she made this decision to hire you?

7 A. I hope so.

8 Q. Do I have an attorney?

9 A. No.

10 MR. MORGAN: No questions.

11 MR. ALBERTS: Nothing further, Your Honor.

12 THE COURT: You may step down.

13 MR. ALBERTS: We rest, reserving time for  
14 Ms. Massad.

15 THE COURT: You rest subject to calling  
16 the ad litem as a witness; is that right?

17 MR. ALBERTS: Correct.

18 THE COURT: All right. You may call your  
19 first witness.

20 MR. MORGAN: I would like to call myself.

21 THE COURT: Please take the stand. At  
22 this juncture the petitioner has used an hour and  
23 19 minutes. The respondent has used 25 minutes.

24 **JOSH MORGAN,**

25 having been previously duly sworn, further testified as

1 follows:

2 **DIRECT TESTIMONY**

3 MR. MORGAN: The first thing I'd like to  
4 bring into evidence is -- there's the report of results  
5 of the chemical dependency evaluation that was performed  
6 on me by Mark Catalano.

7 MR. ALBERTS: I'm sorry. Are you offering  
8 something?

9 MR. MORGAN: Yes.

10 THE COURT: The way you have to offer  
11 things is to have them marked with an exhibit sticker  
12 from the court reporter. You have to mention them by  
13 that number and offer it that way. Has this one been  
14 marked with an exhibit number?

15 MR. MORGAN: It has not.

16 THE COURT: Okay. Then you'll have to ask  
17 the court reporter -- and, of course, she can't take  
18 down the testimony at the same time -- to please mark  
19 exhibits. She usually -- in fact, she always comes out  
20 and asks you if you have any exhibits, so if you have  
21 more than just that one, I suggest at this time you use  
22 your time to get whatever exhibits marked that you may  
23 be using.

24 MR. MORGAN: I have quite a few to be  
25 marked then.



1 THE COURT: Well, then you will have to  
2 take the time to do that. I know she came out and  
3 offered that opportunity to you before the trial began,  
4 but you'll take the time now to do it.

5 You seem to be marking a lot of exhibits.  
6 I'll obviously let you take as much time as it takes to  
7 mark exhibits, but that's why she comes out before trial  
8 to try to get that done.

9 MR. MORGAN: So should I just work off  
10 these exhibits or should I bring my own copies?

11 THE COURT: You can do whatever, as long  
12 as -- as long as the exhibit numbers are referenced.

13 MR. MORGAN: I'll leave these here for  
14 Mr. Alberts.

15 THE COURT: But you'll have to reference  
16 them by number. I assume you wrote down the same number  
17 on your copy so you'll be able to reference each exhibit  
18 by number. That's the only way we can deal with them.

19 MR. MORGAN: Yes, sir, I did.

20 THE COURT: Okay.

21 MR. MORGAN: I believe Exhibit 1 was the  
22 report of results on the chemical dependency evaluation.  
23 I just wanted to go through this and highlight something  
24 specific that was said.

25 THE COURT: When counsel stands, that

1 means there's an objection.

2 MR. MORGAN: Okay.

3 MR. ALBERTS: Before reading from any  
4 document that he intends to offer, I'd like to offer an  
5 objection.

6 THE COURT: Yes. You can't read from any  
7 document unless it's admitted. We don't know whether  
8 they're admitted until you offer them and to see whether  
9 there's any objection. Is there an exhibit you plan to  
10 start reading from?

11 MR. MORGAN: Yes, Exhibit Number 1.

12 THE COURT: Are you offering Exhibit  
13 Number 1?

14 MR. MORGAN: Yes, sir.

15 THE COURT: All right. Respondent offers  
16 Respondent's 1. You'll have to show that to counsel.

17 Any objection to 1?

18 MR. ALBERTS: Yes, Your Honor, I object.  
19 It is a non-authenticated writing. It is hearsay. It's  
20 not a business record. There's no business record  
21 affidavit. It's not even signed.

22 THE COURT: Okay. This is an out-of-court  
23 statement by someone, and you can't, as you were  
24 learning earlier, offer hearsay statements made by  
25 someone out of court.

1 MR. MORGAN: This was the court -- this  
2 was the court-ordered alcohol evaluation.

3 THE COURT: Well, I understand that, but  
4 it still has to be authenticated. It can't be done by  
5 you. It has to be authenticated by someone who knows  
6 that and who --

7 MR. MORGAN: Ms. Massad perhaps?

8 THE COURT: Excuse me. Well, you can  
9 maybe ask the ad litem about it because there may be  
10 hearsay upon which she relied that you may be able to  
11 ask her about, but you can't simply willy-nilly --  
12 that's not a legal term -- offer exhibits that are  
13 basically just unauthenticated pieces of paper that are  
14 statements -- containing statements by other people. Do  
15 you see what I mean?

16 MR. MORGAN: No, that makes sense.

17 THE COURT: There are business records  
18 exceptions to the hearsay rule if you prove them up as  
19 business records, but you don't have the person here  
20 from the organization to do that. And as Mr. Alberts  
21 pointed out, there's no affidavit on it that does that.  
22 They can be filed early. There are a lot of different  
23 rules of hearsay that can allow you some exceptions, but  
24 I can't explain all of them to you. At this point,  
25 since you haven't shown me that this is authenticated --

1 MR. MORGAN: That's fine.

2 THE COURT: -- or proved up as a business  
3 record, I'll sustain the objection.

4 And it's now noon, so we're going to go  
5 ahead and break. What I suggest you do is sit down for  
6 the next ten minutes or so and go through these exhibits  
7 with Mr. Alberts. And it may be that on many of them he  
8 doesn't really have an objection, he has no heartburn  
9 about it, and he's happy to just simply go back on the  
10 record this afternoon and admit them by agreement, and  
11 that'll save you time and save everybody a lot of  
12 aggravation. So why don't we do that.

13 MR. ALBERTS: I'm happy to do that.

14 THE COURT: And then if he does have an  
15 objection, he will explain to you what the objection is,  
16 why he has that objection. And he's going to be  
17 courteous. I mean, I know you guys are fighting about  
18 what should happen in this case --

19 MR. ALBERTS: We've gotten along civilly.

20 THE COURT: -- but he'll explain to you  
21 courteously what the problem is and then you'll know  
22 what you can or can't do about that, and you can decide  
23 how to handle that after the break. I've got a number  
24 of things to take care of, but we'll go ahead and resume  
25 at 1:30. Does that work for you?

1 MR. ALBERTS: That's fine.

2 THE COURT: Great. I'll resume at 1:30.  
3 I'll see you then. Does that work for you?

4 MS. MASSAD: Yeah.

5 THE COURT: Great. I'll see you then.

6 *(Lunch recess taken)*

7 THE COURT: I believe you're still on the  
8 stand unless you've changed your mind about calling  
9 yourself.

10 MR. MORGAN: Not at this moment.  
11 All right. Mr. Alberts, I'm just going to go through  
12 these and I'm going to name them by number, and for each  
13 one that you want to object to, just --

14 MR. ALBERTS: And that's fine. We've gone  
15 through them. Again, as I said, on the text messages, I  
16 want my client to have a chance to see them. I don't  
17 think they will be objectionable, but I can't just say  
18 okay without her seeing them.

19 MR. MORGAN: Okay. I wanted to show the  
20 order of protection that Kristin filed in Tennessee as a  
21 response to the SAPCR that I filed. She -- she  
22 basically claims in here that --

23 MR. ALBERTS: Is this --

24 THE COURT: Well, again, I tried to  
25 explain this before. You cannot start reading from

1 documents unless they have been admitted into evidence.

2 MR. MORGAN: Okay.

3 THE COURT: You have not offered any  
4 exhibits in evidence.

5 MR. MORGAN: Sorry. I would like to  
6 admit --

7 MR. ALBERTS: Which one is that?

8 MR. MORGAN: This is Number 2 into  
9 evidence.

10 MR. ALBERTS: Oh, I'm sorry. Okay. That  
11 was one of the two. There were two pseudo-governmental  
12 documents that I told him I would be objecting to, but  
13 you should probably go ahead and offer them. One was 2  
14 and one was 29.

15 THE COURT: Are you offering 2?

16 MR. MORGAN: Yes, sir.

17 THE COURT: Any objection to 2?

18 MR. ALBERTS: I do object to it. It's not  
19 authenticated. It is hearsay. It's purportedly a  
20 foreign court order.

21 THE COURT: Oh. Well, if it hasn't been  
22 authenticated as a court order, if it doesn't have the  
23 court's seal on it and properly authenticated -- without  
24 looking at it, I -- those things can be authenticated,  
25 but you'd have to have it certified by the court clerk

1 in that court. Have you done that?

2 MR. MORGAN: In --

3 THE COURT: Does it have that on there?  
4 He's objecting that it has not been authenticated. Has  
5 it been authenticated?

6 MR. MORGAN: Not by the court in  
7 Tennessee.

8 THE COURT: Okay. Then I'm going to  
9 sustain that objection.

10 MR. MORGAN: Okay. I'd like to offer to  
11 admit Exhibits 3, 4, 5, and 6.

12 MR. ALBERTS: Those were just those  
13 photos? No objection, Your Honor.

14 THE COURT: 3, 4, 5, and 6 are all  
15 admitted without objection. Thank you, Counsel.

16 *(Respondent's Exhibits 3 through 6*  
17 *admitted)*

18 MR. MORGAN: The first three I just wanted  
19 to show the Court.

20 THE COURT: First three what?

21 MR. MORGAN: These are pictures.

22 THE COURT: See, you have to name them by  
23 exhibit number because the record --

24 MR. MORGAN: Oh.

25 THE COURT: -- can't be clear what it is

1 you're referring to, nor can counsel know what you're  
2 referring to, so you'll have to refer to them by exhibit  
3 numbers.

4 MR. MORGAN: Exhibits 3, 4, and 5 are  
5 pictures of me and my daughter. And I just wanted to  
6 show the Court how happy my daughter is with me.

7 THE COURT: Okay. And I'll have all the  
8 exhibits for me to look at whenever we're through with  
9 all the exhibits.

10 MR. MORGAN: Exhibit Number 6 is a picture  
11 of a toy box that I spent two weeks building for Hannah  
12 for Christmas. I never got to give that present to  
13 Hannah because I expected to have her on Christmas and I  
14 didn't get her.

15 Exhibit Number 7 I was going to admit, but  
16 I believe that Mr. Alberts is going to object, and I  
17 also believe that he has good grounds.

18 MR. ALBERTS: I do object to hearsay.

19 THE COURT: Well, he hasn't offered it  
20 yet. It sounds like he's withdrawing the exhibit.

21 MR. MORGAN: So I'll just withdraw the  
22 exhibit.

23 THE COURT: Okay.

24 MR. MORGAN: Exhibit Number 8 I would like  
25 to move in. It is a court transcript of the emergency



1 hearing that was done in a -- it was a joint hearing  
2 between Texas and Tennessee. It was recorded here in  
3 Texas.

4 THE COURT: You're offering -- are you  
5 offering Defendant's 8?

6 MR. ALBERTS: I apologize. I thought that  
7 was the partial one. When I saw it I thought that was  
8 the partial transcript you ordered. This is the  
9 transcript of a different hearing. I'm sorry. I  
10 apologize. I thought it was a different transcript.

11 I do have to object. It purports to be a  
12 transcript. It's neither signed, sealed, nor  
13 authenticated in any way, shape, or form.

14 THE COURT: Okay. And you've already  
15 explained this to him before, so this is not a surprise  
16 to him?

17 MR. ALBERTS: I have. I thought that was  
18 a transcript that he ordered from our prior August  
19 hearing here, and I said that won't be a problem. I'm  
20 not going to object to that.

21 THE COURT: I see. But this one has not  
22 been -- it's not certified by the court reporter? It's  
23 just --

24 MR. ALBERTS: That's correct. I'm not  
25 sure where it came from.

1 THE COURT: Okay. Well, I'll sustain that  
2 objection then unless you can show me that it is  
3 certified by the court reporter.

4 MR. MORGAN: I'm not sure what certified  
5 means. Does it have to have a stamp?

6 THE COURT: And even then what we do is we  
7 actually read from prior testimony ordinarily. And you  
8 can certainly perhaps use it to cross-examine, but I  
9 guess if it's not certified by the court reporter, you  
10 can't even do that. So yes, it has to have some seal of  
11 the court reporter showing that it's the official  
12 certified transcript that the court reporter certifies  
13 as a true and accurate transcript of that particular  
14 proceeding.

15 MR. MORGAN: May I --

16 THE COURT: Is it on there?

17 MR. MORGAN: There's no stamps.

18 THE COURT: Okay.

19 MR. MORGAN: It does have the court  
20 reporter's name and number and the date and everything.  
21 It was recorded here in Texas by Andy Hathcock's  
22 reporter.

23 THE COURT: Okay. I don't know what to do  
24 with that. I guess --

25 MR. MORGAN: May I --

1 THE COURT: Have you shown it to counsel?

2 MR. MORGAN: May I just read from it as a  
3 way of saying this is what a person said?

4 THE COURT: No. No, you see, you can't  
5 read from exhibits if they're not admitted into  
6 evidence.

7 MR. MORGAN: Okay.

8 THE COURT: Yeah. And so to get them into  
9 evidence, you have to have some sort of certified  
10 version of them, whether it's a court record or any  
11 other record. You know, I have to take these one at a  
12 time.

13 What I suggest we do is -- we're spending  
14 an awful lot of time in a real kind of cumbersome way.  
15 If we're going to go exhibit after exhibit after  
16 exhibit, perhaps the two of you should stand together  
17 and sit there with -- stand there with the stack of  
18 exhibits that you want to go through and let's go  
19 through one by one by one the ones that you really want  
20 to offer. I will listen to the objections and then  
21 we'll decide if there's a way around the objection. And  
22 perhaps you'll need to do it from counsel table, and  
23 that way if you need to hand me something, you'll be  
24 able to and it'll be a lot less clumsy than this.

25 MR. ALBERTS: May I suggest, Your Honor?

1 We're actually about to go on a long roll of stuff I'm  
2 not going to object to. If my client can look at the  
3 text messages --

4 THE COURT: And why don't we do that over  
5 there, and that way everyone can have everything they  
6 need in one spot, because this is really -- I can tell  
7 this is going to be a cumbersome way to do it, and we're  
8 going to spend a lot of time doing it this way.

9 MR. MORGAN: The ones that were admitted,  
10 where would you like me to put them?

11 THE COURT: You can leave those on the  
12 court reporter's desk once they're admitted. Thank you.

13 *(Discussion off the record)*

14 MR. MORGAN: Do you need to keep the ones  
15 that were objected to?

16 THE COURT: No, I don't. I don't get to  
17 look at them.

18 *(Conference between Mr. Alberts and*  
19 *Mr. Morgan)*

20 THE COURT: Are you offering an exhibit at  
21 this time?

22 MR. MORGAN: Yes, sir.

23 THE COURT: Okay. What exhibit do you  
24 offer?

25 MR. MORGAN: What I'd like to offer is

1 Exhibit Number 13.

2 MR. ALBERTS: Could I suggest that we're  
3 not going to object to Exhibits 13 through 28 and he can  
4 offer them all at once. They're all text messages.

5 THE COURT: Do you wish --- that would  
6 sure save time. Do you wish -- he doesn't have to offer  
7 them, though. Do you want to offer 13 through 28?

8 MR. MORGAN: Yes, I would.

9 THE COURT: Great. There being no  
10 objection, 13 through 28 are all admitted.

11 *(Respondent's Exhibits 13 through 28*  
12 *admitted)*

13 THE COURT: Does that finish all the  
14 exhibits that we intend to offer?

15 MR. MORGAN: Not all to offer.

16 THE COURT: Okay. Well, then go ahead and  
17 stand there so we can deal with it.

18 MR. MORGAN: Okay. At the last hearing  
19 Kristin testified that I was on -- that she found out  
20 later that I was on probation and that I kept that  
21 information from her. She said that she had no  
22 knowledge of me being on probation. Exhibit Number 13  
23 here is a picture of her cell phone with her cell phone  
24 number on it. It says -- it's sent to me. It says on  
25 April 9th of 2008 before we were married -- it says "Did

1 you make it to your probation place? I miss you." So  
2 she's sending me a text message about -- asking me  
3 whether or not I went to my probation place when she  
4 testified that she had no knowledge of me being on  
5 probation.

6 MR. ALBERTS: Did you describe that as her  
7 cell phone?

8 MR. MORGAN: This is her cell phone.

9 THE COURT: We're basically morphing into  
10 testimony now and now you've morphed into  
11 cross-examination.

12 MR. ALBERTS: I'm sorry. I didn't  
13 understand what he said.

14 THE COURT: I understand. And so -- but  
15 are you intending to offer this exhibit?

16 MR. MORGAN: Yes, I am intending to offer  
17 it.

18 THE COURT: I never heard an exhibit  
19 number.

20 MR. MORGAN: Exhibit 13.

21 THE COURT: He's offering 13. Well, it's  
22 been admitted. Now, are there any other exhibits other  
23 than 13 through 28 --

24 MR. ALBERTS: I'm very --

25 THE COURT: -- and other than 2, 3, 4, 5,

1 and 6 that you would like to offer now so that we can  
2 take care of all the housekeeping of exhibits and then  
3 I'll let you get on the stand and testify?

4 MR. MORGAN: Okay. That sounds good.

5 MR. ALBERTS: I apologize, Your Honor. I  
6 misspoke earlier. 13 through 18 were reserved for  
7 discussion. I made a mistake when I said 13 through 22.  
8 It should be --

9 THE COURT: I read on the record 13  
10 through 28. So we're going to go back and we've made a  
11 mistake and I should not have admitted 13 through 28?

12 MR. ALBERTS: 13 through 18 I'm objecting  
13 to. The rest are not objectionable.

14 THE COURT: Well, Counsel, this is really  
15 getting cumbersome. So now you want me to go back and  
16 reconsider admitting 13 through 18, or does it really  
17 matter?

18 MR. ALBERTS: Frankly, it doesn't really  
19 matter. I guess we'll talk about it. She had questions  
20 whether they're accurate. That's all. But no, I don't  
21 think it matters a bit.

22 THE COURT: Thank you.

23 MR. ALBERTS: So I will withdraw.

24 THE COURT: And I appreciate that. That  
25 does make it go faster. So my records show -- my notes

1 show and the court reporter I believe will show that I  
2 have admitted 13 through 28. She's nodding yes. Is  
3 that what everyone agrees is the record?

4 MR. ALBERTS: Yes, Your Honor.

5 THE COURT: Great. And that was all done  
6 without objection. I also admitted 3 through 6 without  
7 objection. Do we have any others that you wish to offer  
8 other than those?

9 MR. MORGAN: Yes. I would also like to  
10 offer Exhibit Number 12.

11 MR. ALBERTS: No objection.

12 THE COURT: Great. 12 is admitted without  
13 objection. Thank you, Counsel.

14 *(Respondent's Exhibit 12 admitted)*

15 MR. MORGAN: Exhibit Number 26.

16 MR. ALBERTS: That's already admitted.

17 THE COURT: 13 through 28 are all  
18 admitted.

19 MR. MORGAN: Sorry. Sorry. Exhibits 9  
20 and 10.

21 MR. ALBERTS: No objection.

22 THE COURT: Thank you. 9 and 10 are both  
23 admitted.

24 *(Respondent's Exhibits 9 and 10 admitted)*

25 MR. MORGAN: Exhibit 11.



1 MR. ALBERTS: No objection.

2 THE COURT: 11 is admitted. Thank you.

3 *(Respondent's Exhibit 11 admitted)*

4 MR. MORGAN: Exhibit 29.

5 MR. ALBERTS: I would object to 29 again  
6 as being hearsay. It's an unauthenticated document of  
7 some kind.

8 THE COURT: Okay. Is this an out-of-court  
9 statement by somebody else?

10 MR. MORGAN: This is a -- this is a  
11 citation from Tennessee.

12 THE COURT: Okay. Is it certified?

13 MR. MORGAN: Again, I'm not sure what  
14 certified means. It is signed by an officer in  
15 Tennessee.

16 THE COURT: Okay. Well, it's some  
17 government document somewhere.

18 MR. MORGAN: Yes.

19 THE COURT: And it can be proved up  
20 perhaps as a government document. But unless it has the  
21 seal on it -- then it's self-authenticating if it has  
22 the government seal on it --

23 MR. MORGAN: Okay.

24 THE COURT: -- as a government document.  
25 Then it can be admitted -- or at least it can be

1 authenticated that way. It may still contain hearsay in  
2 it. But without that seal it can't even be  
3 authenticated as an official government document.

4 MR. MORGAN: So 29 is not admitted.

5 THE COURT: Well, if you tell me it  
6 doesn't have that seal on it, then no, it's not  
7 admitted.

8 MR. MORGAN: It doesn't.

9 THE COURT: I'm not going to -- I can't do  
10 your work for you, but if you --

11 MR. MORGAN: It does not have a seal on  
12 it.

13 THE COURT: Great. That solves my  
14 problem. Then it's not admitted. Any others? You are  
15 putting all these numbers that I've just admitted on the  
16 court reporter's table -- right? -- with the original  
17 document seals on -- no, I mean, the --

18 MR. MORGAN: These have been admitted.

19 THE COURT: Great. They go to the court  
20 reporter. Once they're admitted, the court reporter  
21 gets them.

22 MR. MORGAN: Okay. Will I be allowed to  
23 look through them while I'm giving my testimony?

24 THE COURT: Yes. Yes. They just have to  
25 stay there until you need them.

1 MR. MORGAN: I'm going to withdraw 31.

2 THE COURT: You don't have to tell me  
3 anything you're not offering. Simply tell me what you  
4 want to offer.

5 MR. MORGAN: I would like to offer  
6 Exhibit 39.

7 MR. ALBERTS: Same objection, Your Honor.  
8 It's unauthenticated, a partial transcript of something  
9 from somewhere else.

10 MR. MORGAN: With no seal.

11 THE COURT: So are you withdrawing 39?

12 MR. MORGAN: Yes, I'll withdraw.

13 THE COURT: Okay. 39's withdrawn.

14 MR. MORGAN: Exhibit Number 40.

15 MR. ALBERTS: There is no objection.

16 THE COURT: Thank you. 40 is admitted.

17 *(Respondent's Exhibit 40 admitted)*

18 MR. MORGAN: I believe that is everything.

19 THE COURT: Great.

20 MR. ALBERTS: I agreed to 34, but I  
21 haven't heard you put it in.

22 MR. MORGAN: Okay. Thank you,  
23 Mr. Alberts.

24 MR. ALBERTS: You bet.

25 MR. MORGAN: Number 34.

1 THE COURT: Is being offered?

2 MR. MORGAN: Is being offered.

3 MR. ALBERTS: No objection.

4 THE COURT: Thank you. 34 is admitted.

5 *(Respondent's Exhibit 34 admitted)*

6 THE COURT: Now you can take the stand.

7 You can use whatever original exhibits you want, and  
8 keep them there and you may --

9 MR. MORGAN: I have one more left over  
10 here, Number 41.

11 MR. ALBERTS: No objection.

12 THE COURT: 41 is admitted.

13 *(Respondent's Exhibit 41 admitted)*

14 MR. MORGAN: Now let's get back to Exhibit  
15 Number 13. As I was saying earlier, this was Kristin's  
16 cell phone talking about me -- asking me if I made it to  
17 probation when she previously testified that she had no  
18 idea that I was on probation.

19 When Kristin and I met, we were talking  
20 a lot, and right off the bat when I first met her  
21 mother, I could tell that there were going to be  
22 complications with her. And I brought that up with  
23 Kristin wondering if, you know, her mother was going to  
24 be a problem. Kristin assured me that her mother would  
25 not be a problem in the relationship, that she would

1 keep her mother under control and that Kristin was an  
2 adult, and I have some text messages corroborating that.

3           Exhibit Number 14, for instance, says:  
4 I'm sorry for earlier. My mom just really knows how to  
5 push my buttons. Please don't think I'm crazy. I want  
6 everyone to be happy. I love you.

7           There were several others that actually  
8 got somewhat close where I got really nervous about her  
9 mother. She says: Can you sign onto Gmail? I feel  
10 like I've already fucked things up. Please just  
11 understand that I love both of you and it will take time  
12 for my mom to get used to the idea that I'm an adult and  
13 that I'm gone. Nothing she said is personal against  
14 you. I love you so much, Sweetie, and I know that she  
15 will too with time. Please just let this go and give  
16 her time.

17           So I was being convinced that her mother  
18 was not going to be a problem. The relationship went  
19 really well for the first several months. The first  
20 real -- what really kind of made the marriage go odd was  
21 the first time that Kristin threatened to commit  
22 suicide. I was actually out -- I was out -- I was out  
23 of town at the time on business, and I received a text  
24 message from her that said -- just out of the blue: No,  
25 I need a knife to cut my wrists, which I'm going to buy

1 right now. Enjoy the rest of your life. I love you.

2           At the time I really had no idea how to  
3 handle something like that. I had never dealt with any  
4 sort of suicide threats or, you know, any death threats  
5 for that matter. My reaction was to call basically  
6 everybody I know in Austin to try and, you know, check  
7 in on Kristin, make sure she was okay, and that just  
8 ended up making her angry.

9           She had mentioned in several conversations  
10 with me that she was questioning whether or not she had  
11 psychological problems to herself. And at the time,  
12 again, I was -- I reacted to that in a wrong way. I  
13 should have just, you know, kind of pushed her into  
14 getting help for that. Instead I told her no, you know,  
15 you're not -- you have these problems, but we can take  
16 care of them ourselves, and that was really the wrong  
17 move.

18           At that point, you know, in the  
19 relationship, the borderline personality features really  
20 started to come out. And this was -- this started to  
21 be, you know, at least every -- once a week. At least  
22 once a week Kristin would get angry at me for some  
23 irrational reason. She would get angry at me because  
24 she would try to call me while I was at work. I'd be in  
25 a meeting and I'd call her back ten minutes later and

1 she'd be screaming at me because I didn't answer my  
2 phone.

3 THE COURT: I have no idea when these  
4 problems you're referring to arose.

5 MR. MORGAN: Okay.

6 THE COURT: The suicide reference, you  
7 said that was the first instance of these problems, but  
8 I don't have any point of reference in terms of  
9 chronology.

10 MR. MORGAN: I'm trying to keep this  
11 chronological in the order that I'm giving you  
12 statements.

13 THE COURT: But I don't know when that  
14 was.

15 MR. MORGAN: So the suicide threat was on  
16 the 12th of December in 2008, ironically one year before  
17 Hannah was born. And at that point these types of  
18 borderline episodes started to get worse and worse. And  
19 none of these episodes you'll see in all this evidence  
20 had anything to do with alcohol or her being abused. It  
21 was either, you know, I didn't answer my phone at work  
22 or she had -- you know, she was falsely accusing me of  
23 cheating on her. Just, you know, at one point I was --  
24 I answered the phone while I was out to lunch in a busy  
25 restaurant and she started screaming at me because she

1 heard a female voice in the background in a crowded  
2 restaurant and she was accusing me of going out to lunch  
3 with a woman, I guess.

4           And any time this would happen I would go  
5 home and I would get screamed and yelled at. I would be  
6 insulted. My family would be insulted. And, you know,  
7 I would say something to her like, you know, well, your  
8 mother is the one who's trying to get -- who's been  
9 trying to force us into a divorce since we got married,  
10 and at that point she would get angry to the point of  
11 punching me and being physically violent saying don't  
12 talk about my mother like that. And this is -- this was  
13 a pattern. This happened, like I said, at least once a  
14 week for the rest of the -- throughout the marriage.

15           From then on -- I don't know if I want to  
16 go through and read every single incident. I'll leave  
17 them in evidence. One in particular, which was much,  
18 much later -- we're talking about March 23rd of 2010 --  
19 Kristin had actually gone -- traveled to Tennessee. She  
20 said that she missed her mother. She traveled to  
21 Tennessee. She wanted to go visit for a month and bring  
22 Hannah with her. I said that's fine, you miss your  
23 mother, go visit your family.

24           Shortly after she got there, I got an  
25 email from her that said: Honey, I'm sorry for being so



1 hateful. I never should have came here. We are paying  
2 my mom back for everything she bought us. She's driving  
3 me fucking crazy. Please forgive me. I love you.

4                   And then a little later she said: I want  
5 to come home. I don't know if I can stand to be here  
6 for two more weeks.

7                   She was in Tennessee with her mother and  
8 her mother was driving her crazy. And, you know, any  
9 time -- any time she would get angry at me --

10                  THE COURT: I'm having trouble following  
11 your testimony because I'm still not oriented as to  
12 time. I suggest that as you explain -- since you don't  
13 have a questioner, it's a little harder -- as you  
14 explain things, that you give me a point in reference of  
15 time. You say you're doing things chronologically, but  
16 I don't know how quickly or slowly we're moving  
17 chronologically, so the testimony is not -- is not as  
18 helpful or as coherent as it could be if you would do  
19 that.

20                  MR. MORGAN: Okay. So from the time of  
21 when she threatened to commit suicide --

22                  THE COURT: December 12th, 2008. I got  
23 that.

24                  MR. MORGAN: -- up until February of 2010,  
25 there were many, many incidents of all these things that

1 I was just talking about, and these were regular  
2 occurrences. They happened on a weekly basis. And  
3 there's -- the evidence that I've submitted here is just  
4 a small piece of these incidents. Many of these  
5 incidents were not recorded in text messages or emails.  
6 Many of these were done, you know, just talking or over  
7 the phone. But, you know, I'm just trying to show that  
8 there's a clear pattern of emotional abuse here where  
9 she would tell me what to do, and if I didn't do what  
10 she told me to do, then I was going to get kicked out of  
11 the house or, you know -- or, you know, something was  
12 wrong with me or my family.

13                   So we're back to March 23rd of 2010 where  
14 she was in Tennessee with her mother sending me these  
15 messages saying that she could not get along with her  
16 mother, that her mother was driving her crazy and she  
17 needed to come home. This was -- this was a month  
18 before my father died. This was two months -- three  
19 months before she just left. I went to work one day,  
20 came home and she was gone. She had taken my daughter  
21 to Tennessee.

22                   When my father died, that was April 23rd,  
23 2010. I remember driving to the hospital to go check on  
24 my father who was on his death bed. They had already  
25 told us that it was inevitable and I wanted to go be

1 with my family. I called my wife to tell her what the  
2 situation was. She proceeded to yell at me because  
3 dinner was getting cold. I had to beg her to come and  
4 be with my family and be supportive as my wife during  
5 this time, and she would respond by saying you don't  
6 really want me there. And I just kept saying please,  
7 please come support me, please come be there. She was  
8 just -- it's like the death of my father had no effect  
9 on her.

10 THE COURT: This is April 2009 or April  
11 2010?

12 MR. MORGAN: April 2010. This was just a  
13 few weeks before she left. The night before she left,  
14 June 3rd, 2010, I had -- after work I told her -- I said  
15 I'm going to go grab a beer, just one beer with a  
16 coworker of mine after work; I'll be home by 6:30. She  
17 didn't have a problem with it. While I was at the bar,  
18 I started getting text messages. You know what? No, I  
19 don't want you there anymore; come home. And I could  
20 just feel the borderline episode coming on again.

21 At that point I was scared to come home.  
22 You know, I'm still dealing with the death of my father.  
23 I was not really in an emotional state to have the  
24 patience to deal with a borderline person. I didn't  
25 come home right away. I went to my friend Chris' house

1 and kind of was there. And while I was there, she was  
2 sending me these angry text messages telling me that she  
3 doesn't feel the least bit sorry for me, you know, that,  
4 you know, I need to grow up and things like that.

5           When I finally came -- when I came home  
6 that night, it was probably about 9:00 p.m. I'm  
7 guessing, somewhere around there when I came home,  
8 you know, I was basically in tears just trying to get  
9 over the death of my father, and she again told me that,  
10 you know, she doesn't feel sorry for me, I need to grow  
11 up and my father was a bad father anyway. And I just --  
12 you know, I broke down there and I used some language  
13 with her that I regret. I've apologized.

14           That's the one instance of abuse that I  
15 directed towards her, and that's the only instance of  
16 abuse that they bring up, was just that one time I  
17 couldn't take it. I tried to lock myself in the room.  
18 She -- she -- she broke in -- she broke into the room.  
19 There's a picture of the door. She used a screwdriver  
20 to break into the room. I went to go kind of keep her  
21 out, you know, just to kind of keep separation because I  
22 didn't have the -- I couldn't deal with her right there.  
23 She forced herself into the room and started punching me  
24 in the face.

25           At that point my dog attacked her because,

1 you know, my dog is in there and he sees somebody break  
2 into the door and start hitting me. You know, he got  
3 defensive. I pulled the dog off, locked the door again,  
4 barricaded the door with the dresser so there's no way  
5 she could get in and I went to bed, woke up, went to  
6 work the next morning and didn't say a word to her, and  
7 then when I came home from work she was gone.

8 I've tried my best to be a good husband,  
9 but I've been dealing with a mother-in-law who's been  
10 planning the divorce since day one. She's been trying  
11 to adopt a child and now she has one. I've been dealing  
12 with somebody who has borderline personality disorder,  
13 and I just am not educated or prepared to deal with  
14 that. And now my daughter is being taken away from me  
15 to a place where I just have -- that is nearly  
16 logistically impossible for me to have a relationship  
17 with my daughter. I can't get a job in Maynardville,  
18 Tennessee. I mean, not only is the economy terrible  
19 there, the crime rate's higher. The schools are rated  
20 lower. It's less diverse.

21 It's just not -- Hannah needs to be in  
22 Austin. She needs to be in the house that we bought in  
23 Austin. She needs to be around both parents. She needs  
24 to have a relationship with both parents. There is a  
25 support system here for Kristin, me and my family.

1 We've always been nice to Kristin, and we're still here  
2 for her. We understand that she's just going through  
3 some psychological issues, you know. We don't hate her  
4 for that. We're just nice people. We want to make this  
5 work. And, I mean, the only person that's really not  
6 getting along consistently with anybody else in this  
7 family is Kristin's mother.

8 I think I can pass the witness now.

9 **CROSS-EXAMINATION**

10 BY MR. ALBERTS:

11 Q. So you were a really good husband; is that  
12 right?

13 THE COURT: Would you please use the  
14 microphone for me?

15 MR. ALBERTS: I'm so sorry.

16 THE COURT: Thank you.

17 Q. (BY MR. ALBERTS) Mr. Morgan, do you believe  
18 you were a good husband?

19 A. I was -- I tried to be the best husband that I  
20 could. And I'd say yes to that question.

21 Q. Do you know pregnancy affects women's hormones  
22 and it's hard, yes?

23 A. Yes, I do.

24 Q. Okay. Did you adjust your behavior accordingly  
25 to spend more time with your pregnant wife?

1 A. Absolutely.

2 Q. In the first email that you talk about where  
3 she talks about the knife, she had recently had a  
4 miscarriage that you had been totally unsupportive  
5 about, had she not?

6 A. That I had been totally unsupportive about?

7 Q. Not there, out drinking.

8 A. That's not true.

9 Q. How did you show your support of her after that  
10 miscarriage?

11 A. I -- you know, I tried to console her. I tried  
12 to tell her she was beautiful and, you know, that the  
13 baby would come at the right time. I would buy her  
14 flowers. I would just try to do everything I could do  
15 to make her happier.

16 THE COURT: I'm sorry. When was this  
17 miscarriage?

18 MR. MORGAN: This was I guess November  
19 2008, around that time period.

20 THE COURT: All right.

21 Q. (BY MR. ALBERTS) You also during her pregnancy  
22 with Kristin whenever you -- I'm sorry -- with Hannah  
23 repeatedly told her you hoped she miscarried again,  
24 didn't you?

25 A. I never said that.

1 Q. You have handpicked text messages. Do you  
2 recall the temporary orders hearing where we went  
3 through all this great length in front of Judge --

4 THE COURT: Hathcock.

5 MR. ALBERTS: Thank you.

6 A. All of what?

7 Q. (BY MR. ALBERTS) Text messages between the two  
8 of you. Do you recall that?

9 A. Going through those text messages? I remember  
10 going through the text messages from the June 3rd,  
11 June 4th time frame in that courtroom. That was it.

12 Q. Where you told her not to come back and at  
13 least on four or five different text messages you used  
14 the term cunt. Do you remember that?

15 A. I only remember one text message using that  
16 word.

17 Q. Ms. Massad was present at that hearing;  
18 correct?

19 THE COURT: When was that? When did you  
20 use that word in a text message?

21 MR. MORGAN: That would have been around  
22 the June 4th time period.

23 THE COURT: June 4th of 2010?

24 MR. MORGAN: 2010.

25 THE COURT: I see.



1 Q. (BY MR. ALBERTS) And you used that in a text  
2 message to her while she was in Houston with Hannah  
3 nursing injuries from the fight that you've described,  
4 and you sent her a text message saying --

5 THE COURT: We're making statements.

6 MR. ALBERTS: I'm sorry. I'm asking --

7 THE COURT: That's not a question.

8 MR. ALBERTS: I apologize.

9 Q. (BY MR. ALBERTS) And is that when you sent her  
10 the text message we talked about earlier that says "Rot  
11 in hell. Don't ever come back, cunt"?

12 A. Yes. And I've apologized about that. I was  
13 very --

14 THE COURT: No, let's just -- let's just  
15 answer the questions.

16 MR. MORGAN: Sorry.

17 THE COURT: And you'll get a chance to ask  
18 yourself questions.

19 Q. (BY MR. ALBERTS) And it was after that that  
20 she went to Tennessee; correct?

21 A. I believe so.

22 Q. There -- are you willing to acknowledge that  
23 you sent many equally mean nasty text messages to your  
24 spouse?

25 A. I would not say many, no.

1 Q. You'll acknowledge some?

2 A. Yes. Well, I acknowledge that I'm a  
3 human being.

4 Q. You also insisted some kind of religious  
5 demands that your wife submit to you, did you not?

6 A. No, that's not true.

7 Q. That she cleave from her family and submit to  
8 her husband, do you not recall that email?

9 A. Yes, I believe -- I do recall that email, but  
10 it was taken out of context.

11 Q. You're well aware she didn't feel you were very  
12 supportive during her pregnancy or after the child was  
13 born; is that right?

14 A. I have no idea what she was feeling.

15 Q. Why?

16 A. Because it was -- her emotional stuff was all  
17 over the place when she was pregnant and when she was  
18 not pregnant. This was -- these were problems -- these  
19 problems were not isolated to her pregnancy.

20 Q. She repeatedly asked you to stop going out to  
21 bars and drinking throughout her pregnancy and after the  
22 child was born, did she not?

23 A. I'm not sure. Is that a question?

24 Q. It is a question. Did she ask you to stop  
25 going to bars and drinking during her pregnancy and

1 after the child was born?

2 A. No, she did not.

3 Q. When did she ask you to stop drinking?

4 A. She never asked me to stop drinking.

5 Q. Do you deny that this was an issue in your  
6 marriage counseling?

7 A. She brought it up with the marriage counselor,  
8 yes, only after I brought up the abuse.

9 Q. So were you aware -- when was the marriage  
10 counseling?

11 A. Marriage counseling I believe started around  
12 January of 2010.

13 Q. And so at least from January 2010 you knew that  
14 she had a concern about you drinking?

15 A. Her views on alcohol were extremely  
16 inconsistent, so she -- one day she would, you know,  
17 drink a bunch with me and then the next day she would  
18 chide me for drinking myself. So, you know, does she  
19 have a problem with it? That's hard for me to tell.

20 Q. Okay. So you didn't understand that she had a  
21 problem with it; correct?

22 A. I don't think she had a legitimate problem with  
23 it.

24 Q. She just didn't want you out at bars drinking  
25 because she was mean?

1           A.    I think she was jealous.  She thought that I  
2 was out cheating or something, you know.  She has -- she  
3 has psychological issues.

4           Q.    A woman with a one-month-old child has  
5 psychological issues when she's jealous of her husband  
6 out drinking?  Is that your testimony?

7           A.    I'm sorry.  Could you --

8           Q.    I'm sorry.  Do you believe that jealousy of a  
9 woman with a one-month-old child and her husband is out  
10 drinking at a bar is a mental illness?

11          A.    Having -- I believe that having one drink with  
12 a co-worker networking is not the equivalent of going  
13 out and drinking at a bar all night, and so I would have  
14 to say no to that question.

15          Q.    But you think her jealousy with your -- and let  
16 me explain that.

17          A.    Okay.

18          Q.    Her jealousy was always evidenced when you  
19 weren't home, wasn't it?

20          A.    Her jealousy was evidenced even when I was  
21 home.

22          Q.    You weren't home a lot in the evenings, were  
23 you?

24          A.    Oh, I was home every evening.

25          Q.    By what time?

1           A.     The latest I ever got home was 7:00 p.m. except  
2 for maybe one or two cases the entire marriage.

3           Q.     I thought you just testified to the Court you  
4 stayed out till 9:00 the night that she begged you to  
5 come home.

6           A.     That would be one of those one or two  
7 exceptions that I just talked about.

8           Q.     After she had her miscarriage, did you take off  
9 time from work?

10          A.     I don't remember.

11                   THE COURT:   How early in the pregnancy did  
12 the miscarriage occur?

13                   MR. MORGAN:   It was well within the first  
14 trimester.  She was maybe 11 or 12 -- I believe  
15 somewhere around 11, 12 weeks pregnant.

16          Q.     (BY MR. ALBERTS)  And you knew that was not her  
17 first miscarriage, did you not?

18          A.     Yes, I was aware of that.

19          Q.     You knew she took it very hard, did you not?

20          A.     Yeah.  Yes.  I tried to console her.  I  
21 remember that.

22                   MR. ALBERTS:   Pass the witness.

23                   THE COURT:   Any other testimony?

24                                   **REDIRECT TESTIMONY**

25                   MR. MORGAN:   You know, I was accused of

1 going out and drinking a lot. And that term, you know,  
2 going out and drinking all night at the bar was used to  
3 describe me having literally one beer from 5:30 p.m. to  
4 6:30 p.m. with some fellow coworkers to network, and I  
5 would go home right after that, and I would tell her  
6 where I was. And there were several occasions where it  
7 just wasn't a problem with her. And then, you know,  
8 every once in a while if she was in the -- if she was  
9 having a borderline episode she would get angry about  
10 that, and it would always come out of her as, you know,  
11 you've been out drinking. I'd be home at 7:00 o'clock  
12 and it was you've been out drinking all night; you know,  
13 you're an alcoholic and all this other stuff. And,  
14 you know, she would tell me that I didn't give you  
15 permission to do that, you know. So I guess pass the  
16 witness.

17 **RECROSS-EXAMINATION**

18 BY MR. ALBERTS:

19 Q. You're certain you have no alcohol problem?

20 A. Yes. I have several -- I've been to three  
21 different professionals about it now and none of them  
22 say I have an alcohol problem.

23 Q. Do you believe you have an alcohol problem?

24 A. I believe I do not have an alcohol problem.

25 Q. You believe with a DWI under your belt you

1 should be out drinking?

2 A. Out drinking. I think that it just meant that  
3 I needed to be a lot more responsible, which I am.

4 Q. Well, I assume every day that you drove home  
5 with that one beer you were driving with one beer in  
6 your system.

7 A. That's correct.

8 Q. And you were on probation for DWI at the time?

9 A. No, I was not.

10 Q. And did you have a driver's license?

11 A. I believe so.

12 Q. We've been through this before. Do you want to  
13 go through it again? Do you recall when your license  
14 was --

15 A. There were --

16 Q. -- suspended --

17 A. There were some --

18 THE COURT: Excuse me. You've got to let  
19 him finish the question.

20 MR. MORGAN: Sorry.

21 Q. (BY MR. ALBERTS) Do you recall when your  
22 license was suspended?

23 A. I don't. There were some -- there were some  
24 spots in time where the license was suspended because I  
25 was late on surcharges, and there were some spots where

1 it was suspended and sometimes when it was not.

2 Q. You didn't finish your probation until the  
3 summer of 2010 when you finally paid your fees; is that  
4 correct?

5 A. I do not recall that being the case.

6 Q. Do you recall when you finally paid your fee?

7 A. I paid all my probation fees early, which is  
8 why my probation officer stopped meeting with me.

9 THE COURT: What was the date of your DWI  
10 conviction, roughly?

11 MR. MORGAN: Of my conviction? The  
12 incident occurred in November of 2005. I believe that a  
13 conviction happened around --

14 THE COURT: I'm sorry. When of 2005?

15 MR. MORGAN: About November of 2005. So  
16 it was probably about January of 2007 when I was  
17 convicted.

18 THE COURT: All right. What's your date  
19 of birth?

20 MR. MORGAN: May 1st, 1980.

21 THE COURT: Go ahead.

22 Q. (BY MR. ALBERTS) I'm sorry. And how many  
23 months probation did you get?

24 A. Eighteen.

25 Q. And you don't recall having trouble with not



1 paying a DWI surcharge?

2 A. Oh, I did have trouble with a surcharge.

3 Q. Which resulted in you not getting discharged  
4 from probation, did it not?

5 A. No, it did not. The surcharge was a different  
6 thing than the probation fees.

7 Q. Did that cost you your license?

8 A. It did, yes. But when I was late, I would  
9 get -- you know, I'd get a piece of mail that said your  
10 license is suspended.

11 Q. In the months leading up to and the months  
12 following Hannah's birth, how many days a week did you  
13 have a drink of alcohol?

14 A. Probably about maybe two or three.

15 Q. And you continued this after you went to  
16 marriage counseling and it was made clear to you that  
17 this was an issue to your wife; is that correct?

18 A. I -- I quit drinking for a time, and it was  
19 evident to me, because the situation did not improve,  
20 that alcohol was not the problem.

21 THE COURT: You need to listen to his  
22 question and just answer the question. It was about the  
23 time period when you had been made aware that it was an  
24 issue and it was after that that -- after you had been  
25 made aware of that.

1 MR. MORGAN: I did quit for a time, yes.

2 Q. (BY MR. ALBERTS) When did you quit?

3 A. I imagine about somewhere in February of 2010.

4 Q. And how long did you go without a drink?

5 A. About two weeks.

6 Q. And so in two weeks you decided that sobriety  
7 wasn't helping your marriage; is that correct?

8 A. That's correct.

9 MR. ALBERTS: Pass the witness.

10 MR. MORGAN: I have nothing further to  
11 say, Your Honor.

12 THE COURT: All right. You may step down.  
13 Your next witness?

14 MR. MORGAN: I would like to call  
15 Christine Morgan.

16 THE COURT: The petitioner has used an  
17 hour and 31 minutes. The respondent has used an hour  
18 and 15 minutes. So you're down under an hour on the  
19 petitioner's side in remaining time.

20 Please step forward. You were sworn  
21 earlier; is that correct?

22 MS. CHRISTINE MORGAN: Yes.

23 THE COURT: You are under the oath that I  
24 gave you earlier today. You may take the stand.

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**CHRISTINE MORGAN,**

having been previously duly sworn, testified as follows:

**DIRECT EXAMINATION**

BY MR. MORGAN:

Q. Hi, Mom.

A. Hi.

Q. How well would you say you know Kristin?

A. How well --

THE COURT: I'm sorry. I couldn't hear your question.

Q. (BY MR. MORGAN) How well would you say that you know Kristin?

A. Pretty well.

Q. Pretty well. Did you ever spend time with her, just you and her?

A. A little bit, uh-huh.

Q. Did you -- did you two get along?

A. Yes.

Q. Would you say you had a healthy relationship with her?

A. I would say so. You know, I would. She was a little guarded sometimes I thought, but ...

Q. If Kristin were to move back here to Austin, would you be supportive of her in any way that you could?

1           A.     Absolutely.  She's my daughter-in-law or  
2 ex-daughter-in-law, however it works out.  Yeah.

3           Q.     Have -- when was the last time that you  
4 spent -- most recent time that you spent time with just  
5 her?

6           A.     The most recent time is we had a movie date a  
7 couple of days before she left.

8           Q.     So that would have been -- that was June?

9           A.     Like a Wednesday.

10          Q.     June 2nd, 2010?

11          A.     Whatever that date is, yes.  I think it was a  
12 Wednesday night right before she left.

13          Q.     Did you guys go to the movie?

14          A.     No, because there was a freak thunderstorm that  
15 night that took out the projector, so they cleared the  
16 theater and we ended up just visiting out by Barnes &  
17 Noble instead of watching a movie.

18          Q.     You just visited all night?

19          A.     Uh-huh.

20          Q.     Was Hannah with you?

21          A.     No.

22          Q.     Where was Hannah?

23          A.     You were watching her.

24          Q.     How late did you stay out that night?

25          A.     Not late, about the same time as it would have

1 been had there been a movie. We visited for a couple  
2 hours, as far as I remember.

3 Q. What kind of things did you talk about, if  
4 you'd like to tell me about that?

5 A. I think we talked about all kinds of things,  
6 you know, but I remember we talked about how things were  
7 going because I always asked her how were things going,  
8 how were things going. And she said that, you know,  
9 that the marriage was going better, that you and her  
10 were beginning to understand each other better and that  
11 things were better. It was truly a shock when she took  
12 off.

13 Q. Do you think that I have a problem with  
14 alcohol?

15 A. No. I've never -- I've never seen you drunk.  
16 I've never seen you overindulge.

17 Q. In 30 years you've never seen me drunk?

18 A. No.

19 MR. MORGAN: Pass the witness.

20 **CROSS-EXAMINATION**

21 BY MR. ALBERTS:

22 Q. Ms. Morgan, my name is Bill Alberts. I don't  
23 know if we've ever formally met. You indicated that you  
24 would be supportive of Kristin; is that correct?

25 A. Uh-huh.

1 Q. You were well aware that your son was not  
2 paying the court-ordered child support, weren't you?

3 A. I was not aware of that until actually  
4 December.

5 Q. When in December --

6 A. Pretty late in December when I had a  
7 conversation with Leslie and she said, well, maybe  
8 you're not aware that -- you know, something about the  
9 child support, and then she said, well, I'll leave that  
10 for your son to tell you, so I was not aware that he was  
11 not paying his child support.

12 Q. Well, did you then ask him after Leslie said  
13 I'll leave that --

14 A. Uh-huh. I think I did, uh-huh.

15 Q. And what did he say?

16 A. He said no, he hadn't. He was going to be able  
17 to make up the amount. He said he was wrestling with  
18 making the mortgage payment and waiting on this bonus  
19 from Pervasive and that once that bonus came in, that he  
20 would be able to make it all up. And I said, well,  
21 that's good; you don't want to not pay your child  
22 support. So ...

23 Q. Did he tell you how long it had been since he  
24 paid it?

25 A. No, and I didn't really ask. I don't remember

1 the -- I don't remember asking, you know, like, if it  
2 was four months, five months, or whatever it's turned  
3 out to be.

4 Q. What was your reaction to finding that he  
5 hadn't been paying his child support?

6 A. I was concerned.

7 Q. For whom?

8 A. For everyone.

9 Q. For Hannah?

10 A. I wasn't so concerned about Hannah because I  
11 think Kristin's living her mom. I don't think Hannah  
12 was going to suffer as a result, but I think it was an  
13 obligation that Josh had.

14 Q. But you're close to Josh; is that correct?

15 A. Uh-huh.

16 Q. How often is he over at your house?

17 A. Oh, I don't know. Is that a measure of  
18 closeness?

19 Q. It's just a question.

20 A. Yeah. How often is he over at the house?  
21 Maybe once a month, something like that.

22 Q. And are you aware that your son was on DWI  
23 probation?

24 A. Yes.

25 Q. And yet you still think he has no alcohol

1 problem; is that correct?

2 A. No, I think that that -- that was a surprise to  
3 me, but I think it was an isolated incident.

4 THE COURT: I think that what?

5 THE WITNESS: I think it was an isolated  
6 incident. I don't think it was a pattern necessarily.

7 Q. (BY MR. ALBERTS) Were you -- when is the last  
8 time you saw your son drinking?

9 A. When was the last time I saw Josh drinking?

10 Q. Have a drink of alcohol.

11 A. When was that? I don't know. The day that  
12 they had everybody over for his birthday.

13 Q. When was that?

14 A. In May.

15 Q. This past May?

16 A. Yeah. I think that was the last time. He was  
17 making us blue margaritas, and Kristin and I each had  
18 one and we were -- we each had one for the entire  
19 evening. I think we were just, you know -- but  
20 anyway ...

21 Q. Assuming that Mr. Morgan tested positive for  
22 having alcohol in his system in late December, do you  
23 have any idea where that came from?

24 A. No, I would not have any idea.

25 Q. Did you write, call, or even send a card about



1 Hannah -- or to Hannah on her birthday?

2 A. No, I did not.

3 Q. Did you write, call, or send a card or a gift  
4 to Hannah for Christmas?

5 A. I bought her a Christmas gift. I have it. We  
6 were expecting her for Christmas. I thought long and  
7 hard about the whole sending cards. Certainly I knew it  
8 was Hannah's birthday and wrestled with it quite a bit.  
9 Certainly -- here's the conclusion I came to. That --

10 Q. Your son can you ask you that if he wants to --

11 A. Okay.

12 Q. -- but you answered my question.

13 A. Okay. Sorry.

14 Q. You had a conversation with Ms. Massad about  
15 the problems in working out Christmas vacation, didn't  
16 you?

17 A. Yes, I did, uh-huh.

18 Q. And were you able to help any?

19 A. Was I able to --

20 Q. Help any.

21 A. Was I able to help any? Do you mean in a  
22 financial sense or --

23 Q. No. In persuading your son to work with  
24 Ms. Massad and his spouse to work out a vacation  
25 schedule.

1           A.     Was I able to help work out? Well, my  
2 understanding was that -- my understanding was that we  
3 were going to have Hannah from the 17th through the 26th  
4 and that the difficulty was that the Tennessee family  
5 couldn't afford two roundtrip tickets and therefore  
6 could we step up and pay for one of the roundtrip  
7 tickets. And I said to Leslie I wish we could, but we  
8 can't. We don't have the money. Nobody has any money  
9 around here. So Leslie said, well, maybe it could be a  
10 weekend; you know, they could bring Hannah in for the  
11 weekend and that would be just one roundtrip ticket and  
12 we would get to see Hannah for a weekend. I said, well,  
13 maybe that could work, you know. I don't know.

14           Q.     You were made well aware that was offered,  
15 weren't you?

16           A.     Yeah.

17           Q.     And your son turned it down, didn't he?

18           A.     I don't remember. I don't know that he turned  
19 it down or not. I don't remember.

20           Q.     Now, at this time you already knew your son  
21 wasn't paying child support; is that correct?

22           A.     That was the same conversation probably where I  
23 learned that or, you know, where that was hinted at,  
24 yeah.

25           Q.     And you learned that your son's unbending

1 position about Christmas was that Kristin Morgan could  
2 fly in with Hannah on the 17th, then she'd have to fly  
3 back again on the 26th to pick Hannah up or Josh wanted  
4 her to stay alone here in Austin for seven days?

5 A. Well, that was a -- that was the other proposal  
6 we had, was that Kristin could stay at their house and  
7 Josh could stay with me at my house.

8 Q. But not one of your proposals that Josh put  
9 forward or that you put forward included you-all  
10 undertaking any effort to travel to Tennessee or bear  
11 any of the costs of travel; isn't that correct?

12 A. The trips to Tennessee -- I mean, I assume that  
13 the death threats have been addressed already.

14 Q. Yes.

15 A. Okay. I don't want those treated lightly. I  
16 have never met anybody that issues death threats. I've  
17 never even known anybody that knows anybody who issues  
18 death threats.

19 THE COURT: We're having trouble because  
20 you're going to a different question.

21 THE WITNESS: The question --

22 THE COURT: No. Excuse me.

23 THE WITNESS: -- was about why --

24 THE COURT: No. You've got to let me  
25 explain.

1 THE WITNESS: Okay.

2 THE COURT: He didn't ask you why you  
3 didn't propose that. You may be asked why by him or by  
4 your son and then you can answer that. The question is  
5 whether you ever offered to pay for or anyone in your  
6 family offered to go to Tennessee. The answer to that  
7 it sounds like is no. And then you want to go to a  
8 different question. I understand that.

9 THE WITNESS: Okay.

10 THE COURT: And it may come at some point  
11 why did you not offer to do that. You see, then what  
12 you're saying now would be an answer to that question,  
13 but that's not the question that's being asked. Let's  
14 go back to the question that's being asked.

15 THE WITNESS: Okay.

16 Q. (BY MR. ALBERTS) Did you or anyone in your  
17 family offer to either foot the cost of traveling to  
18 Tennessee or returning Hannah to Tennessee in any way,  
19 shape, or form?

20 A. Does this include the trip I took to Knoxville  
21 to pick her up?

22 Q. No.

23 A. Okay. No. No, we did not. We did not have  
24 the funds.

25 Q. Has -- have you loaned any money to Mr. Morgan?

1           A.    No.  I don't have any to loan.  I wish I did.  
2  I tried.  I tried to get a loan, but I couldn't.

3                   MR. ALBERTS:  Pass the witness.

4                                   **REDIRECT EXAMINATION**

5  BY MR. MORGAN:

6           Q.    Now, you said earlier, Mom, that you had a  
7  Christmas present for Hannah, but you didn't call her.  
8  Why didn't you do that?  Why didn't you send the  
9  present?

10          A.    Because -- first because of Hannah's age.  I  
11  don't think a one-year-old really understands birthdays  
12  or Christmases.  If Hannah were older, it would have  
13  been different.  I think that it was not the right time  
14  to reach out to the family because things were  
15  unresolved and because I didn't want to sanction what  
16  they had done in any way.  And I felt as though -- and  
17  believe me, this is a big struggle that I struggled with  
18  for days.  Do I send a card?  Do I reach out to the  
19  family?  Do I make contact with Kristin whom I love?  Do  
20  I do that?  And I decided it was not the appropriate  
21  time, not yet.  Things were unresolved.  She had done a  
22  terrible hurtful thing, and I didn't want her to get to  
23  think that I was saying that's okay because it's not  
24  okay what she did.

25          Q.    Why didn't you offer to -- or why -- why didn't

1 you offer to pay for a plane ticket during Christmas or  
2 drive up there to pick up Hannah?

3 A. I don't feel safe with the family alone. The  
4 trip I took to Knoxville took a great deal of courage.  
5 And the only reason I did it was because I was told  
6 you're going to meet -- you're going to meet an ad litem  
7 in Knoxville who will have Hannah and you'll meet in the  
8 airport, and I reasoned, okay, well, it's unlikely that  
9 if they are going to shoot me or something crazy, it's  
10 not going to happen in an airport. I'm going to meet  
11 the ad litem. I won't have to deal with the family  
12 directly.

13 And to my surprise, the family was at the  
14 Knoxville airport. But regardless, I was willing to  
15 take that -- you know, do that and go pick Hannah up in  
16 Knoxville. And it was fine to see the family. That  
17 worked out okay. They had a video camera going. It was  
18 good. And Hannah and I had a wonderful time traveling  
19 back home to Austin with all the plane delays and  
20 everything. It was just a precious time for me and  
21 Hannah.

22 But anyway, to your question, that's  
23 why -- until this whole thing with how hostile is the  
24 family, how real are those death threats, are they real  
25 or -- I don't really feel comfortable going to Tennessee

1 and I don't feel comfortable with you going to Tennessee  
2 because I've read -- I have read cases and seen them on  
3 TV.

4 MR. ALBERTS: I'm just going to object.

5 THE WITNESS: Okay.

6 MR. ALBERTS: I can't tell what's hearsay  
7 and what's not from this narrative.

8 THE WITNESS: Yes. But I mean,  
9 seriously --

10 THE COURT: We need to go back to a  
11 question. It's become sort of a monologue, which we all  
12 do in conversation, but we cannot do it in court.

13 MR. MORGAN: Okay.

14 THE COURT: Next question.

15 Q. (BY MR. MORGAN) Have you ever -- have you ever  
16 witnessed or heard Kristin in distress over her mother  
17 or fighting with her mother?

18 A. Yes.

19 MR. MORGAN: Pass the witness.

20 **RE-CROSS-EXAMINATION**

21 BY MR. ALBERTS:

22 Q. In -- I guess it was in July that you flew up  
23 to Knoxville; is that correct?

24 A. Right, uh-huh.

25 Q. Of 2010?

1 A. Uh-huh.

2 Q. And at that time, Hannah was handed over to you  
3 by Kristin's mother; right?

4 A. Uh-huh.

5 Q. And it was a perfectly pleasant exchange,  
6 wasn't it?

7 A. It was cordial, uh-huh.

8 Q. No anger, friendly, not a problem?

9 A. There was a video camera running and it was  
10 cordial and friendly, and I -- yeah.

11 Q. Have you ever had any run-in with anybody from  
12 her family?

13 A. What's a -- can you define run-in?

14 Q. Have you ever had a fight with anybody from  
15 Kristin's family?

16 A. No. We've had very little contact.

17 Q. You've never had any contact with them that was  
18 other than pleasant, have you?

19 A. No, I wouldn't characterize my contacts with  
20 them with the word pleasant. I called --

21 Q. Okay. That's a yes or no.

22 A. Sorry.

23 Q. So the answer is no, they haven't been  
24 pleasant?

25 A. Right, they have not all been pleasant.



1 Q. Have any of them been threatening?

2 A. Do you want to explain what threatening means?

3 Q. No.

4 A. No?

5 Q. I want you to answer the question, please.

6 A. It seems to me like the question's too broad.

7 MR. ALBERTS: All right. Pass the  
8 witness.

9 **FURTHER REDIRECT EXAMINATION**

10 BY MR. MORGAN:

11 Q. Do you recall the first telephone conversation  
12 you had with Regina, her mother?

13 A. I do.

14 Q. Can you tell me about that phone call?

15 A. I called Regina the day after you and Kristin  
16 got married because you got married, you know, in front  
17 of a justice of the peace, and I thought, ooh, you know,  
18 I've never met her mom and I need to call and get  
19 acquainted with her mom. You know, Hi, I'm Chris. Who  
20 are you? Hi, hello. You know, we're going to be  
21 related by marriage now. That phone call, yeah.

22 Q. Would you call that phone call pleasant?

23 A. I think it was a strange phone call is how I  
24 would characterize it.

25 Q. Was -- did Regina seem hostile in any way or

1 defensive?

2 A. She was I think upset.

3 Q. She was upset?

4 A. And she was trying to be polite. But the  
5 conversation quickly went from me trying to say hello,  
6 reach out, let's get acquainted with mother-in-laws and  
7 so forth -- it quickly went to, oh, I didn't raise my  
8 daughter -- I raised her right and a lot of, you know --

9 MR. ALBERTS: I object to hearsay,  
10 Your Honor.

11 THE WITNESS: Yeah.

12 THE COURT: Well, let's don't tell us  
13 anything she said if offered to prove that what she said  
14 is true, but you're both asking about what the nature  
15 and character of the contacts have been, so I will allow  
16 it for that limited purpose. You agree to that,  
17 Mr. Alberts?

18 MR. ALBERTS: I of course agree with the  
19 Court's ruling.

20 THE COURT: There we go. Well, I'm trying  
21 to explain if there's --

22 MR. ALBERTS: No, I understand and do in  
23 fact agree with the Court's ruling.

24 THE COURT: Okay.

25 A. So I think that we were both a little shocked

1 as mothers because you married so suddenly, et cetera.  
2 But Regina -- Regina went into a defense of her  
3 mothering of Kristin rather than focused on let's --  
4 what are we going to do now? So it was I raised her  
5 right, I didn't raise her to do this, she's going to be  
6 sorry she missed out on the white dress someday, those  
7 kinds of comments. And I felt that I didn't know what  
8 to do with them. So I tried to make the best effort I  
9 could to kind of, well, you know, I hope we get to meet  
10 each other soon and, you know, all of that, and then  
11 that was the end of the conversation. So I wouldn't  
12 characterize it as pleasant, but --

13 Q. (BY MR. MORGAN) And you were saying that she  
14 was upset about the whole situation from the get-go?

15 A. Absolutely. That was the distinct impression I  
16 got. When I hung up the phone, I was like uh-oh. That  
17 was my first thought, uh-oh. So -- and when you say  
18 threatening, I think that not threatening me like I'm  
19 going to come after you, but threatening to the  
20 marriage. This is someone I'm worried is not going to  
21 support the decision our children have made and that  
22 worried me.

23 MR. MORGAN: Pass the witness.

24 **FURTHER RECROSS-EXAMINATION**

25 BY MR. ALBERTS:

1 Q. Do you have any female children?

2 A. Yes. I have a daughter, Naomi.

3 Q. How old is she?

4 A. 28.

5 Q. Is she married?

6 A. Not yet.

7 Q. Would a mother be upset when their daughter  
8 doesn't have the wedding that they had hoped?

9 A. Of course.

10 Q. So that can't be that surprising, can it?

11 A. It was not surprising, no. That was not the  
12 surprising part.

13 MR. ALBERTS: Pass the witness.

14 **FURTHER REDIRECT EXAMINATION**

15 BY MR. MORGAN:

16 Q. What was the surprising part?

17 A. Yeah. In fact, I called because of that. I  
18 thought, uh-oh, what if she wanted her daughter to have  
19 the white dress. You know, I'm the mother of the groom.  
20 It's not as critical maybe. The surprising part was the  
21 way that she steered the conversation back to a defense  
22 of her as a mother, that somehow this was a terrible  
23 thing that Kristin had done and she wanted to defend --

24 Q. It was about Regina?

25 A. It really was about -- it was about Regina.

1 Q. Did you ever get the impression from Kristin in  
2 any way that she had missed out because of --

3 A. No. We talked about it.

4 THE COURT: You need to wait until he  
5 finishes his question.

6 THE WITNESS: Okay.

7 THE COURT: The court reporter is  
8 lightning fast, but she can't take down more than two  
9 people at once.

10 THE WITNESS: Sorry, sir.

11 THE COURT: Would you finish your  
12 question?

13 Q. (BY MR. MORGAN) Did Kristin in any way convey  
14 distress to you or, you know, any sort of dislike or  
15 upsetness about not getting the white dress wedding?

16 A. No, she didn't. We talked about it.

17 Q. So you would say that it was Regina who was  
18 upset about the wedding, not Kristin?

19 A. Uh-huh, I would. And Kristin -- I think I  
20 remember her and I talking about, well, you know, if you  
21 want a white dress kind of thing, we can do a 10-year,  
22 you know, wedding celebration or renewal of vows or  
23 something like that, you know, if you really feel like  
24 you missed out, but I don't -- I don't think Kristin  
25 ever expressed missing out.

1 MR. MORGAN: Pass the witness.

2 MR. ALBERTS: No further questions.

3 THE COURT: You may step down.

4 May this witness be excused?

5 MR. ALBERTS: I have no objection to that,  
6 Your Honor.

7 MR. MORGAN: That's fine. I have no  
8 objection.

9 THE COURT: All right. You may step down  
10 and you're excused.

11 Your next witness?

12 MR. MORGAN: I would like to call Jason  
13 Sauvain.

14 THE COURT: You have used an hour and  
15 26 minutes. The petitioner has used an hour and  
16 43 minutes.

17 You may take the stand. You were sworn in  
18 earlier.

19 **JASON SAUVAIN,**

20 having been previously duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 BY MR. MORGAN:

23 Q. Jason, do you know Kristin?

24 A. Yes, I do.

25 Q. How long have you known her?

1           A.     Probably roughly a year and a half.

2                   THE COURT:   You'll need to take the  
3 microphone and get it closer to your -- you can slide it  
4 on the counter there so it's close, and keep it in the  
5 path of your voice.

6                   THE WITNESS:   Sorry.

7           A.     Roughly about a year and a half I'd say.

8           Q.     (BY MR. MORGAN)   Did you and your friend Alan  
9 come to Austin for New Year's?

10          A.     Yes, we did.

11          Q.     Did you witness a fight between me and Kristin  
12 at that time?

13          A.     I remember various different little arguments.

14          Q.     Do you ever recall hearing her screaming from  
15 the bedroom as if I was assaulting her?

16          A.     No.

17          Q.     Would it surprise you that that's what she's  
18 claiming?

19          A.     Yeah, because I don't -- that never happened  
20 when I was around.

21          Q.     Have you -- have you seen Kristin angry before?

22          A.     Yes.

23          Q.     How -- did she have legitimate reasons to be  
24 angry?

25          A.     Sometimes, yes.   I've seen more often than not

1 they were probably small matters that weren't worth  
2 nearly that kind of effort.

3 Q. And how angry did she get at these small  
4 things?

5 A. Probably more angry than would be considered  
6 reasonable by most people.

7 Q. How did I react when she became that angry?

8 A. Every time that I witnessed it, very calm,  
9 you know, a soothing manner, an attempt to undo an angry  
10 situation, just kind of keep things calm. I mean,  
11 you're not a very easily angered and loud type of  
12 person.

13 Q. Did you ever hear Kristin use abusive language  
14 towards you, me, or anybody?

15 A. Yeah. I mean, mostly just -- not even specific  
16 words, more of maybe a degrading tone I guess would  
17 probably be a better way to put it.

18 Q. Was I abusive in my language in return for  
19 those?

20 A. No.

21 Q. Do you believe that I have a problem with  
22 alcohol?

23 A. No.

24 MR. MORGAN: Pass the witness.  
25



**CROSS-EXAMINATION**

1  
2 BY MR. ALBERTS:

3 Q. I apologize. How do you pronounce your last  
4 name?

5 A. sa-VAIN.

6 Q. sa-VAIN?

7 A. sa-VAIN.

8 THE COURT: sa-VAIN.

9 MR. ALBERTS: sa-VAIN. I'm not too good  
10 with this.

11 THE COURT: It's S-a-u-v-a-i-n; correct?

12 THE WITNESS: Yes.

13 Q. (BY MR. ALBERTS) Mr. Sauvain, my name is Bill  
14 Alberts. We've never met; is that correct?

15 A. That's correct.

16 Q. Okay. What are the total number of days you  
17 have spent in the Morgan household before they broke up?

18 A. Let's see. Probably roughly six or seven.

19 Q. Six or seven over the entire length of their  
20 marriage?

21 A. That's correct.

22 Q. And you live where?

23 A. I live in Centennial, Colorado.

24 Q. And do you know where you were at 4:00 a.m. on  
25 January 1st, 2009?

1           A.     At 4:00 a.m. on January 1st, 2009? Let's see.  
2 Let me make sure I get the years right. I was -- sorry.  
3 It's been really busy. I've moved around a whole bunch  
4 recently.

5           Q.     I'm sorry. Let me get this straight. Were you  
6 at their home?

7           A.     If that's the year that I believe it is, yeah,  
8 then I would believe that I went down there to visit.

9           Q.     And so that's New Year's Day at 4:00 a.m.

10          A.     New Year's Day. Okay. So I was thinking of  
11 New Year's Eve, though.

12          Q.     That would be December 31st. I could ask you  
13 that in a minute. At 4:00 a.m. after New Year's Eve --

14          A.     Correct.

15          Q.     -- where were you?

16          A.     I would have been at the Morgans' residence.

17          Q.     And what would you have been doing at  
18 4:00 a.m.?

19          A.     I couldn't tell you specifically. We might  
20 have been up. That might have been the night that we  
21 were singing karaoke with the computer. I couldn't  
22 remember for sure if that was the evening that we did  
23 that.

24          Q.     You were drinking?

25          A.     Yes.

1 Q. In fact, Josh Morgan was drunk, was he not?

2 A. I didn't watch exactly how many beverages he  
3 had consumed at that point. Actually, he hadn't had  
4 very many. When we came home, he wasn't feeling very  
5 good.

6 Q. He stayed up till 4:00 a.m. drinking with you,  
7 didn't he?

8 A. He had drinks. I don't believe he drank after  
9 we returned home.

10 Q. So --

11 A. He might have. I could be incorrect.

12 Q. If he considered himself too intoxicated to  
13 leave the house, you didn't notice that?

14 A. Well, after about two drinks, anyone could be  
15 considered too intoxicated to leave and get in their  
16 car.

17 Q. And do you recall him going into his wife's  
18 bedroom at 4:00 a.m.?

19 A. No, I do not.

20 Q. Where were you? Were you asleep? Were you  
21 awake? Were you in the house?

22 A. I was in the house. I couldn't specifically  
23 tell you whether I was asleep or awake.

24 Q. Did Ms. Morgan go to bed much, much, much  
25 earlier that evening?

1           A.     Not that I recall. I think most the time we  
2 were there it was roughly probably an equal time, within  
3 a half an hour, an hour.

4           Q.     And so you did not see Mr. Morgan go into the  
5 bedroom that night?

6           A.     Not that I recall, no.

7           Q.     Did he ever go to bed?

8           A.     Well, I'm sure he did go to bed. I don't  
9 recall seeing him specifically going to bed.

10                   MR. ALBERTS: Pass the witness.

11                                   **REDIRECT EXAMINATION**

12 BY MR. MORGAN:

13           Q.     So you live in Centennial right now. Are  
14 you -- are you planning to move to Austin any time soon?

15           A.     Yes, I am.

16           Q.     Since you're going to be here in Austin, are  
17 you willing to be supportive of Kristin and Hannah and  
18 me and the co-parenting relationship?

19           A.     Absolutely.

20           Q.     Do you recall on that New Year's Eve night  
21 Kristin was there with us; correct?

22           A.     Yeah.

23           Q.     And was she drinking?

24           A.     Uh-huh.

25           Q.     Do you recall if she had to work the next day?

1 A. I don't remember whether she did or did not.

2 Q. Do you remember when midnight chimed in when it  
3 was New Year's? Was she there for that? Was she awake  
4 for that?

5 A. Uh-huh. I remember that.

6 Q. So she stayed up at least until midnight?

7 A. Right. We were all outside.

8 Q. In fact, do you recall taking pictures outside?

9 A. Yes. Yeah, there's pictures of Kristin and  
10 yourself, myself, and Alan Cunningham outside by the  
11 Mustang that I had rented.

12 MR. MORGAN: Pass the witness.

13 MR. ALBERTS: No further questions.

14 THE COURT: May this witness be excused?

15 MR. ALBERTS: As far as I'm concerned,  
16 yes.

17 MR. MORGAN: No objections, Your Honor.

18 THE COURT: You may step down and you're  
19 excused.

20 Your next witness?

21 MR. MORGAN: Your Honor, I would like to  
22 call Chris Neff.

23 THE COURT: This is not one of the people  
24 who was here this morning?

25 MR. MORGAN: He was not here this morning.

1 He'll need to be sworn in.

2 THE COURT: Do you know how to spell Neff?  
3 Is it N-e-f-f?

4 MR. MORGAN: Yes, sir.

5 THE COURT: Please step forward in front  
6 of me, in front of me, and raise your right hand.

7 *(The witness was sworn)*

8 THE COURT: Please be seated.

9 **CHRIS NEFF,**

10 having been first duly sworn, testified as follows:

11 **DIRECT EXAMINATION**

12 BY MR. MORGAN:

13 Q. Chris, what do you do for a living?

14 A. I'm a paramedic and a student.

15 Q. So have you ever seen people around who may  
16 have alcohol problems in your opinion?

17 A. Yes.

18 Q. Do you believe that I have an alcohol problem?

19 A. No.

20 Q. Do you know Kristin?

21 A. Yes.

22 Q. Did me and Kristin -- were we your roommates  
23 when she first moved here to Austin?

24 A. Yes.

25 Q. Have you ever seen her intoxicated?

1 A. Yes.

2 Q. How many times would you say you've seen her  
3 intoxicated?

4 A. Rough estimate, 10 or 20.

5 Q. Did me and Kristin hang out with you  
6 occasionally even after we moved out?

7 A. Yes.

8 Q. Have you ever witnessed Kristin get angry for a  
9 reason that you would consider irrational?

10 A. Yes.

11 Q. How did I react in those situations?

12 A. You acted like a frustrated person.

13 Q. Can you -- can you elaborate on that? When you  
14 say frustrated, was I angry?

15 A. Well, you appeared frustrated. At the same  
16 time, you would -- you would listen and you'd try to  
17 explain yourself and deal with it rationally like an  
18 adult.

19 Q. And would you say that Kristin was acting like  
20 an adult?

21 A. At certain times, no.

22 Q. How much time -- just give me an estimate --  
23 would you say you've spent around me and Kristin?

24 A. Countless hours. You know, a hundred hours  
25 give or take a dozen. I don't know.

1 Q. So a considerable amount of time. We would  
2 hang out pretty frequently?

3 A. Uh-huh. Yes.

4 Q. Have I ever had to stay at your house?

5 A. Frequently.

6 Q. And why -- why is that?

7 A. Well, mainly because you guys were fighting and  
8 you either were kicked out or you were staying at my  
9 house to not throw fuel on the fire. In other words,  
10 you were diffusing situations.

11 MR. MORGAN: Pass the witness.

12 **CROSS-EXAMINATION**

13 BY MR. ALBERTS:

14 Q. Is there a single time that he spent the night  
15 at your house that he hadn't been drinking?

16 A. Is there a single time?

17 Q. Yes.

18 A. Yes.

19 Q. Okay. How many nights do you think he spent at  
20 your house during the marriage?

21 A. Five to -- let's go with -- well, I would go  
22 with seven different times, but there might have been  
23 two nights in a row, so seven different occasions.

24 Q. Of those seven occasions, how many occasions  
25 had he been drinking?



1           A.    I would say of the ones that I was present at,  
2 three.

3           Q.    Were you not present in your house?

4           A.    No, sir.

5           Q.    I'm sorry. How many of those seven nights were  
6 you present at your house?

7           A.    Of those seven occasions, it might have been  
8 more than seven nights I was present. Probably -- but  
9 if we're saying seven, five for sure.

10          Q.    Okay. So three out of five nights you were  
11 present he was drinking; correct? That was your  
12 testimony just now?

13          A.    Yes.

14          Q.    Okay. How many times have you seen Josh Morgan  
15 intoxicated?

16          A.    I don't know. 20 times, 30 times.

17          Q.    And this is in the last how many years?

18          A.    Five and a half, six years.

19          Q.    And did this space out over this whole five and  
20 a half, six years?

21          A.    Of course.

22          Q.    Was there ever a time during those five and a  
23 half, six years that he stopped drinking?

24          A.    Not that I know of. I don't know what you're  
25 shooting at.

1 Q. Well, he drank continually for the past five  
2 years, hadn't he?

3 A. Yes.

4 Q. You had stated that Ms. Morgan is a fine  
5 mother; isn't that correct?

6 A. Can you please repeat the question?

7 Q. Haven't you stated that Ms. Morgan is a fine  
8 mother? Isn't that what you believe?

9 A. I don't know if I stated it under oath, but I  
10 stated that she'll make a good mother.

11 Q. Do you recall talking to a Ms. Morrow, a  
12 psychologist?

13 A. Yes, sir.

14 Q. Okay. If Ms. Morrow had purportedly quoted you  
15 as saying Ms. Morgan is a fine mother, do you debate  
16 that?

17 A. No, of course not.

18 Q. And if you said in my opinion they're both  
19 great parents, would you debate that?

20 A. Nope.

21 Q. Who primarily cared for Kristin -- I'm sorry --  
22 Hannah? I keep calling Hannah Kristin. I apologize.

23 A. Well, they both did.

24 Q. Who cared for her more?

25 A. I --

1 Q. Who took care of her more? Oh, I'm sorry. Can  
2 you not hear?

3 A. I can hear pretty good, but the sirens.

4 Q. Let me try again.

5 A. Yeah.

6 Q. Who primarily cared for Hannah?

7 A. Well, they both primarily cared for Hannah  
8 because, you know, one person -- they're a team, so ...

9 Q. Okay. Was Ms. Morgan a stay-at-home mother?

10 A. She worked like a couple days a month, so  
11 basically yes.

12 Q. And so Mr. Morgan worked five days a week; is  
13 that correct?

14 A. Correct.

15 Q. So I'm assuming a stay-at-home mother is going  
16 to spend more time with the child than a working father.  
17 Is that correct?

18 A. Yes, if you break the hours down.

19 MR. ALBERTS: Pass the witness.

20 **REDIRECT EXAMINATION**

21 BY MR. MORGAN:

22 Q. Chris, would you say that things like providing  
23 shelter and electricity and food, is that part of care  
24 of a child?

25 A. Absolutely.

1 Q. So that time that I was spending on work to  
2 provide those things, was I caring for the child?

3 A. Absolutely.

4 MR. MORGAN: Pass the witness.

5 MR. ALBERTS: No questions.

6 THE COURT: May this witness be excused?

7 MR. ALBERTS: Yes.

8 MR. MORGAN: No objection.

9 THE COURT: You may step down and you're  
10 excused.

11 Who will your next witness be?

12 MR. MORGAN: I'd like to call Leanne  
13 Wiles.

14 THE COURT: All right. And why don't we  
15 go ahead and take a break now. The court reporter's  
16 been going about an hour and a half. We'll take a break  
17 now for about 15 minutes and then we'll resume at that  
18 time. And give me the name of the witness again.

19 MR. MORGAN: Leanne Wiles.

20 THE COURT: And she was sworn in earlier.

21 MR. MORGAN: Yes, Your Honor.

22 MR. ALBERTS: Where do we stand time-wise?

23 THE COURT: You have used an hour and  
24 50 minutes. You have 40 minutes remaining until you are  
25 out of time to ask any question, including questions of

1 the ad litem. So we're getting -- we're getting near  
2 the end.

3 And you want to know how much time you've  
4 used.

5 MR. MORGAN: Yes, sir.

6 THE COURT: You have used an hour and  
7 36 minutes.

8 MR. MORGAN: Thank you, sir.

9 *(Recess taken)*

10 THE COURT: You may call your next  
11 witness.

12 MR. MORGAN: I was going to call Leanne  
13 Wiles.

14 THE COURT: Okay.

15 MR. MORGAN: Your Honor, may I call back  
16 another witness if I forgot to ask questions?

17 THE COURT: Well, they were already  
18 excused. If they're here and they have not remained in  
19 the courtroom, then you can decide what you want to do  
20 about that.

21 MR. MORGAN: Okay.

22 **LEANNE WILES,**  
23 having been previously duly sworn, testified as follows:

24 **DIRECT EXAMINATION**

25 BY MR. MORGAN:

1 Q. Do you know Kristin here? Have you ever met  
2 her?

3 A. No.

4 Q. You've met me; right?

5 A. Yeah.

6 Q. How do you know me?

7 A. I know you through Zach.

8 Q. Okay. So you know my brother?

9 A. Yeah.

10 Q. Have you ever -- have you ever met Hannah?

11 A. Yes.

12 Q. So do you live here in Austin?

13 A. I live in Cedar Park, and it's in the area.

14 Q. Close enough. Have you ever -- have you ever  
15 worked with kids before?

16 A. I have two really young cousins and I've  
17 babysat them before.

18 Q. And do you babysit them pretty frequently?

19 A. Yeah.

20 Q. So you're pretty familiar with how to work with  
21 kids and things like that?

22 A. Oh, yeah.

23 Q. How did -- how did I deal with Hannah?

24 A. You did very, like, great. I've been with  
25 a lot of parents and their kids, and they're kind of

1 very overly protective, but you -- you know, she always  
2 ran to you when she wanted you, and that was more than,  
3 you know, anybody else that she wanted to have contact  
4 with, so ...

5 Q. Was she happy with me?

6 A. Oh, yeah. She was always laughing and running  
7 up to you, holding on to you, hugging you.

8 Q. Was I an attentive parent?

9 A. Oh, yeah. Any time she needed anything,  
10 you know, you helped her play with some -- showed her  
11 new things and her toys, like a little jack in the box  
12 and everything like that, tried to help her turn the  
13 crank and everything like that.

14 MR. MORGAN: I pass the witness.

15 **CROSS-EXAMINATION**

16 BY MR. ALBERTS:

17 Q. I'm sorry. My name is Bill Alberts. We have  
18 not met, I assume. When did you see Mr. Morgan with  
19 Hannah?

20 A. It was the last visit she was here.

21 Q. Okay. A weekend?

22 A. Yeah.

23 Q. You've never seen Hannah with her mother and  
24 you've never met her mother?

25 A. No.

1 MR. ALBERTS: No further questions. Thank  
2 you.

3 THE COURT: May this witness be excused?  
4 May this witness be excused?

5 MR. ALBERTS: Yes.

6 MR. MORGAN: Yes.

7 THE COURT: You may step down and you're  
8 excused.

9 THE WITNESS: Okay.

10 THE COURT: Your next witness.

11 MR. MORGAN: I would like to call Zach  
12 Morgan.

13 **ZACH MORGAN,**  
14 having been previously duly sworn, testified as follows:

15 **DIRECT EXAMINATION**

16 BY MR. MORGAN:

17 Q. Are you my brother?

18 A. Yes, sir. That's loud.

19 Q. Do you -- do you know Kristin here?

20 A. Yes.

21 Q. Have you ever seen Kristin angry?

22 A. No.

23 Q. You haven't? How many times have you seen her?

24 A. In total? An uncountable amount of times.

25 Q. An uncountable amount of times. You've never



1 seen her angry?

2 A. Oh, I've never seen her angry, no.

3 Q. Okay. How -- how did Kristin react when Dad  
4 died?

5 A. She didn't show much of any emotion at all  
6 really.

7 Q. So she -- did she try to be there to be  
8 supportive of me at all?

9 A. From what I saw, no.

10 Q. And you were -- you were there the whole time  
11 around the rest of the family?

12 A. Right.

13 Q. Did you ever try to reach out to her and,  
14 you know, ask her to come be supportive or come be with  
15 us?

16 A. Yes.

17 Q. And how did she respond to that?

18 A. It seemed like there was always an excuse or  
19 there was just -- there was an incident when it had to  
20 do with our mother and my sister, them not getting  
21 along, so -- you know, I asked her to come over and  
22 spend the night one time when the AC was broken and she  
23 didn't -- she didn't want to come.

24 Q. So she would have rather stayed in a house  
25 without AC than --

1 A. That's what -- that's what it seemed to me.

2 Q. You and I, of course, naturally we've known  
3 each other for a long time. We were in a metal band  
4 together once, weren't we?

5 A. That's correct.

6 Q. And so -- I'm sorry. To your knowledge, was  
7 Kristin aware that we were in a metal band?

8 A. Oh, absolutely.

9 Q. So she was there. She saw us around the metal  
10 music and all that?

11 A. I remember her being at one rehearsal one  
12 night.

13 Q. Okay. Did she know that I drank at that time?

14 A. Absolutely.

15 Q. Did I -- did I drink while I was in the band?

16 A. Yes.

17 Q. Did you drink while you were in the band?

18 A. Yes.

19 Q. So we -- we were in a band together, we were  
20 drinking, and Kristin was there seeing this whole thing?

21 A. Yes, and there was no -- nobody in the band had  
22 an alcohol problem.

23 Q. So Kristin was -- Kristin was witness of all  
24 this alcohol. Was this before we got married or was  
25 this -- when was this?

1           A.     You know, I don't really remember if it was  
2 before or after you got married.

3           Q.     Was it right around that time?

4           A.     I want to say -- I want to say it was right  
5 around when Kristin moved to town.

6           Q.     So that would have been around May of 2008?  
7 Does that sound right?

8           A.     Right. It was a while ago.

9           Q.     Have I been drinking lately?

10          A.     No.

11          Q.     Did my drinking cut down at all from when  
12 Kristin first met me and from -- during the marriage?

13          A.     From what I saw, absolutely.

14          Q.     To your knowledge, did I slow down my drinking  
15 because of Kristin?

16          A.     From what -- what I think is that you had a  
17 sense of --

18                   MR. ALBERTS: I guess I will object to him  
19 trying to speculate about his mental --

20                   THE COURT: What his motivations were.

21                   MR. ALBERTS: -- facilities.

22                   THE COURT: Yeah. Yeah. I'll sustain  
23 that. Don't speculate on why he did what he did.

24                   MR. MORGAN: Okay.

25          Q.     (BY MR. MORGAN) Does it seem appropriate to

1 you that somebody who has a child and gets married, that  
2 the right thing to do would be to slow down drinking and  
3 kind of cut that kind of lifestyle out?

4 A. Absolutely, yeah.

5 Q. And did you see that from me?

6 A. Yes.

7 Q. If Kristin were to move back here to Austin,  
8 would you be supportive of her? Would you be there for  
9 her to help her out?

10 A. Absolutely. I've always cared about Kristin.

11 Q. If she called you and she had a flat tire on  
12 the side of the road, would you go drive and help her  
13 out?

14 A. Yes.

15 Q. If she needed help with Hannah or something, if  
16 she needed you to pick up some formula or anything like  
17 that, you would help her out?

18 A. Oh, yeah. It makes me -- it makes me sad as  
19 well that, you know, I don't get to see my niece. It  
20 makes me sad. And it makes me sad to see my brother not  
21 be able to see his daughter. So the answer is yes, I  
22 would be there to support my niece in any way I possibly  
23 could.

24 MR. MORGAN: I pass the witness.

25 **CROSS-EXAMINATION**

1 BY MR. ALBERTS:

2 Q. Mr. Morgan, my name Bill Alberts. I don't  
3 think we've ever met, have we?

4 A. No, sir.

5 THE COURT: Can you get that microphone  
6 back over closer to you again, sir?

7 MR. ALBERTS: I'm sorry.

8 THE COURT: It helps me. Thank you.

9 Q. (BY MR. ALBERTS) I'm sorry. This band you  
10 were in, when was this?

11 A. I believe it started -- I joined the band in  
12 2007.

13 Q. And how long did the band last?

14 A. That's a good question. I was in the band --  
15 the whole band itself lasted for many years, I want to  
16 say about five or six years, but I was in the band for  
17 probably a year and a half.

18 Q. And during that year and a half, was it common  
19 for you and for Josh and the other members of the band  
20 to drink?

21 A. Yes.

22 Q. Were you aware that Josh was on probation?

23 A. No, I wasn't.

24 Q. You have never been aware that he was on a DWI  
25 probation during that time?

1           A.     I heard about him getting a DWI, but I was not  
2 aware that he was on probation. I guess I just didn't,  
3 you know -- I didn't know.

4           Q.     Now, you and Kristin Morgan have always gotten  
5 along fine, haven't you?

6           A.     Yeah.

7                   MR. ALBERTS: Pass the witness.

8                   THE COURT: Any other questions?

9                   MR. MORGAN: No further questions,  
10 Your Honor.

11                   THE COURT: You may step down.

12                   May this witness be excused?

13                   MR. MORGAN: Yes, sir.

14                   MR. ALBERTS: Yes.

15                   THE COURT: And you are excused.

16                   Your next witness.

17                   MR. MORGAN: I'd like to, if I may,  
18 Your Honor, call Chris Morgan -- Christine Morgan back  
19 to the stand.

20                   THE COURT: All right. I didn't notice  
21 Ms. Morgan staying in the courtroom, so I don't see a  
22 problem with that. Do you?

23                   MR. ALBERTS: Not unless she's gone out  
24 and visited with other witnesses, but I'm really not  
25 concerned, so I'm not going to object.

1 THE COURT: Great. Christine Morgan.

2 **CHRISTINE MORGAN,**

3 having been previously duly sworn, further testified as  
4 follows:

5 **DIRECT EXAMINATION**

6 BY MR. MORGAN:

7 Q. I'm sorry. I forgot to ask you a couple  
8 questions.

9 A. Okay.

10 Q. Are you currently employed right now?

11 A. No.

12 Q. So if we were to -- if we were to have -- if I  
13 were to gain possession of Hannah today, then you would  
14 be available to watch Hannah?

15 A. Uh-huh.

16 Q. Full time or while I'm at work?

17 A. Right.

18 Q. So --

19 THE COURT: The microphone is somehow not  
20 working.

21 THE WITNESS: Okay.

22 A. Yes, I would be available.

23 Q. (BY MR. MORGAN) So if Hannah was going to be  
24 in Austin, would she be staying in daycare?

25 A. Not necessarily, no.

1 MR. MORGAN: Pass the witness. That's all  
2 I have.

3 MR. ALBERTS: No questions, Your Honor.

4 THE COURT: All right. May this witness  
5 be excused again?

6 MR. ALBERTS: Yes.

7 MR. MORGAN: Yes, Your Honor.

8 THE COURT: All right. You may step down  
9 and you're excused.

10 MR. ALBERTS: Double yes.

11 THE COURT: Do you have another witness to  
12 call?

13 MR. MORGAN: I would like to call myself  
14 for just one last thing.

15 THE COURT: All right. You can take the  
16 stand again.

17 MR. MORGAN: I wanted to just talk briefly  
18 about Exhibit 11 here.

19 THE COURT: You need to go ahead and take  
20 the stand and then you can start testifying.

21 MR. MORGAN: Yes, sir.

22 THE COURT: Keep the microphone in front  
23 of you and then you can start testifying.

24 **JOSHUA MORGAN,**  
25 having been previously duly sworn, further testified as



1 follows:

2 **DIRECT TESTIMONY**

3 MR. MORGAN: I'd like to take a moment  
4 just to discuss this Exhibit 11, which is a report from  
5 the U.S. Department of Health and Human Services, the  
6 Substance Abuse and Mental Health Services  
7 Administration.

8 On this report it says that currently the  
9 use of EtG tests in determining abstinence lacks  
10 sufficient proven specificity for use as primary or sole  
11 evidence that an individual prohibited from drinking in  
12 a criminal justice or regulatory complex context has  
13 truly been drinking. As I understand it, the only two  
14 tests that have been performed that concerns were raised  
15 about were these EtG tests. And that's all I wanted to  
16 bring up at this time.

17 THE COURT: Any questions?

18 MR. ALBERTS: Could I see that document  
19 real quick?

20 MR. MORGAN: Sure.

21 **CROSS-EXAMINATION**

22 BY MR. ALBERTS:

23 Q. And that's dated September 2006; is that  
24 correct?

25 A. That's correct.

1 Q. You're not aware that they have changed their  
2 position, are you?

3 A. They have not.

4 MR. ALBERTS: Okay. Pass the witness.

5 MR. MORGAN: Nothing further, Your Honor.

6 THE COURT: All right. You may step down.

7 MR. MORGAN: Well, at this point the  
8 respondent rests, Your Honor.

9 MR. ALBERTS: We'd call Leslie Massad,  
10 Your Honor.

11 THE COURT: All right. Please step down  
12 and raise your right hand.

13 **LESLIE MASSAD,**

14 having been first duly sworn, testified as follows:

15 **DIRECT EXAMINATION**

16 BY MR. ALBERTS:

17 Q. I don't know how familiar Judge Jenkins is with  
18 you. Could you just go through your background very  
19 quickly?

20 A. Very quickly, an English literature degree from  
21 the University of Texas, master of social work from  
22 California State, five years at CPS in California, have  
23 worked in adoptions for many years here in Austin, and  
24 I've been a guardian ad litem for four and a half years,  
25 almost five.

1 Q. Have you spent a good deal of time on this  
2 case?

3 A. Yes.

4 Q. Have you looked at lots of email communication  
5 from all parties?

6 A. Yes.

7 Q. You have filed a report with the Court. Is  
8 there anything about that report from the testimony  
9 you've heard today that you would alter anything?

10 A. No.

11 Q. I was a little confused. I wonder if you could  
12 describe your contact with Mr. Morgan's mother, that one  
13 she described. I was confused about that conversation.

14 A. I met with Mrs. Morgan when I did a visit with  
15 Josh and Hannah. This was earlier on. But she also  
16 called me in December and just wanted to talk with me  
17 and I suppose just put in a word for her son.

18 Q. And was there anything surprising about that  
19 conversation?

20 A. I -- it was a little awkward because I  
21 inadvertently mentioned Josh's failure to pay child  
22 support. I certainly would never have betrayed that  
23 confidence. I assumed that she knew that and that  
24 was -- I thought she knew the whole story, and that was  
25 the only reason I let that information out.

1 Q. Well, that is more or less public information,  
2 isn't it?

3 A. I suppose so, yeah.

4 Q. This last Christmas holiday, there was some  
5 contention over what had occurred for the Christmas  
6 vacation. You were involved in all of those exchanges  
7 of emails, were you not?

8 A. Correct.

9 Q. Did Ms. Kristin Morgan try hard to see that  
10 Mr. Morgan would see Hannah?

11 A. I believe she did.

12 Q. Was he difficult to deal with?

13 A. Yes.

14 Q. Did it make sense to you?

15 A. No.

16 THE COURT: Can you get the microphone a  
17 little closer to you? You can slide it on the counter  
18 there and get it closer. Thank you.

19 Q. (BY MR. ALBERTS) Now, I understand there are  
20 some confidentiality statutes involving drug and alcohol  
21 testing and treatment, but you were authorized to have  
22 each of these parties randomly tested; correct?

23 A. Correct.

24 Q. And did you do so?

25 A. I did.

1 Q. Now, it's my understanding that while the  
2 report hints at it, you actually need the judge to order  
3 you to reveal those results if I want to hear them.  
4 That's the only way I'm going to hear them; is that  
5 correct?

6 A. That's correct.

7 MR. ALBERTS: I'm going to ask the Court  
8 to please make that order at this time.

9 THE COURT: Unless somebody can explain to  
10 me why I shouldn't hear them, I'd like to hear them.

11 MR. MORGAN: Well, Your Honor, other than  
12 the evidence --

13 THE COURT: You have to stand to address  
14 the Court.

15 MR. MORGAN: My apologies. Other than the  
16 evidence that I presented from the federal government to  
17 say that these tests are unreliable.

18 THE COURT: Okay. Well, but you have no  
19 reason to argue that I shouldn't order the ad litem to  
20 reveal what information she has? Hearing none, I order  
21 you to tell us what you have.

22 A. Both parties were sent for three -- I'm sorry.  
23 I believe Ms. Morgan was -- Ms. Morgan was sent for two  
24 and Mr. Morgan for three. Ms. Morgan's were both  
25 negative. And two of Mr. Morgan's, the later two, were

1 positive for alcohol consumption.

2 Q. (BY MR. ALBERTS) And is this a test that your  
3 department has been using regularly?

4 A. Yes.

5 Q. Without getting into the science of it, you're  
6 aware that -- perhaps you're not. Are you aware that  
7 they have adjusted what they consider a failure in this  
8 test to really raise -- because of the concerns that  
9 were raised in the paper that Mr. Morgan just gave, that  
10 what is considered a positive test is now at least  
11 double what was once considered a positive test; is that  
12 correct?

13 A. I believe it's quadruple what it used to be,  
14 correct.

15 Q. So things are very different than they were in  
16 2006?

17 A. Yes.

18 Q. And is it your training and belief these are  
19 accurate?

20 A. Yes.

21 Q. From what you've heard today, are you concerned  
22 about Mr. Morgan's alcohol?

23 A. Yes.

24 Q. What do you think should be done about it?

25 A. I wish that first he would acknowledge that he

1 has a problem and that he is not being truthful about  
2 the tests because I don't think we can go much further  
3 without that.

4 Q. Do you believe that Ms. Morgan, Kristin Morgan,  
5 wants Mr. Morgan to have a relationship with his  
6 daughter?

7 A. Yes.

8 Q. And where do you believe -- given all the  
9 things that you know being involved in this case since  
10 August 6th, where is Hannah -- what's in Hannah's best  
11 interest as to where she lives?

12 A. I believe in Tennessee for the reasons that I  
13 outlined in my court report.

14 Q. Now, you've also had collateral contacts with,  
15 I think, an ad litem and a social worker in Tennessee,  
16 haven't you?

17 A. Yes.

18 Q. And did anything in their reports alter any of  
19 this?

20 A. No.

21 Q. Does it concern you that Mr. Morgan doesn't  
22 seem to obey either probation orders or the temporary  
23 orders of these courts -- of this court?

24 A. Yes.

25 Q. Have you had any trouble in that respect

1 whatsoever with Ms. Morgan?

2 A. No.

3 Q. You've heard a good deal -- I guess Zach Morgan  
4 was the only one that didn't seem concerned. Do you  
5 have any concern about Mr. Josh Morgan's safety in  
6 visiting his child in Tennessee or anywhere else?

7 A. I do not know Ms. Morgan's family well enough  
8 to know if there's anything behind his concern about  
9 these death threats. I couldn't comment.

10 Q. Has he been consistent about that being the  
11 reason he didn't go to Tennessee?

12 A. That and the money.

13 Q. Did you note that in his interviews with the  
14 psychologist, it's only about the money?

15 A. I actually did not make note of that.

16 Q. Would it help if you --

17 MR. ALBERTS: May I approach?

18 THE COURT: All right.

19 THE WITNESS: I have that.

20 MR. ALBERTS: It's going to be a long  
21 read. I'm not going to read it.

22 MR. MORGAN: This was already objected to,  
23 the psychological evaluation.

24 THE COURT: Well, I don't know what the  
25 question is.



1 MR. ALBERTS: I withdraw it. I decided I  
2 didn't want to waste time on that.

3 THE COURT: All right.

4 Q. (BY MR. ALBERTS) Do you believe -- I'm sorry.  
5 Were they supposed to take a parenting course?

6 A. Correct.

7 Q. Has Ms. Morgan completed hers?

8 A. Yes.

9 Q. Do you have the certificate?

10 A. I do.

11 Q. Has Mr. Morgan completed his?

12 A. Not yet.

13 Q. Is that reasonable when they were ordered in  
14 August, early August?

15 A. I don't know. He seemed to think that it was a  
16 one-day course, a one-night course, and that was  
17 probably not -- probably not reasonable.

18 Q. Full information about it's available online,  
19 isn't it?

20 A. Yes.

21 Q. And that information was given to the parties,  
22 wasn't it?

23 A. Yes.

24 Q. So it would have been, particularly for someone  
25 who's computer savvy, very easy to find out what he was

1 supposed to be doing?

2 A. Yes.

3 Q. Has Mr. Morgan ever explained to you why he's  
4 paid no child support?

5 A. He says that he simply doesn't have the money  
6 to do that.

7 Q. And is that your conclusion?

8 A. As I think I said in my report, he has spent  
9 money on other things, so I don't know really what his  
10 financial situation is.

11 Q. Are you concerned about the lack of contact for  
12 Mr. Morgan or any member of his family for Hannah's  
13 birthday or Christmas?

14 A. Yes. Excuse me. I should say with  
15 Mr. Morgan's lack of contact. I could understand what  
16 his mother was saying.

17 Q. Do you have any reasons to believe that  
18 Mr. Morgan has been misleading to his family and  
19 witnesses about what's been going on in this situation?

20 A. I believe he's probably withheld information  
21 about what's going on.

22 MR. MORGAN: I object, Your Honor. She's  
23 speculating about my intent.

24 THE COURT: You have to establish how she  
25 would know this.

1 Q. (BY MR. ALBERTS) Have you received reports  
2 from either family members or friends of Mr. Morgan's  
3 that have characterized what happened over the Christmas  
4 vacation?

5 A. Yes.

6 Q. And were they accurately characterized?

7 A. I don't believe so.

8 Q. And was it distorted to make Ms. Morgan look  
9 bad?

10 MR. MORGAN: I object, Your Honor,  
11 hearsay.

12 THE COURT: Well, what they --

13 MR. ALBERTS: It's a party statement we're  
14 asking. I'm sorry.

15 THE COURT: No, it's actually not --

16 MR. ALBERTS: You're right. I need to lay  
17 some more predicate.

18 THE COURT: You really would. You can't  
19 ask her to tell us what they said if offered to prove  
20 that what they said is true, and it sounds like you're  
21 sure doing that.

22 MR. ALBERTS: Understood.

23 Q. (BY MR. ALBERTS) Did you try to work with  
24 Mr. Morgan over visitations?

25 A. Yes.

1 Q. Was Kristin relatively flexible --

2 A. Yes.

3 Q. -- Ms. Morgan?

4 A. Yes.

5 Q. Was Mr. Morgan?

6 A. No.

7 MR. ALBERTS: Your Honor, I assume -- do I  
8 need -- I apologize. Is this -- being that she's court  
9 appointed, do I need to introduce her report for you to  
10 have access to it?

11 THE COURT: If it has -- I don't know if  
12 it's been filed or not. It was handed to me this  
13 morning as a courtesy copy. I'd assume it's in the  
14 file. But if you want the Court to consider it, then I  
15 suggest you mark it as an exhibit and get her to vouch  
16 for it, whatever it is you want to do.

17 Q. (BY MR. ALBERTS) Ms. Morgan -- Ms. Massad, I'm  
18 showing you what's been marked Respondent's --  
19 Petitioner's Exhibit 4. And do you recognize that?

20 A. Yes.

21 Q. And is that the report you have prepared in  
22 your capacity as a guardian ad litem for Hannah in this  
23 case?

24 A. That's correct.

25 Q. And without going through everything you've

1 said in there, do you stand by everything you've said in  
2 there?

3 A. Yes.

4 Q. And do you want the Court to read and consider  
5 this?

6 A. Yes.

7 MR. ALBERTS: I would offer Petitioner's  
8 Exhibit 4.

9 THE COURT: Any objection to 4?

10 MR. MORGAN: Your Honor, there are  
11 statements in here that are hearsay that are based on  
12 documents that have already been thrown out.

13 THE COURT: Okay. There are statements --  
14 you'll have to tell me what portions you want redacted  
15 that are hearsay.

16 MR. MORGAN: Well, for instance, the  
17 opinion on drug or alcohol treatment. She consistently  
18 quotes Mark Catalano.

19 THE COURT: Okay. It is true that that is  
20 hearsay. It is the sort of hearsay upon which experts  
21 in the field can rely. However, that does not make the  
22 hearsay admissible --

23 MR. ALBERTS: And --

24 THE COURT: -- as primary -- excuse me;  
25 let me finish -- as primary evidence. It could be

1 offered for the limited purpose of showing the extent of  
2 her work, what she considered, but not offered to prove  
3 that what that hearsay statement is is true.

4 MR. ALBERTS: Certainly. And I do not  
5 object to any of those kinds of hearsay statements being  
6 so limited in her report.

7 THE COURT: Okay.

8 MR. ALBERTS: I mean, it evidences the  
9 extent of her investigation and to some degree  
10 references the basis for her opinion, but I'm not  
11 offering any hearsay for the truth of the matter  
12 asserted.

13 THE COURT: All right. Then I'll admit it  
14 just -- and those portions I will only consider for the  
15 purposes of showing the extent of her investigation but  
16 not for the truth of the matter asserted. And with that  
17 it's admitted.

18 *(Petitioner's Exhibit 4 admitted)*

19 Q. (BY MR. ALBERTS) And what is your opinion as  
20 to proper conservatorship orders in this case?

21 A. I --

22 Q. Microphone.

23 A. I'm sorry. It was a very difficult decision  
24 because I don't like to see children relocate away from  
25 the other parent. But in light of everything, I do

1 believe that it would be in Hannah's best interest to  
2 remain where she is with her mother as sole managing  
3 conservator. I don't really see these two able to  
4 co-parent effectively.

5 Q. Mr. Morgan hasn't, in fact, asked to be a joint  
6 managing conservator, has he? He's asking to be sole  
7 managing conservator or nothing; is that correct?

8 A. He hasn't asked me specifically for either. I  
9 can't say.

10 Q. And what kind of visitation schedule would you  
11 think would be appropriate for a child of Hannah's age?

12 A. I think the most appropriate schedule is the  
13 one that we have in place right now.

14 Q. Would you alter that in any way?

15 A. Not at this time.

16 Q. Do you understand the one in place right now  
17 quite simply says standard holidays, which -- does that  
18 bother you that -- I'm asking, would you be concerned  
19 with standard holidays given that under the terms that  
20 apply to this child under three, that this Spring Break  
21 the child would spend with Mr. Morgan? Does that  
22 concern you at all?

23 A. I do think -- when I say the order that's  
24 already in place, I was referring to every month,  
25 you know, a weekend, so I was not addressing holidays or

1 summers or anything like that. And yes, I do think the  
2 literature has shown that it is not in a child's best  
3 interest to, say, be with their father -- the other  
4 parent for 30 solid days when they've only been with  
5 their mother their whole life. So I would hope that  
6 something could be worked out that, you know, maybe  
7 shorter -- maybe shorter but more frequent visits,  
8 something like that.

9 THE COURT: Well, this is the person who  
10 works it out, so I need to hear what people are asking  
11 me to do and what they're recommending that I do  
12 specifically because today I'm going to issue specific  
13 orders one way or the other. So you may as well cover  
14 this, whoever wants to cover it.

15 MR. ALBERTS: Of course, I'll be endorsing  
16 what I have put in the parenting plan for Tennessee,  
17 which was presented to the Court.

18 THE COURT: Well, I'm going to want to  
19 hear what the ad litem thinks about the specifics.

20 MR. ALBERTS: Right.

21 Q. (BY MR. ALBERTS) Would you think it's  
22 appropriate to postpone any lengthy visits until there  
23 have been more frequent regular contacts?

24 A. Yes.

25 Q. And how many more regular contacts do you think



1 would be appropriate before there is a lengthy period of  
2 time with Hannah and Mr. Morgan?

3 A. I think at least six months of visits that have  
4 happened every month without being missed and six months  
5 of negative alcohol tests.

6 Q. Do you believe --

7 THE COURT: You're not recommending that  
8 the visits be -- that you not have any visits until  
9 there have been six months of alcohol tests. You mean  
10 simultaneously that there be alcohol testing and visits  
11 once a month; is that right?

12 THE WITNESS: Correct.

13 THE COURT: And who are you recommending  
14 monitor these alcohol tests in order to go to the next  
15 stage that I can hear you talking about?

16 THE WITNESS: Pro Results.

17 THE COURT: Would that be you?

18 THE WITNESS: Oh, I would assume the  
19 parties could do that. I would certainly be willing to  
20 stay on the case if you would like me to for the next  
21 six months.

22 THE COURT: I'm just asking what you're  
23 recommending. I'm unclear and I wanted to follow up on  
24 that.

25 Q. (BY MR. ALBERTS) The department could go ahead

1 and continue to arrange alcohol testing on a regular  
2 basis; is that correct?

3 A. Correct.

4 Q. And what lab do y'all use?

5 A. Pro Results.

6 Q. And you believe you and your department would  
7 be willing to go ahead and undertake that for a limited  
8 period in the future?

9 A. Yes.

10 Q. And so if I understood you, you believe there  
11 should be at least six months of once-a-month visits  
12 minimum that are alcohol-free before we consider moving  
13 to a more expanded?

14 A. Correct.

15 Q. Now, assuming that the monthly visitations have  
16 gone smoothly until Hannah is three, would you recommend  
17 a standard visitation order at that time?

18 A. At the age of three I would with the exception  
19 of summers. Usually with children that young, even  
20 three, they're cut up into two-week portions rather than  
21 30 whole days.

22 Q. Is there any counseling or other classes that  
23 you're recommending either parent take?

24 A. I am recommending that Mr. Morgan do an  
25 outpatient alcohol rehabilitation program, but I'm not

1 hearing that he's interested in doing that.

2 MR. MORGAN: I'd be happy to.

3 Q. (BY MR. ALBERTS) And as far as -- I withdraw  
4 that.

5 MR. ALBERTS: Pass the witness.

6 MR. MORGAN: May I approach and see the --  
7 or I'm sorry, the --

8 THE COURT: Her report?

9 MR. MORGAN: Her report, yes, sir. Thank  
10 you.

11 THE COURT: Sure.

12 **CROSS-EXAMINATION**

13 BY MR. MORGAN:

14 Q. Ms. Massad, have you seen the pictures of the  
15 toy box that I built for Hannah?

16 A. I don't know that I've seen that.

17 Q. There are some in evidence right now I can show  
18 you in just a moment. Do you not recall seeing a  
19 similar picture?

20 A. I may have.

21 Q. You may have?

22 A. Yes.

23 Q. Is that a nice toy box?

24 A. Very nice.

25 Q. Does it look like it took a while to make?

1       A.     Yes.

2       Q.     Now, do you think that taking the time to build  
3 something like that is acknowledging Christmas?

4       A.     I -- if it was built for Christmas as a  
5 Christmas gift, I suppose it was, yes.

6       Q.     It was. In your report you stated that we did  
7 not acknowledge anything for Christmas.

8       A.     Well, I don't think Hannah received that, so  
9 that's what I meant by that.

10      Q.     So by acknowledge, you mean that we didn't send  
11 her anything, so we did not acknowledge it?

12      A.     Correct.

13      Q.     Okay. How exactly did I refuse -- according to  
14 your report, you state that I refused Christmas  
15 visitation. How exactly did I refuse that?

16      A.     I don't think I put it in those words. I think  
17 that -- as I recall Christmas, there was a sense of  
18 urgency that we needed -- that these tickets needed to  
19 be purchased, and you remained pretty entrenched in your  
20 position that you were not going to pay for either one  
21 of the roundtrip tickets. I believe Mr. Alberts offered  
22 to -- or said you could do that and then at final trial  
23 you could be reimbursed for those tickets if indeed you  
24 weren't responsible for them.

25      Q.     Do you think a court would have reimbursed me

1 for those costs?

2 A. I don't know. It was ambiguous, and I could  
3 see where both parties weren't sure who was responsible  
4 for both tickets.

5 Q. So in your opinion, the temporary orders were  
6 ambiguous in terms of who was responsible for travel  
7 expenses in even-numbered months?

8 A. Well, even-numbered months, Christmas, it's --  
9 they kind of overlapped.

10 Q. They overlapped. So Christmas is an  
11 even-numbered month?

12 A. Yes.

13 Q. And the order said on even-numbered months that  
14 Kristin should pay travel expenses?

15 A. Again, if you were just talking about  
16 even-numbered months -- I mean, we're not talking about  
17 a weekend. We are talking about, you know,  
18 December 18th through the 26th I think.

19 Q. Did Kristin even bring Hannah down for a  
20 weekend in December?

21 A. Again, we tried.

22 Q. How exactly did you try?

23 A. I think I sent several emails saying wouldn't  
24 that be better than nothing to at least have,  
25 you know --

1 Q. And do you recall how I responded to those?

2 A. I believe you said something about give me the  
3 weekend or name the weekend, and then almost immediately  
4 thereafter you came up with -- a friend had offered you  
5 a frequent flyer ticket or something like that.

6 Q. So she could have, you know, come down right  
7 then on a weekend that she was planning to come down  
8 anyway without even having to pay for the ticket; is  
9 that correct?

10 A. I believe, as I recall, you told her the day  
11 before that she could -- she had a ticket waiting for  
12 her for the following day, and I think by then she had  
13 already arranged her work schedule.

14 Q. Did she have court orders to go to work?

15 A. I don't know.

16 Q. Did the Court -- you say that you don't know if  
17 the Court ordered her to go to work. Did the Court  
18 order her to work?

19 A. No. No.

20 Q. Did the Court order her to bring Hannah to  
21 Austin on even-numbered months?

22 A. Yes.

23 Q. But yet she chose to go to work rather than  
24 follow court orders?

25 A. She offered to bring Hannah to you and asked

1 for you to bring Hannah back. That was my issue with  
2 you. I couldn't understand why you were not willing --  
3 whether it was right or wrong, whether -- why you would  
4 not choose to have nine days with your daughter.

5 Q. Did the Court order me to bring Hannah back  
6 after the end of the visitation?

7 A. It was --

8 MR. ALBERTS: The court order speaks for  
9 itself, Your Honor.

10 A. -- ambiguous.

11 THE COURT: Excuse me. We're all talking  
12 at the same time here.

13 THE WITNESS: Sorry.

14 THE COURT: I can read the court order, so  
15 why don't we ask things that --

16 MR. MORGAN: I can move on, Your Honor.

17 THE COURT: All right.

18 Q. (BY MR. MORGAN) Ms. Massad, are you a doctor?

19 A. No.

20 Q. Do you understand how the body metabolizes EtG?

21 A. No.

22 Q. But you know that these tests work?

23 A. I have spoken with the personnel at Pro Results  
24 so that I would have a clear understanding of why you --

25 Q. Do you have any --

1       A.     -- tested positive.

2       Q.     I'm sorry.  Do you have -- do you have anything  
3 that isn't hearsay that supports that?

4       A.     I'm not sure I understand your question.

5       Q.     Well, you just stated that somebody at  
6 Pro Results told you that this test works.  That would  
7 be hearsay.  Do you have any evidence that isn't  
8 hearsay?

9       A.     Yes.  Our assistant director, Rosalyn Petry,  
10 attended a --

11                   MR. MORGAN:  Objection, hearsay.

12                   THE WITNESS:  I'm sorry.  Okay.

13                   MR. ALBERTS:  It sounds to me like she's  
14 merely trying to answer about her training and the sorts  
15 of things that professionals in her field regularly rely  
16 on.

17                   THE COURT:  I don't know where this is  
18 headed because it sounds to me like ultimately she's  
19 going to have to say what someone else told her.  So if  
20 she hasn't done her own firsthand research, she's not  
21 herself an expert, so I don't think we're really going  
22 to get anywhere with this.

23                   MR. ALBERTS:  Right.

24                   THE COURT:  But --

25                   MR. MORGAN:  I'll move on.



1 THE COURT: Let's keep plugging away.

2 Q. (BY MR. MORGAN) Are you divorced?

3 A. Yes.

4 Q. Do you have children?

5 A. Yes.

6 Q. So you are a mother and you've gone through  
7 this whole split and, you know, mom and dad fighting  
8 over the kids type thing?

9 A. Well, we didn't fight over the children, but  
10 yes, I've been through this.

11 Q. You didn't fight over them. Did you not go to  
12 court?

13 A. No.

14 Q. You came up with an agreement yourself?

15 A. Yes.

16 Q. Was your life ever threatened during that  
17 process?

18 A. No.

19 Q. So where did -- to your knowledge, where did  
20 Kristin go to parenting class?

21 A. I have the certificate here if you will bear  
22 with me. Parenting Apart Effective Co-Parenting. It  
23 was through the University of Tennessee extension  
24 course.

25 Q. Okay. And how many hours was that course?

1           A.     You know, it doesn't say here on this  
2 certificate, but I did call this class to make sure that  
3 it was, you know, a real parenting class, and it is I  
4 believe at least six hours.

5           Q.     Six hours. So how many hours of parenting  
6 class have I been to?

7           A.     I think you said five, six maybe.

8           Q.     My earlier testimony was 12. So I'm not --  
9 you're testifying that I did not -- I've taken -- did  
10 not complete my parenting class, yet I've taken twice as  
11 many hours as Kristin. Is that what you are saying?

12          A.     Well, you're the one who knows whether your  
13 parenting class is complete and how many hours they  
14 required. And I can't say for sure that hers was six  
15 hours. I don't know. But I do remember that I called  
16 the college and made sure that it met our requirements.

17          Q.     And what are those requirements?

18          A.     That it's not just a one- or two-hour class,  
19 that it -- I asked them the subjects that they cover,  
20 and it was, you know, how to talk to children about  
21 divorce and the same topics that all parenting  
22 classes -- cooperative parenting classes cover.

23          Q.     Did the topic include domestic violence?

24          A.     I don't remember.

25          Q.     You were ordered by the Court to supervise

1 these parenting classes; right?

2 A. To supervise them?

3 Q. You were the one to -- you were ordered to  
4 select the classes?

5 A. I did not select the one in Tennessee because I  
6 had no idea what was available. She -- Ms. Morgan  
7 submitted this class to me, and I checked it out online  
8 and it was fine with me.

9 Q. Did I -- did I submit any suggestions as to any  
10 other alternative classes to take when I realized that  
11 it was impossible to complete the class that you had  
12 suggested?

13 A. Yes, you asked if there was online classes  
14 available, and I said that I would rather you took an  
15 in-person parenting class.

16 Q. I'm sorry?

17 A. You asked if you could take an online class,  
18 and I asked that you take a regular class, and you later  
19 emailed me to thank me for that suggestion because you  
20 really liked the class.

21 Q. So Kristin made a suggestion about a class.  
22 That was okay with you. When I made a suggestion, that  
23 was not okay?

24 A. They're two completely separate issues, an  
25 online class versus a regular classroom.

1 Q. Did you have any other suggestions for me that  
2 would have helped me complete the class on time for the  
3 trial?

4 A. That was not my responsibility. You've known  
5 since we were in court that you had an obligation to  
6 complete a parenting course.

7 Q. When we were separated during all this, do you  
8 recall me telling you -- or having to get your  
9 assistance in getting information about Hannah from  
10 Kristin?

11 A. Yes.

12 Q. In fact, did I have to beg for that information  
13 from you and Kristin to actually get any sort of  
14 information from her?

15 A. You had to ask, yes.

16 Q. Had I -- before I asked you to get involved, to  
17 your knowledge had I sent any request to Kristin for  
18 this information?

19 A. I don't know. I know that you were not getting  
20 the information that you wanted, and so I just asked for  
21 the same --

22 Q. So you had to get involved --

23 THE COURT: Excuse me. You've got to let  
24 her finish her answer before you start your next  
25 question. You may finish your answer.

1 THE WITNESS: Thank you.

2 A. I knew that you were having trouble  
3 communicating about Hannah, so I simply asked that she  
4 every Friday send you an email regarding everything that  
5 happened that week, Hannah's milestones and everything  
6 like that. And as far as I know, that has continued  
7 uninterrupted.

8 Q. (BY MR. MORGAN) But the point is that she had  
9 to be supervised in order to convey this information?

10 A. Yes.

11 Q. Would you call that communication?

12 A. It's I suppose not effective communication, no.

13 Q. Does lack of communication in your opinion  
14 cause conflict?

15 A. Yes.

16 Q. Now, your report as well as Mr. Albert's -- I'm  
17 sorry -- your recommendations say that I can get one  
18 weekend of contact with Hannah. Actually, Mr. Alberts'  
19 is much less than that. But do you think that's enough  
20 time to form a relationship with somebody?

21 A. I -- at this young age, that's about the best  
22 that we can do, and I have to point out that you have  
23 not taken advantage of any of these visits.

24 Q. But you're aware that for me to have actually  
25 taken care -- or taken advantage of these visits, I

1 would have had to pay upwards of \$4,000 to do so?

2 A. I -- I think that you could have spent \$200 to  
3 drive down there to see your daughter.

4 Q. You can drive on \$200? With \$200, you can get  
5 2,000 miles?

6 A. I don't know, but my point is it certainly  
7 doesn't cost \$4,000 to spend a weekend in Tennessee.

8 Q. How much would it cost me?

9 A. I would assume a few hundred dollars for gas.  
10 And if I were a parent, I would drive down there and  
11 spend days with my child and spend the night in my car  
12 if I had to.

13 Q. So you would expect me to take a six-month-old  
14 infant and take care of her in my truck for the entire  
15 weekend?

16 A. That's not what I said. I said you would see  
17 her during the day, return her to her home and spend the  
18 night in my car if I had to do that. I think that there  
19 were options that were not explored.

20 MR. MORGAN: I'll pass the witness,  
21 Your Honor.

22 **REDIRECT EXAMINATION**

23 BY MR. ALBERTS:

24 Q. I have no further questions, but I want to  
25 give -- unless the Court has questions for you, I want

1 to give you a chance if there was anything additional  
2 you wanted to tell the Court as the ad litem  
3 representing the family.

4 A. I guess the only thing that I would like to add  
5 is on the subject of these tests that Mr. Morgan is  
6 disputing. I don't know if I want to say this. The  
7 judge will stop me if I can't. The tests that he took  
8 on Wednesday, I was informed that even before the  
9 results came back the --

10 MR. MORGAN: Objection, Your Honor. This  
11 is hearsay.

12 THE COURT: Don't tell us what someone  
13 else told you.

14 MS. MASSAD: Okay.

15 THE COURT: You can tell us, of course,  
16 what dad has said. But if there's -- I don't know what  
17 you were going to say, so I have no idea. You were  
18 informed by dad --

19 MR. ALBERTS: Unfortunately, I don't --

20 THE COURT: If you were informed by dad  
21 something, then you may say it. But if you're going to  
22 tell us what someone else told you, if offered to prove  
23 that what they said is true, you may -- you may not say  
24 that.

25 A. I will say that the father told me that he had

1 drank a lot of water before his tests so that he would  
2 make sure that he could urinate.

3 Q. (BY MR. ALBERTS) Does that concern you for any  
4 reason?

5 A. Yes.

6 Q. Why?

7 A. I believe that he was tampering with the test  
8 results.

9 Q. Again, is there anything further you wanted to  
10 tell the Court?

11 A. I don't think so.

12 MR. ALBERTS: Pass the witness,  
13 Your Honor.

14 MR. MORGAN: No further questions,  
15 Your Honor.

16 THE COURT: All right. What other  
17 investigation -- don't tell me what people have said,  
18 but what other investigation have you done about the  
19 alcohol testing to explore the extent of compliance or  
20 noncompliance?

21 MS. MASSAD: Yes, Your Honor. I was cut  
22 off before I could explain exactly what I had learned.  
23 I was only saying that not that Ms. Petry told me  
24 anything but that she had gone to a training and brought  
25 back some literature which I reviewed. And one of the



1 pieces of literature was an outdated discussion of the  
2 EtG test which said that the false-positives that  
3 happened in the past were a result of the cutoff point  
4 being 100, and the cutoff point is now 500, and the test  
5 is considered to be much more reliable.

6 THE COURT: Okay. And we discussed that  
7 earlier. All right. Anything else? You mentioned that  
8 dad said that he had consumed a lot of water in order to  
9 be able to urinate. Is there anything else about dad's  
10 compliance or any investigation you've done about dad's  
11 compliance or noncompliance with the testing or efforts  
12 to thwart the testing that you need to tell me about?  
13 Or did I read something into it that's not there?

14 MS. MASSAD: The test that he did fail,  
15 the second test, he told me that he failed it because  
16 his workplace uses a lot of hand sanitizer.

17 THE COURT: Okay. Did you find that odd?

18 MS. MASSAD: Yes.

19 THE COURT: Why?

20 MS. MASSAD: Again, back in the --

21 THE COURT: What was dad's theory that  
22 hand sanitizer would cause him to fail the test?

23 MS. MASSAD: That there was alcohol in it  
24 and just a small trace residual of alcohol was enough to  
25 make that test positive.

1 THE COURT: I see. Anything else?

2 MS. MASSAD: I don't think so.

3 THE COURT: Anything else you haven't been  
4 asked that you would like to tell me about?

5 MS. MASSAD: I guess the only thing I  
6 would say, Your Honor, is I do believe that both parents  
7 should be involved in their children's lives. And if  
8 Mr. Morgan had made his child support payments, if he  
9 had tested negative on his tests, and if he had made  
10 trips to Tennessee to see his child, I would be making a  
11 different recommendation today.

12 THE COURT: And let me understand exactly  
13 what you are recommending. You're not recommending  
14 standard visitation for parents who are more than 100  
15 miles apart out of the code. You're recommending that  
16 we continue what's essentially in the temporary orders?

17 MS. MASSAD: Yes.

18 THE COURT: For the next six months. And  
19 then what after that?

20 MS. MASSAD: If --

21 THE COURT: And alcohol testing.

22 MS. MASSAD: Correct.

23 THE COURT: And what are the terms of the  
24 alcohol testing? Random?

25 MS. MASSAD: Random. Yes, random.

1 THE COURT: And who would -- who would  
2 elect when the random tests were going to take place?  
3 Would that be you?

4 MS. MASSAD: If I'm on the case, and I  
5 would be happy to remain on the case, that would be me.

6 THE COURT: So random per DRO.

7 MS. MASSAD: Uh-huh.

8 THE COURT: Per DRO request. And that's  
9 been -- that was the system before?

10 MS. MASSAD: Yes.

11 THE COURT: All right. So continue that.  
12 And up to how many tests? Is there any -- was there  
13 any -- I don't recall what the previous order said.

14 MS. MASSAD: No. It was just up to my  
15 discretion.

16 THE COURT: So unlimited number of tests.

17 MS. MASSAD: Yes.

18 THE COURT: Presumably there's a  
19 reasonableness standard that we would all assume is  
20 there. And then after six months, assuming the alcohol  
21 testing doesn't cause you to want to come back to court  
22 and revise this, in other words, that is to say the  
23 alcohol testing shows that there's no -- nothing to be  
24 alarmed about in the alcohol testing, what would your  
25 recommendation be after six months in terms of time of

1 possession?

2 MS. MASSAD: Your Honor, I'm sorry, if you  
3 would refresh my memory as what is the standard  
4 possession for children over 100 miles from their  
5 family. I think it's different for children under  
6 three.

7 THE COURT: It is different for children  
8 under three, so I'll let you review that. So your  
9 answer -- your answer is you're not sure. You'd need to  
10 go and look at that --

11 MS. MASSAD: Yes.

12 THE COURT: -- and then tell me how you'd  
13 want to customize it.

14 MS. MASSAD: Correct.

15 THE COURT: The only thing you can really  
16 tell the Court is for the next since months you wouldn't  
17 change it from what's in the temporary orders?

18 MS. MASSAD: Yes, Your Honor. And if I  
19 could just add besides testing negative on all of his  
20 tests, he would have to make all of his visits with his  
21 daughter.

22 THE COURT: Oh, I see. Right. Because if  
23 he doesn't, you don't want to immediately progress to  
24 much more intensive visitation.

25 MS. MASSAD: Exactly.

1 THE COURT: That's sort of the point, is  
2 to have a gradual -- a gradual glide path, so to  
3 speak --

4 MS. MASSAD: Correct.

5 THE COURT: -- to use an airplane analogy,  
6 to get them to a different relationship level in terms  
7 of frequency and comfort.

8 MS. MASSAD: Yes.

9 THE COURT: Okay. Anything else?

10 MS. MASSAD: I don't think so.

11 THE COURT: Anything else you need to  
12 follow up with?

13 MR. ALBERTS: With the ad litem, no,  
14 Your Honor.

15 THE COURT: No?

16 MR. MORGAN: I do have one more question.

17 THE COURT: Go ahead.

18 **RECROSS-EXAMINATION**

19 BY MR. MORGAN:

20 Q. The literature that you got concerning the EtG  
21 tests, that came from somebody who sells these tests; is  
22 that correct?

23 A. It was somebody who put on a workshop. And no,  
24 I don't -- I can't say what his qualifications are.

25 MR. MORGAN: No further questions,

1 Your Honor.

2 THE COURT: That was a good question.

3 MR. ALBERTS: Nothing further.

4 THE WITNESS: I can find that literature.  
5 I don't have it with me.

6 THE COURT: No, it's just -- it was a good  
7 lawyer question. I'm sure Mr. Alberts appreciates it  
8 too.

9 MR. ALBERTS: Yes.

10 THE COURT: It's the sort of question he  
11 would have asked. All right. You may step down.

12 MR. ALBERTS: Your Honor, if I might, I  
13 see this is still laying on my desk. It concerns me  
14 that I did not introduce it. If I didn't, I would like  
15 to.

16 THE COURT: And when you're saying "this,"  
17 we need a number.

18 MR. ALBERTS: I'm sorry. It is my  
19 proposed property division, Petitioner's Exhibit 2.

20 THE COURT: Petitioner's 2 is offered.  
21 Any objection to Petitioner's 2?

22 MR. ALBERTS: It's the pretrial.

23 MR. MORGAN: No, Your Honor. I believe it  
24 was already admitted.

25 MR. ALBERTS: I think I forgot to offer

1 it.

2 THE COURT: 2 was not admitted, but there  
3 being no objection, 2 is admitted.

4 *(Petitioner's Exhibit 2 admitted)*

5 MR. ALBERTS: Thank you. Close.

6 THE COURT: Okay. They have closed. Do  
7 you have any other evidence? That was their last  
8 evidence, was the ad litem.

9 MR. MORGAN: I have no more evidence.

10 THE COURT: All right. So both sides  
11 close. We'll take a brief break and come back in. I'll  
12 let each of you tell me what it is -- walk me through --  
13 first of all, on this break I want you to walk through  
14 the distribution of the estate. I have inferred that  
15 there is virtually no dispute about how this estate  
16 should be divided, and I need for you to tell me how it  
17 should be. I heard that there was some difference on  
18 the brown sectional couch and on the front-end loading  
19 washer. For obvious reasons, I don't want to spend  
20 a lot of time on that.

21 MR. ALBERTS: Understood.

22 THE COURT: I'm really concerned about  
23 Hannah and not the front-end loading washer.

24 MR. ALBERTS: I believe the --

25 THE COURT: Though I did just acquire one

1 this weekend and I can see why you like it.

2 MR. ALBERTS: Okay. The only issue that I  
3 think may still be outstanding and confusing is the  
4 house. We are willing to sign the house over with a  
5 special warranty deed to Mr. Morgan providing we get a  
6 deed of trust to secure assumption back.

7 THE COURT: Yes, I understand.

8 MR. ALBERTS: Okay.

9 THE COURT: It sounds like there's no  
10 dispute. Dad would like the house. You're willing to  
11 give dad the house. You had him go through your  
12 proposed property division. All I heard were  
13 disagreements about the brown sectional couch and the  
14 front-end loading washer. Did I miss something? Was  
15 there another?

16 MR. MORGAN: There's also a dryer. There  
17 was a washer and a dryer.

18 THE COURT: I'm sorry. Front-end loading  
19 washer and dryer. See, I don't have one of those. I  
20 just have the front-end loading washer, so already I'm  
21 jealous that you got the front-end loading dryer, which  
22 I too wish I had. But I gather that's the only dispute.  
23 And what is the dispute about that? Dad would like it  
24 and you've got it in mom's column? Is that --

25 MR. ALBERTS: Dad would like it and mom



1 would like it.

2 MR. MORGAN: Your Honor, those are  
3 household items. I would like them to remain with the  
4 house.

5 THE COURT: Okay. Well, what I suggest  
6 is, unless mom really wants to come down and drive that  
7 brown sectional couch back, that we just kind of go from  
8 here. Maybe she does. Maybe we could split the  
9 difference and dad keep these beautiful front-end  
10 loaders and mom gets the couch. I don't know. But we  
11 can talk about this on the break and see if we have some  
12 agreement. Obviously if we move it over to dad's  
13 column, that changes the distribution of the estate, and  
14 we might have to do something about that. If dad's  
15 going to get more stuff, we might have to have some  
16 small payment by dad so that it's a more equal  
17 distribution of the estate so that mom's not just giving  
18 up all the estate. And I'm sure dad understands that.  
19 So would you talk about that --

20 MR. ALBERTS: Certainly.

21 THE COURT: -- and see if we can't have a  
22 meeting of the minds when I come back out here? What  
23 I'm really going to have my ears perked to listen to is  
24 what it is you're asking me to do in terms of Hannah. I  
25 think I know, but -- and I think I know that you're not

1 proposing any alternatives. And I'll listen to you very  
2 briefly on that because I already have a pretty clear  
3 idea what I think I want to do, and I don't really need  
4 any more argument about it. I just need to understand  
5 what it is you're asking me to do. Okay?

6 MR. ALBERTS: Yes, Your Honor.

7 MR. MORGAN: How long is the break,  
8 Your Honor?

9 THE COURT: Oh, just about five minutes,  
10 no more than ten. And then I'll just have you answer  
11 those questions, and then I'll give you my decision and  
12 we'll be done.

13 MR. MORGAN: All right.

14 THE COURT: And your witnesses are no  
15 longer subject to the rule.

16 MR. MORGAN: Are we going to have final  
17 statements, Your Honor?

18 THE COURT: Yeah, that's what I'm saying I  
19 need you to say, is what it is you want me to do, but  
20 that's -- I don't need some summary of what I heard  
21 today. It's such a short trial. I don't need you to go  
22 back over and summarize the evidence for me. I simply  
23 need you to answer those questions I just gave you and  
24 then I'll give you my decision.

25 *(Recess taken)*

1 THE COURT: I mentioned earlier the  
2 witnesses were welcome in court, but I guess they're  
3 not -- they're not here, so that's fine.

4 MR. MORGAN: I can go get them real quick.

5 THE COURT: I'm sorry?

6 MR. MORGAN: They're just in the hallway.

7 THE COURT: Yeah. Well, I offered to let  
8 you have them in here.

9 MR. MORGAN: I'm sorry.

10 THE COURT: I think it's almost  
11 unfortunate that your mom doesn't get to hear this, but  
12 that's okay.

13 MR. MORGAN: Your Honor, do you mind if I  
14 just go get them?

15 THE COURT: I do mind, actually, because  
16 we're on the record now.

17 But you can let his mom know that she's  
18 welcome to come in if she'd like to hear. She's under  
19 no obligation to come in, though. She may not want to,  
20 and that's entirely up to her, but she's free to come in  
21 if she'd like to.

22 THE BAILIFF: All of the witnesses?

23 THE COURT: Well, she's the one I'm really  
24 interested in just because I can identify. I don't know  
25 how old she is, but my daughter's in the vicinity of

1 your age, so I can identify with her.

2           So where are we? You're going to tell me  
3 about the property division. And I don't want to mark  
4 up on the originals here, so -- in fact, would you hand  
5 these to the court reporter in case I -- make sure I  
6 don't make a mistake and start marking on those. Give  
7 those to the court reporter. I have my copies.

8           Proposed property division, is that worked  
9 out?

10           MR. ALBERTS: Yeah. As far as the sofa  
11 and the front-loading washer and dryer, Mr. Morgan can  
12 have them.

13           THE COURT: Okay. And do we put a value  
14 of \$250 on the sofa by agreement?

15           MR. ALBERTS: I'm not asking the numbers  
16 at the bottom be adjusted, Your Honor.

17           THE COURT: Okay.

18           MR. MORGAN: Your Honor, I don't  
19 believe -- I believe -- I'm not going to worry about it.  
20 Never mind.

21           THE COURT: I'm sorry. You're not going  
22 to quibble about the number either, are you?

23           MR. MORGAN: No.

24           THE COURT: There we go. Then I'm moving  
25 that \$250 over to your column for the brown sectional

1 couch and the \$400 over to dad's column on the front-end  
2 loading washer and dryer also?

3 MR. ALBERTS: Yes, sir.

4 THE COURT: And are we doing anything to  
5 adjust the -- I don't know where that leaves us in terms  
6 of the estate distribution. It looks like dad's getting  
7 a net of -- it was 4375 in your proposed distribution  
8 and now it's more.

9 MR. MORGAN: Your Honor, it was --

10 THE COURT: Excuse me. I'm going to do it  
11 one at a time. I'm asking Mr. Alberts.

12 MR. ALBERTS: Honestly, Your Honor, it's  
13 not worth the Court's time or our time to quibble about  
14 those figures.

15 THE COURT: Okay. So mom's going to end  
16 up with a net debt; is that right?

17 MR. ALBERTS: Yes.

18 THE COURT: And dad's going to end up with  
19 a net gain of somewhere in the neighborhood of \$5,000?

20 MR. ALBERTS: Again, he is saddled with  
21 the house, though. How real that is we're not sure.

22 THE COURT: I understand. But you're  
23 comfortable with that.

24 MR. ALBERTS: Yes.

25 THE COURT: And Dad, you agree to this

1 distribution too?

2 MR. MORGAN: I have my own file --

3 THE COURT: You need to stand to address  
4 the Court.

5 MR. MORGAN: I have my own file,  
6 of course, and it was a little bit --

7 THE COURT: But I'm working off of mom's  
8 because it appeared that there were these only -- only  
9 these two potential disputes. You've just worked --

10 MR. MORGAN: There was a little --

11 THE COURT: -- those out -- you've got to  
12 let me finish, Dad.

13 MR. MORGAN: Sorry.

14 THE COURT: You've just worked those out.  
15 And now you agree that the brown sectional couch will go  
16 to your column, the front-end loading washer and dryer  
17 will go to your column, and everything else on their  
18 proposed distribution -- distribution of the estate --  
19 proposed property division is a just and right division  
20 of the estate. You agree to that?

21 MR. MORGAN: All except for the value of  
22 the house. They are \$18,000 wrong about the value of  
23 the house.

24 THE COURT: I see. And so you think it's  
25 a net loss.

1                   MR. MORGAN: That house is about \$10,000  
2 in the hole by itself.

3                   THE COURT: Okay. But basically you want  
4 me to distribute the estate this way. You just  
5 disagree --

6                   MR. MORGAN: That's fine.

7                   THE COURT: You just disagree that the  
8 house has a net value.

9                   MR. MORGAN: That's correct, sir.

10                  THE COURT: Great. Or a net positive  
11 value. Got it. All right. Well, let me just take care  
12 of the easy part now. The divorce is granted now on the  
13 record effective now. There have been some recent  
14 discussions about that on certain appellate cases that  
15 went up on appeal which surprised me that that was ever  
16 challenged, but recently the Attorney General challenged  
17 that in a rather interesting case, but it is effective  
18 immediately. It's effective now. You are now divorced.  
19 The decree, of course, will have to be signed, but the  
20 divorce is granted now.

21                  I find that this is a just and right  
22 division of the estate as we've just described, and it  
23 will be divided exactly as in mom's proposed property  
24 division with the two changes we just made on the  
25 record. And I will not make any finding about what the

1 value of the house is because there's been no evidence  
2 about that. You don't -- neither one of you care. You  
3 think it's a just and right division to do it this way.  
4 So I hereby say it's a just and right division and agree  
5 and it can be divided that way.

6 All right. Now, as I understand it, you  
7 want mom to be sole, dad to be managing, and what is it  
8 you want in detail in the time of possession?

9 MR. ALBERTS: Does the Court have my  
10 pretrial parenting plan? It does lay it out there.

11 THE COURT: I do.

12 MR. ALBERTS: And my suggestion there is  
13 similar to what the Court was saying. I'm saying until  
14 the child is -- the one weekend per month --

15 THE COURT: What page do you want me to  
16 look at on this in order to follow you?

17 MR. ALBERTS: I'm sorry.

18 THE COURT: I have it here. You have  
19 yours; I have mine. Just tell me what page and I will  
20 go right there.

21 MR. ALBERTS: Page 2. Well, you just want  
22 to talk about visitation or the whole thing?

23 THE COURT: No, the visitation.

24 MR. ALBERTS: Oh, I'm sorry. Then we want  
25 to go to Page 3.



1 THE COURT: Okay.

2 MR. ALBERTS: Okay. The proposed  
3 parenting plan there under Roman numeral I at the bottom  
4 of Page 3 talks about the possessory and sole managing  
5 that we just talked about. The next page we talk about  
6 we want her to have permission to establish the child's  
7 residence where she is in Tennessee. Then on terms of  
8 possession, what we're requesting is -- since they would  
9 be 100 miles apart, there is the standard weekend  
10 possession where dad can select one weekend per month.  
11 We want to make sure there's at least 14 days' notice of  
12 that. That is not inconsistent with what I understand  
13 that the guardian ad litem has recommended.

14 THE COURT: You mentioned standard. Now,  
15 more than 100 miles apart, it isn't standard just to  
16 have one weekend a month, is it?

17 MR. ALBERTS: Yes. That's -- you can opt  
18 for your three, but it's very typical -- your alternate  
19 is one weekend per month instead of those three of your  
20 choice.

21 THE COURT: All right.

22 MR. ALBERTS: Okay. And that's -- yeah,  
23 that's straight out of standard.

24 THE COURT: And basically this  
25 paragraph -- the first paragraph on weekends is what

1 you're operating under now with the temporary orders?

2 MR. ALBERTS: More or less. This has the  
3 extension for weekend holidays, which our order does not  
4 have.

5 THE COURT: Okay.

6 MR. ALBERTS: This also is not addressing  
7 the child coming back and forth as to who's responsible  
8 for transportation. That section doesn't.

9 THE COURT: Yes, I understand.

10 MR. ALBERTS: Okay. As to Spring Break,  
11 standard possession does not presumptively apply to the  
12 child until they're age three. And I would suggest that  
13 it would not make sense for there to be an extended  
14 Spring Break until the child reaches three years of age.

15 THE COURT: And that's what this proposal  
16 says.

17 MR. ALBERTS: That is. And then on the  
18 next page, extended summer possession, of course, long  
19 distance summer possession could allow up to 42 days in  
20 the summer. I instead suggest that once the child has  
21 reached three, that dad could in fact have his 30 days,  
22 much like a local standard, and once the child has  
23 reached six years of age, he could have the long  
24 distance standard, which is 42.

25 THE COURT: And that's also in here.

1 MR. ALBERTS: Yes.

2 THE COURT: All right.

3 MR. ALBERTS: Similarly, down below that,  
4 the summer weekend possession by mom, of course, which  
5 is very close to --

6 THE COURT: I'm sorry. I couldn't follow  
7 that. Summer weekend possession by mom --

8 MR. ALBERTS: I'm sorry.

9 THE COURT: -- and then you kind of ran  
10 together.

11 MR. ALBERTS: I apologize. This closely  
12 follows the standard order that allows mom -- when he  
13 has an extended summer possession, mom can say, gee, I  
14 want one weekend if it's under 30 days; if it's over 30  
15 days, I want two different weekends. She has to specify  
16 the details of how that is done. And I believe this  
17 very closely tracks the standard order on those.

18 THE COURT: Okay.

19 MR. ALBERTS: And then I address holidays  
20 unaffected by distance, which is a term used in the  
21 standard order. But again --

22 THE COURT: All right.

23 MR. ALBERTS: I have suggested that the  
24 regular Christmases -- I had thought I had had those  
25 tagged being three years of age, and that's my

1 intention, but I don't think we should go to any of  
2 these full standard holidays until the child is three.

3 THE COURT: So on C, starting at the  
4 bottom of Page 5, this should be once Hannah is three?

5 MR. ALBERTS: Yes. That was my intention.  
6 I thought it was in there, but I'm not finding it. So I  
7 may have missed that, but that's my intention.

8 THE COURT: And then what about before  
9 then? What is the proposal for the holiday possession  
10 before she is three?

11 MR. ALBERTS: She's a year and a half now.  
12 I don't have a specific --

13 THE COURT: Actually, she's -- her  
14 birthday is December 12th.

15 MR. ALBERTS: She's just a little over a  
16 year. I'm sorry.

17 THE COURT: She's a year and one month.

18 MR. ALBERTS: For some reason I was  
19 thinking about August. My suggestion would be -- I do  
20 not suggest that he shouldn't have any holidays. I do  
21 suggest that they should be limited in duration until  
22 the child is three and perhaps, you know, not in excess  
23 of three to four days. Thanksgiving would be fine.  
24 Christmas holidays are the problem.

25 THE COURT: Well, this year they were

1 going to have how long had dad -- had you worked out the  
2 transportation issue?

3 MR. ALBERTS: Under the order dad would  
4 have had -- had it worked out, he could have had from  
5 the 17th through the 26th.

6 THE COURT: And you're suggesting we not  
7 do that next year?

8 MR. ALBERTS: That's correct.

9 THE COURT: You're suggesting it should be  
10 shorter than that next year?

11 MR. ALBERTS: I do because there's been so  
12 little contact.

13 THE COURT: I see.

14 MR. ALBERTS: And that was the order.  
15 That order when it was made presumed there would have  
16 been a fair amount of contact before then.

17 THE COURT: I see.

18 MR. ALBERTS: We simply didn't come in to  
19 challenge it. It didn't happen.

20 THE COURT: I see. And you heard the  
21 ad litem say that she would like to see six months of  
22 testing -- alcohol testing and six months of regular  
23 monthly visitation with dad before we ratchet up to more  
24 intensive time of possession.

25 MR. ALBERTS: And I fully agree with that.

1 Now --

2 THE COURT: How would that work  
3 procedurally? Would we come back to this court in six  
4 months for a -- excuse me. In other words, would we  
5 write this report so it's Stage 1 and Stage 2?

6 MR. ALBERTS: I would suggest the  
7 contrary. I would write it presuming that things move  
8 forward successfully and thus not require anybody come  
9 back to court if things are successful but allow us to  
10 file a motion if the ad litem tells us that things have  
11 not been successful.

12 THE COURT: I see. Go ahead and write the  
13 report with the assumption that it's going to be  
14 successful -- I mean, write the decree with the  
15 assumption it's going to be successful.

16 MR. ALBERTS: It at least allows these  
17 people to stay out of court if they behave.

18 THE COURT: That's a wonderful idea.

19 MR. ALBERTS: And that would be my  
20 suggestion on that.

21 THE COURT: All right.

22 MR. ALBERTS: Now, I fully agree with  
23 that.

24 THE COURT: Fully agree with what?

25 MR. ALBERTS: With the ad litem's

1 suggestion that -- any advancement depends on some  
2 regular visitation. And for all kinds of reasons that  
3 are sad, there simply has not been any contact to speak  
4 of, and, you know, that's not going to be good.

5 Now, as we've told the Court, Hannah is  
6 here and we're happy for Mr. Morgan to have her for two  
7 days right now. I believe that she's got to leave on  
8 Wednesday. Okay. So right now for the -- you know,  
9 right now since Hannah's here, we certainly want  
10 Mr. Morgan to have her for a couple nights. I kind of  
11 lost track.

12 THE COURT: Starting tonight.

13 MR. ALBERTS: Yes.

14 THE COURT: Starting tonight?

15 MR. ALBERTS: Yes. Dealing with the six  
16 months versus the kicking in at three years, at the six  
17 months I would just assume that Mr. Morgan will be doing  
18 what he's supposed to be doing and we would go ahead and  
19 kick in this, but there's not much change in it except  
20 perhaps the holidays. I guess since Spring Break  
21 wouldn't happen the first six months, I'm asking that it  
22 not happen at all until age three. The only other thing  
23 that would be covered by the six months would be summer,  
24 which we're not asking to have happen. I guess I would  
25 ask summer not to happen until there have been six such

1 visits. That's just pretty extreme.

2 THE COURT: Well, six -- if we started the  
3 first month --

4 MR. ALBERTS: And, of course, in mid  
5 summer.

6 THE COURT: Tomorrow is February. If the  
7 visits take place for the next six months, we're still  
8 in the summer.

9 MR. ALBERTS: Yeah. And toward that end,  
10 actually, Your Honor, at that point, if it's all gone  
11 well, I would suggest something like seven to ten days  
12 for the first summer.

13 THE COURT: For the first summer. And  
14 then --

15 MR. ALBERTS: And then gradually ratchet  
16 it up. I guess it would stay that way until three and  
17 then we'd go to the 30 and at six we'd go to 42 for long  
18 distance.

19 THE COURT: All right.

20 MR. ALBERTS: Those would be my  
21 suggestions. Of course, the general language that  
22 anything these folks agree on, because my client has  
23 been tugging on me saying he can see her any time he  
24 wants, and I've told her that she can agree to that.

25 THE COURT: All right. What else do I



1 need to understand about travel expenses?

2 MR. ALBERTS: I have a very detailed order  
3 in here concerning notice and airline travel. It's not  
4 an unusual one. It has a little more notice in it than  
5 a standard because we've had notice trouble. And I  
6 would like the Court to impose the general terms and  
7 provisions regarding child's airline travel as part of  
8 this order, and they're set forth in detail in my  
9 pretrial.

10 THE COURT: All right.

11 MR. ALBERTS: And again, these are not  
12 terribly uncommon orders. It's just a problem with a  
13 child this age. In association with that and with the  
14 alcohol testing, we are --

15 THE COURT: And how did you come up with  
16 \$100 on the reimbursement?

17 MR. ALBERTS: I was typing and had to come  
18 up with a number.

19 THE COURT: What is it now? Aren't they  
20 sharing that?

21 MR. ALBERTS: Now --

22 THE COURT: Aren't they sharing it?

23 MR. ALBERTS: Yes. Right now -- well, so  
24 far the only one who's incurred any expenses is her.  
25 But right now she was supposed to bring the child every

1 even-numbered month. He was supposed to bear the  
2 expense of every odd-numbered month.

3 THE COURT: All right. And what does your  
4 proposed order say about who's going to bring the child  
5 to whom?

6 MR. ALBERTS: My proposed order says that  
7 all pickups and exchanges are at the airport in  
8 Knoxville or at the airport here on return. I think it  
9 says that.

10 THE COURT: Where is that?

11 MR. ALBERTS: That would be under the  
12 general terms and conditions, but that would be altered  
13 by the airport. Under the general terms and  
14 conditions --

15 THE COURT: What page are you on?

16 MR. ALBERTS: I'm getting there. It would  
17 be on Page 7.

18 THE COURT: I'm there.

19 MR. ALBERTS: And we have -- I have pickup  
20 and return as the base order at the mom's residence.  
21 That is altered by the --

22 THE COURT: I'm sorry. What paragraph are  
23 you on on Page 7?

24 MR. ALBERTS: That would be Paragraphs --  
25 that's Paragraphs 1 and 2. It does allow exchange at

1 school if that was meaningful in this, but it won't be  
2 in long distance.

3 THE COURT: It wouldn't work very well if  
4 they're in Tennessee and Texas.

5 MR. ALBERTS: Right.

6 THE COURT: All right.

7 MR. ALBERTS: And, again, that revision,  
8 however, would be modified by Provision F on Page 8  
9 which provides for exchanges at the airport, and it  
10 provides each of them to specify. She would board the  
11 child -- once the child could fly alone or is attended  
12 by someone, she would board the child and the child  
13 would -- possession would actually exchange technically  
14 at Bergstrom. Return would technically be at the  
15 Knoxville, whatever the Knoxville airport is or whatever  
16 airport -- Knoxville McGhee Tyson airport --

17 THE COURT: All right.

18 MR. ALBERTS: -- or whatever -- if either  
19 of these folks should move, whatever major commercial  
20 airport they're closest to.

21 THE COURT: Okay.

22 MR. ALBERTS: And it requires both having  
23 the child at the airport an hour before the tickets and  
24 so on as detailed per the tickets.

25 THE COURT: What evidence do I have in the

1 record about how much money mom makes? I don't --

2 MR. ALBERTS: We --

3 THE COURT: I mean, I have the proposed  
4 disposition of issues.

5 MR. ALBERTS: Her budget is in -- her  
6 support information form was introduced into evidence,  
7 wasn't it? I think it was. It would be --

8 MR. MORGAN: I think it --

9 THE COURT: Excuse me. I've got to do  
10 this one side at a time. And that is not --

11 MR. ALBERTS: It's right here.

12 THE COURT: I do not have a courteous copy  
13 of that, so I guess I'd better see the original. So  
14 this is based upon her present employment in Tennessee.

15 MR. ALBERTS: It is. I actually think our  
16 gross number is too low because she got a bit of a  
17 boost, but it's in the ballpark.

18 THE COURT: Okay. How tiny are we  
19 talking? There's nothing in the record about that.

20 MS. MORGAN: It was about 1770 a month to  
21 now about maybe 2400 -- 23 or 2400 a month.

22 THE COURT: Counsel, are you ready to tell  
23 me something that's not in the evidentiary record but  
24 that indicates that this proposed support decision is  
25 too low?

1 MR. ALBERTS: Yes.

2 THE COURT: In the amount of how much?

3 MR. ALBERTS: In the amount of about four  
4 to six hundred dollars. And what happened -- on the  
5 stand she did acknowledge that that actually was right  
6 before her recent raise. I did not know that. She's  
7 getting four to six hundred dollars more gross.

8 THE COURT: Okay. Four to six is a bit of  
9 a swing. Which is it? Do we know?

10 MS. MORGAN: It's about four or five,  
11 maybe four.

12 THE COURT: So can we say 2200 a month?  
13 That's your position?

14 MR. ALBERTS: Yes, Your Honor.

15 THE COURT: Although I don't have anything  
16 in the way of testimony on that. There was no -- there  
17 were no questions about that until I just asked that  
18 one.

19 And the reason you're having dad bear more  
20 of the burden of the travel expenses is because of the  
21 disparity in their income?

22 MR. ALBERTS: Yes. It's a marked  
23 disparity.

24 THE COURT: Okay. Anything else I need to  
25 understand about your position here?

1 MR. ALBERTS: One other thing I do -- I've  
2 asked that uninsured medical be split 60/40 rather than  
3 50/50 again due to that. I have other requests. I have  
4 an injunction request against alcohol any time that the  
5 child is with Mr. Morgan.

6 THE COURT: Right.

7 MR. ALBERTS: I had asked for it one way,  
8 but I don't mind it being a mutual injunction against  
9 either of these folks disparaging the other party's  
10 family or each other in front of the child.

11 THE COURT: Well, that of course should be  
12 mutual. And on child support -- this is my last  
13 question. Yours is more complicated.

14 Yours will be simpler I think. You're not  
15 proposing a very complex -- at least I don't think. I  
16 didn't read it that way.

17 The child support, 775, that's -- that's  
18 based upon his \$60,000 income. It comes almost to the  
19 dollar, except it doesn't account for payment of health  
20 insurance. Isn't dad carrying Hannah on his health  
21 insurance?

22 MR. ALBERTS: He is. There wasn't --

23 THE COURT: And don't we need to take his  
24 net available and subtract from the net available the  
25 amount he pays for health insurance and then recalculate

1 net available and then apply 20 percent to that? Do you  
2 see what I'm saying?

3 MR. ALBERTS: Yes, but I believe you come  
4 out to 776 when you do that. I think I did that when I  
5 took his amount.

6 THE COURT: Well, I'm not sure that's  
7 right because it's 60 -- are you using 60,000 a year?  
8 You are; right?

9 MR. ALBERTS: I was using -- I was working  
10 off of what he put on his form, which I actually think  
11 was about 58,000.

12 THE COURT: Let's -- well, let's -- okay.  
13 He testified -- it doesn't matter. He testified to 60,  
14 so let's make it even more generous for you. He  
15 testified to 60, and I don't think he has any beef with  
16 that. And I don't have his --

17 MR. ALBERTS: Here's a copy if you'd like.

18 THE COURT: Sure. I think I handed those  
19 to you at the beginning.

20 MR. ALBERTS: I got it.

21 THE COURT: So at 60 it's 5,000 a month --

22 MR. ALBERTS: Right.

23 THE COURT: -- on gross. If you go to the  
24 chart, which I did a while ago, the chart on a 5,000 a  
25 month gross is \$3,880.52 according to my reading of the

1 chart, for net available from which you would subtract  
2 the health insurance. Am I right?

3 MR. ALBERTS: That is correct. The health  
4 insurance attributable to the child, and I don't know if  
5 that's broken out or has been broken out. He's listed  
6 140 coming out of his paycheck. We don't know if that's  
7 any of his.

8 THE COURT: Well, and we don't have a  
9 stipulation on that. So what am I to do? We know that  
10 at 3880.52, you see the problem is -- 3880.52 times  
11 20 percent is 776.10. That does not account for health  
12 insurance. Do you see my point?

13 MR. ALBERTS: I do.

14 THE COURT: And he wouldn't know how to do  
15 this, but I do.

16 MR. ALBERTS: Well, let's take that 140  
17 out.

18 THE COURT: Okay.

19 MR. ALBERTS: Because 140 is what he's  
20 listed.

21 THE COURT: All right. Dad, are you  
22 paying 140 a month in health insurance for Hannah only?

23 MR. MORGAN: That's for all three of us.

24 THE COURT: Okay. Well, he's not going to  
25 be covering mom anymore. So on my insurance, which I



1 still get to carry my daughter on, my 24-year-old  
2 daughter, it -- it's -- me and family costs one thing.  
3 Me and just child costs another thing, and it's lower  
4 for me and child. And every -- every group policy I've  
5 ever seen is lower for just employee and child. So 140  
6 is too high, and we don't know what it is. Nobody knows  
7 what it is.

8                   So I guess you'll have to figure that out  
9 and transparently disclose that if I end up doing what  
10 it is you ask me to do. And what we'll have to do is  
11 deduct from 3880.52 a month the available net -- we  
12 would deduct, say, \$100 or whatever the cost is to  
13 insure Hannah only from the 3880.52 and then apply  
14 20 percent to that net.

15                   MR. ALBERTS: Right.

16                   THE COURT: Right?

17                   MR. ALBERTS: And I'm happy to apply that  
18 exact math and share it with Mr. Morgan once he supplies  
19 the information from his employer about what the actual  
20 cost for the child is and send that amount.

21                   THE COURT: And that is what we agree  
22 should be the correct calculation for child support.

23                   MR. ALBERTS: Yes.

24                   THE COURT: Great.

25                   MR. ALBERTS: That would be the agreement.

1 THE COURT: All right. I think that  
2 concludes everything I need to understand from you.

3 MR. ALBERTS: I mean, the other thing --  
4 were we addressing everything in my pleadings or just  
5 about Hannah right now? Because I did want to  
6 address --

7 THE COURT: Is there something else I need  
8 to do? Because I've got to let the court reporter go  
9 pick up her children.

10 MR. ALBERTS: Child support contempt.

11 THE COURT: Child support contempt. Yes.  
12 You said no jail time. What is it you're asking me to  
13 do? He handed you --

14 MR. ALBERTS: He's \$200 short. I don't  
15 quite understand where he came up with 2900. The math  
16 is simple. 775 times five minus 775 is 3100.

17 THE COURT: Okay. 775 times five is 3875.  
18 He handed you --

19 MR. ALBERTS: 2900.

20 THE COURT: So he's short all of that?

21 MR. ALBERTS: No. He's short \$200.

22 THE COURT: Because he paid --

23 MR. ALBERTS: He's paid 2900 of the 3100  
24 he was short when we walked in here.

25 THE COURT: I'm sorry. Because he had

1 already paid what before?

2 MR. ALBERTS: 775 in September. I'm  
3 sorry.

4 THE COURT: Got it. Yes. Well, dad will  
5 need to explain to me when his turn comes in just a  
6 second why he's not \$200 short. What are you asking me  
7 to do about that? He was many days late and now he's  
8 \$200 short. What are you asking me to do about that?  
9 You said no jail time for him. What do you want me to  
10 do?

11 MR. ALBERTS: You of course can enter an  
12 enforcement order. And I believe Ms. Morgan is entitled  
13 upon an enforcement order for child support to recover  
14 reasonable attorneys' fees. I testified that four of my  
15 hours were broken out that she's entitled to that. I  
16 believe the Court could put him on probation, but I  
17 guess that runs into jail time.

18 THE COURT: Well, that really does,  
19 because I can't do probation on non-jail time. Do you  
20 see what I mean? So what you're saying is I should --  
21 you want me to find him in contempt, but you don't want  
22 me to fine him and you don't want me to put him in jail  
23 or do any -- I can't do probation because you're not  
24 asking for any jail time, but you want me to award four  
25 hours in attorneys' fees at \$300 an hour.

1 MR. ALBERTS: Correct. And I think the  
2 purpose of --

3 THE COURT: And you want me to award that  
4 as child support?

5 MR. ALBERTS: Yes, to be enforced as such.  
6 But what I would be asking is that -- the purpose of  
7 finding him in contempt is just to impose the gravity.  
8 Most people get one free trip anyway. If I have to be  
9 back here, I want a judge to see that he had been found  
10 in contempt before because I won't be waiving jail time.

11 THE COURT: Actually, I don't give anybody  
12 a free pass. It's pretty much jail time the first time  
13 with me.

14 MR. ALBERTS: I understand. But he's  
15 pro se. I didn't want us to be here for three weeks.

16 THE COURT: I understand. I'm a little  
17 harsh on child support, so people just -- people know  
18 that about me already generally, but you wouldn't since  
19 you're not a lawyer.

20 MR. ALBERTS: I do.

21 THE COURT: Okay. Dad, you're asking  
22 me -- and it's your turn to stand and answer my  
23 questions, as you can tell. And I told you at the  
24 beginning that's the way I do this argument business  
25 because I don't need you to summarize the evidence I've

1 already heard.

2                   You want me to order that I now today find  
3 you to be the sole managing conservator and have Hannah  
4 live with you and mom get what amount of visitation?

5                   MR. MORGAN: Basically the maximum amount  
6 allowed by the standard parenting plan. I got this  
7 directly from the form.

8                   THE COURT: And I looked at that and I've,  
9 of course, been thinking all day about what it is you  
10 want me to do versus what they want me to do. Do you  
11 have any backup argument? That is to say, if I don't do  
12 that, is there something else you're asking me to do?

13                   MR. MORGAN: I filed a motion for contempt  
14 in October, and the only time that Kristin has actually  
15 given me any sort of visitation was because she was  
16 ordered to be here in Austin anyway for that motion for  
17 contempt. I have not seen the child otherwise.

18                   THE COURT: And so the only reason you  
19 have not seen her for six months is exclusively  
20 110 percent Kristin's responsibility?

21                   MR. MORGAN: That's not entirely true.

22                   THE COURT: Then tell me why it's not  
23 true.

24                   MR. MORGAN: It's not true because I guess  
25 I could have won the lottery and had all the money in

1 the world to spend on, you know, visitation things.

2 THE COURT: Well, you're -- the order says  
3 that you're to bear some expense depending upon what  
4 month it is; right?

5 MR. MORGAN: Right.

6 THE COURT: But your point is I just had  
7 no money to spend a dime on gas, et cetera, and I just  
8 couldn't -- I couldn't go and I couldn't do the  
9 visitation?

10 MR. MORGAN: I found that it was -- it was  
11 better in the long run to focus my -- to focus  
12 everything on the final trial so that I could have  
13 custody rather than just seeing my child for 48 hours  
14 here and there.

15 THE COURT: Okay. But now you want to go  
16 from no visits for six months -- but you'll see her  
17 tonight and that's great. I know grandma is excited  
18 about that. I would be. But you want to go from that  
19 to I get her primarily and mom starts visiting?

20 MR. MORGAN: That was --

21 THE COURT: Immediately. You want that  
22 effective now. In other words --

23 MR. MORGAN: That was my plan, but I --

24 THE COURT: -- Hannah just stays here and  
25 mom starts visiting next month?

1 MR. MORGAN: One of the reasons why I  
2 didn't cover travel expenses is because I was under the  
3 impression when Judge Hathcock made the order --

4 THE COURT: No, no, no. Let's don't go  
5 backwards.

6 MR. MORGAN: All right.

7 THE COURT: What is it you're asking me,  
8 Judge Jenkins, to do? You're asking me to immediately  
9 put Hannah in your possession, that you be the primary  
10 parent and mom start visitation on some monthly  
11 schedule. Is that what you're asking me to do?

12 MR. MORGAN: That's correct, Your Honor.

13 THE COURT: All right. Do you have a  
14 backup --

15 MR. MORGAN: And the main thing I'm  
16 asking -- I'm sorry.

17 THE COURT: Is there any backup position  
18 you have or is that it?

19 MR. MORGAN: I have a few backup  
20 positions, actually.

21 THE COURT: Tell me what those are.

22 MR. MORGAN: The main thing I would really  
23 like to see is that Hannah is confined to Travis County  
24 and the contiguous counties. This is where she was  
25 born. This is where the residency is. This is where

1 her house is. This is where we were married. This is  
2 where she should be for a lot of reasons that I've gone  
3 over today.

4 I am -- I think -- I'm willing --  
5 you know, in my Texas plan -- I wrote two plans because  
6 I thought, you know, we were both going to be in one  
7 place or both going to be together and not, you know, a  
8 thousand miles apart. I'm willing to, you know,  
9 basically take this Texas parenting plan and swap so  
10 that I'm the -- you know, the possessory and she's the  
11 sole and she will -- she can have the house in that case  
12 to live in. She can even have the really nice washer  
13 and dryer in the house and that stuff that, you know, we  
14 were disagreeing about earlier. Just -- she can have  
15 everything --

16 THE COURT: You just --

17 MR. MORGAN: -- just to have my child here  
18 so that she can be raised here where people are  
19 supportive of her and she'd have a relationship with  
20 both of her parents. That's -- that would be an  
21 alternate suggestion from me.

22 THE COURT: Okay. Anything else?

23 MR. MORGAN: Other than what was written  
24 in the plan, which, you know, you've read and you have,  
25 that's it.



**COURT'S RULING**

1  
2 THE COURT: Okay. Thank you. Here's the  
3 problem. And it is sad. And I can certainly imagine  
4 how your family feels. Your mom's a nice lady. I can  
5 really empathize with her situation. Is this her first  
6 grandchild?

7 MR. MORGAN: Yes, sir.

8 THE COURT: Great. Well, I'd be just  
9 clamoring to see my first grandchild. And, quite  
10 frankly, if I had more, I'd be clamoring to see every  
11 one of them. I don't have one yet, but I do have a  
12 daughter who's very close to your age, a little younger,  
13 but not much. And -- but this is a -- to say this is an  
14 imperfect marriage is a -- doesn't begin to capture  
15 this. This was a precipitous and, quite frankly -- and  
16 I'm sorry to say it, but I think it's better that I'm  
17 more direct with you. There's a time to be nurtured,  
18 and you have a loving family and they will be there to  
19 nurture you, but you're 30 years old. This is not the  
20 time. This is the time for very blunt talk.

21 Both of you were very reckless. You were  
22 reckless in the incipience of the relationship, in the  
23 speed with which you progressed and which -- with the  
24 recklessness with which you brought Hannah into this  
25 world. Sadly, I see this all the time. You would think

1 I would get inured to it, but I don't. It amazes me.  
2 It was -- it was immature and reckless, and you just  
3 have to own that.

4           And here's the problem I have -- or here's  
5 the beginning of some hope I see, but it's still a  
6 problem with you, dad. I see the beginning of  
7 recognition on mom's part of her shortcomings and what  
8 she could have done better. I didn't get an ounce of  
9 that from you today, not an ounce; you know, one time I  
10 used a really bad word; I shouldn't have done it; I  
11 apologize. It really was not a full-throated, fall on  
12 my sword, this is reprehensible sort of talk, because it  
13 is. You can never -- I mean, a grown man who's a  
14 gentleman would never talk about the mother of his child  
15 the way you've talked about her.

16           Now, granted, mom should never talk about  
17 the father of her child in the way in which I suspect  
18 you've talked about him. But I detect on mom's part a  
19 maturation process since Hannah was born and certainly  
20 since this process has started and certainly was  
21 demonstrated during this one-day trial. That's all I  
22 have with you. It was not, unfortunately, today  
23 demonstrated by you. There still seems to be what I  
24 call denial and sort of a, you know, clinging to our  
25 youth sort of, you know, I want things to be the way

1 they were. Well, they're not.

2 My daughter happened to be born on  
3 December 12th also 24 years ago. And, you know, from  
4 that moment I was not the center of the universe. In  
5 fact, I wasn't even maybe a planet. I don't think I  
6 qualified to be Pluto. I mean, it was -- suddenly the  
7 world turned upside down, and it hasn't yet happened  
8 with you. You're not yet really ready to adopt a,  
9 you know, mature, get right home and take care of family  
10 approach, and that's what I pick up.

11 Now, you're looking at me like I don't  
12 know what on earth this guy's saying. But, quite  
13 frankly, I don't believe that you have matured to the  
14 point that you need to get, and I don't believe you have  
15 confronted completely the possibility that alcohol could  
16 be a problem. Now, I don't have firsthand evidence, and  
17 I'm not going to order you to alcohol treatment because  
18 I don't have firsthand non-hearsay evidence, but I  
19 guarantee you if I get it, there will be -- there will  
20 be some orders for alcohol treatment. And so I'm  
21 telling you because -- since I'm 58, I'm old enough --  
22 you're young enough to be my son, so I'm saying this in  
23 a sort of paternalistic way. You need to take a long  
24 hard look at this and consider the possibility that  
25 there could be a problem, because what I'm looking for

1 in a parent is the parent who will pick at their own  
2 flaws and constantly try to be better, and I'm not  
3 picking that up with you yet, and that's what good  
4 parents do. I beat myself up all the time, and Lord  
5 knows I beat myself up a lot now for reasons I won't go  
6 into about little imperfections where I could have been  
7 better. But I will tell you before you will be able to  
8 imagine it's over and it's too late.

9           You have a precious short window within  
10 which you can be a good parent and then it is over. It  
11 starts being over at about age 12 in some respects.  
12 They start spinning out of your orbit in ways that are  
13 frightening, and you will have done all the -- you know,  
14 a lot of the good you can do. You will still have  
15 enormous influence that is not apparent to the casual  
16 observer, but there's still a lot of influence that your  
17 child will not even let you know you have, but it's  
18 still there, and then it's over. It's over.

19           So you don't have a lot of time to kind of  
20 fix the problem. But you can't bring children into the  
21 world with something less than a really solid marital  
22 foundation. You did not have it. You both knew that  
23 you did not have it and yet you decided to bring a child  
24 into the world anyway. I suspect you did it in part for  
25 your own reasons because of needs you may have had. And

1 I'm sorry to pick on you, but both of you did that, and  
2 both of you sort of own this problem.

3           Now, she's a pretty precious problem to  
4 have. But before I forget to tell you this -- this is  
5 even more paternalistic than I ever used to do, but now  
6 that I'm in my eleventh year I start saying things like  
7 this. For heaven's sake, do not have another. You are  
8 not prepared to have another. And I see it all the  
9 time. You haven't yet grappled with the first and you  
10 go out and have another. So please don't be back here  
11 in a year or two saying, oh, I have another child, I  
12 want to reduce my child support, Judge, because one last  
13 thing you need to know, I'm going to be here at least  
14 another ten years, at least that's what I plan right  
15 now, and in every order in every custody case that's  
16 heard before me -- and this is unique to me at the  
17 courthouse -- you may only revise it with me. And I  
18 have standard language that I started months ago when I  
19 had an epiphany about the central docket damaging  
20 children, and I just can't condone it anymore. At least  
21 I can't -- I can't do it anymore.

22           So that's in my order. You will have that  
23 in the order that I sign. So any modification will have  
24 to come back to me. And I'm volunteering to be a  
25 visiting judge after that on the cases that I have that

1 language in my orders. So think about that before you  
2 try to revise this in the future.

3 I am a real hawk on geographic  
4 restriction. I understand everything you're saying.  
5 And it is not possible to have the sort of relationship  
6 with a child that I want parents to have unless there is  
7 a strong geographic restriction. And quite frankly, I  
8 don't even think the county is enough. I like to do it  
9 based on school districts and schools. It's a little  
10 too early for that. But there are, sadly, some cases  
11 where the parents have not built any foundation, such as  
12 this one, and where I have to think about where a young  
13 parent who's really on -- still needs training wheels in  
14 terms of help raising a child is going to get the kind  
15 of support they need. And unfortunately, because you  
16 didn't build a foundation before Hannah came into the  
17 world, the only support that mom has, and you knew that  
18 when you decided to bring Hannah into the world three  
19 months after these suicide talks and, you know, marriage  
20 becoming just horribly unstable from dad's point of  
21 view, then you conceived Hannah three months later  
22 knowing that the only really solid support mom has other  
23 than you if you can manage to build a good marriage,  
24 which you haven't yet done, is in Tennessee. That's the  
25 world you created for Hannah.

1                   So I'm left with I sure hate it when I  
2 can't do a geographic restriction, and I do, because I  
3 missed one inning of one ball game and my son knew it.  
4 And I -- you know, I don't like parents missing anything  
5 because she needs to be admired by her father and she  
6 needs to have a healthy relationship with her father.  
7 And mom and her family need to nurture that as long as  
8 it is a healthy relationship because Hannah needs that.  
9 My daughter Emily needed it and Hannah needs it. And  
10 it's hard to do that when you're in Tennessee because  
11 dad can't be at the dance recitals and he can't be at  
12 the ball games or coach softball like I did and do those  
13 things, and it's really tragically sad.

14                   On the other hand, I've got the primary  
15 caretaker -- and it is going to be mom -- who needs a  
16 support network, and it can't be your family since you  
17 didn't build the marital foundation before she was born.  
18 We can't just start and say, well, it's going to have to  
19 be them; move down here, and even though you haven't  
20 built that foundation, I'm going to make you build it  
21 now. No, that needed to be done before and it wasn't.  
22 So the only network she has is in Tennessee. That's  
23 where it is and that's what I'm doing.

24                   I do think we ought to restrict the  
25 geography to those two places. What I have seen before

1 in my now 11 years is people using that as a weapon or  
2 as soon as dad gets a job in Knoxville, oh, we need to  
3 move to St. Louis or we need to move to Chicago. Well,  
4 I don't want to see that happen. If dad has the  
5 wherewithal to get a job in the Tennessee area -- and  
6 there are some high-tech firms up in Tennessee -- so  
7 that he can be in striking distance of his daughter and  
8 go to see some ball games, then that's what needs to  
9 happen. That would be a great thing, and I hope dad can  
10 manage to do that. And I don't want to see the  
11 geography change after that.

12                   So what I'd like to see in this decree  
13 is -- and at some point I guess you're going to have --  
14 you wouldn't have continuing jurisdiction if she  
15 lives -- we'll have to think about that -- if she's  
16 going to be living in Tennessee, but we'll talk about  
17 that later in the decree. But I would like to see a  
18 geographic restriction that keeps mom where she is in  
19 the Tennessee area pending further orders of some court.  
20 Does that make sense, Mr. Alberts?

21                   MR. ALBERTS: It does. I apologize. I  
22 don't have enough insight into the geography of her  
23 area. I know her -- it might need to be a little broad.

24                   THE COURT: You see what I'm trying to  
25 accomplish.



1 MR. ALBERTS: Absolutely.

2 THE COURT: And I want you to look into  
3 it, dad, what the geography should be.

4 I want you to look into it, mom, through  
5 counsel, and for you both to report to the ad litem what  
6 that geography should be. And I want everyone to sign  
7 off on that because, like dad's saying, I like a fix on  
8 geography, and it allows the opportunity, the potential,  
9 that you could have parents in the same area. It  
10 doesn't allow for grandma to be there unless grandma  
11 wants to move. And frankly, if it was my only  
12 grandchild I'd want to move too. And my daughter's  
13 talked about settling down in Maine. I'll move, as cold  
14 as it is. We'll just see. So that's what I'm doing.

15 On child support it's going to be standard  
16 20 percent based upon net available. We're going to use  
17 60 gross, 5K gross per month, because that was dad's  
18 testimony, from which I derived \$3,880.52 in net  
19 available resources for an employed person, which dad  
20 is, from which we will subtract what dad is going to go  
21 to his employer and obtain, which is the exact cost for  
22 carrying Hannah on his policy. We will subtract that  
23 from 3880.52, and then we will apply 20 percent and that  
24 will be the child support.

25 Otherwise, I am prepared to go with mom's

1 custody approach, but I would like the ad litem to  
2 examine that. Have you had an opportunity to go through  
3 the proposal that you saw Mr. Alberts walk through with  
4 me?

5 MS. MASSAD: I did, Your Honor.

6 THE COURT: Do you agree that their  
7 proposal is in Hannah's best interest, or do you have  
8 some tweaking to do?

9 MS. MASSAD: The only tweaking I would  
10 say, Your Honor, is I do think if he -- if Mr. Morgan  
11 exercises his visitation for six months in a row --  
12 we're getting, you know, kind of close to the holidays.  
13 And I think it would be fine to do Thanksgiving,  
14 you know, odd year and even year, maybe even Christmas  
15 as well.

16 THE COURT: Okay. I think that's  
17 reasonable, and I think it should be revised  
18 accordingly. Any other questions about how we're going  
19 to do this?

20 Do we have all electrical devices turned  
21 off in the courtroom? If they're not, we need to turn  
22 them off immediately.

23 Any other questions?

24 MR. ALBERTS: I think I understand,  
25 Your Honor.

1                   THE COURT: Okay. You will leave here  
2 with a setting to sign the decree. I do that in order  
3 to make sure that there are no dangling decrees out  
4 there. I've seen -- that's another thing I've seen over  
5 my years. This is my technique for avoiding that. It  
6 creates sort of a drop-dead date. I will sign a decree  
7 on the date. Now, you're going to take the laboring  
8 ore.

9                   Oh, and I do find dad is in contempt for  
10 not paying child support. You should have paid it  
11 before today. And it's no excuse to say, oh, I've got  
12 to worry about the mortgage and, you know -- no, you --  
13 you needed to pay the child support. And I don't think  
14 that you made all the efforts you could have made to pay  
15 the child support. And I think we have had a difficult  
16 time accepting the reality of the Court's orders, but I  
17 don't think you'll have any trouble with that from now  
18 on.

19                   I'm confident that you -- I think you have  
20 a lot of potential. You're obviously good at what you  
21 do or you wouldn't have the job you have. You're  
22 obviously a very smart man. And, quite frankly, I  
23 couldn't make that box, so I think you've got some  
24 skills and some -- and you obviously love your daughter.  
25 Those are all great things.

1           I don't think you're going to have any  
2 trouble obeying the Court's orders, but I think that you  
3 were -- and I see this a lot -- thumbing your nose a  
4 little bit at the Court's order. And I just don't --  
5 you know, I'm not going to let any of that slide. So I  
6 find that you are in contempt for doing that. And if  
7 they had not waived jail time and if we had gone through  
8 the process of considering whether I needed to appoint  
9 you a lawyer, et cetera, which we didn't want to take  
10 the time to do -- that's why Mr. Alberts simply waived  
11 the possibility of jail time. We would have had to have  
12 a hearing about whether or not the Court needed to  
13 appoint you a lawyer. We didn't want to waste time with  
14 that. But if we had gone through that and your lawyer  
15 had been here -- of course, it could have been a  
16 different hearing. But if I had heard the same evidence  
17 I heard today, I would have found jail time. I would  
18 have probated it so that you didn't have to actually go  
19 to jail. But it would mean that if you did this again,  
20 you'd be going to jail, and I am pretty hawkish about  
21 that.

22           The order that I will sign will not  
23 require you to do all enforcement in front of me. Any  
24 judge here can enforce my orders. But if you want to  
25 change the child support or the custody arrangement, it

1 must come back to me. Ms. Kracht will give you that  
2 language which I put in every order.

3 I find that \$1200 is awarded as attorneys'  
4 fees for enforcing that order for child support and that  
5 that is awarded as child support, which means it cannot  
6 be taken care of or eliminated with bankruptcy,  
7 et cetera, not that you care to do that for \$1200.

8 And I suggest you get with dad and try to  
9 reach some accommodation on how that can be paid, how  
10 long it can be paid, in light of the fact that you're  
11 pretty much getting your way on most things. Hopefully  
12 you can stretch that out with some sort of payment that  
13 doesn't make it too onerous so that dad can get  
14 accustomed to this regular payment of child support and  
15 not have that become some dangling issue where,  
16 you know, it's all ordered to be paid in two weeks and  
17 if it isn't paid, then we're back here on more  
18 enforcement. I don't want any of that.

19 MR. ALBERTS: Did you want to just -- I  
20 can live with 100 a month.

21 THE COURT: Great. That seems reasonable  
22 to me. Can you do 100 a month to pay off that \$1200?

23 MR. MORGAN: I can probably squeeze 100 a  
24 month.

25 THE COURT: Great. Thank you, dad. I

1 appreciate that. 100 a month it is. That's a whole  
2 year to pay it off. I think that's very reasonable,  
3 very conservative I might say. Most lawyers would  
4 insist on a much more rapid payment.

5 So anything else I need to order or rule  
6 on? I think that takes care of everything.

7 MR. ALBERTS: Of course, a wage  
8 withholding.

9 THE COURT: Of course, wage withholding  
10 through the San Antonio office, the disbursement unit in  
11 San Antonio. I think that's everything you need.

12 MR. ALBERTS: We have a \$200 shortfall on  
13 the child support.

14 THE COURT: Oh, yes. I didn't hear your  
15 answer on that. It is \$200 short.

16 MR. MORGAN: Yes. The \$200 was from the  
17 order in Tennessee that I never received. There was an  
18 order --

19 THE COURT: I'm not following that.

20 MR. MORGAN: There was an order in Union  
21 County, Tennessee that ordered Kristin to pay me for  
22 travel expenses that were incurred that were in the  
23 amount of \$250 worth.

24 THE COURT: Well, that isn't --

25 MR. MORGAN: She never paid it.

1 THE COURT: Unfortunately, that isn't part  
2 of the record before me today. So you get with  
3 Mr. Alberts about --

4 MR. MORGAN: The order should be part of  
5 the documents.

6 THE COURT: I'm sorry. If it's not an  
7 admitted exhibit it's not before me.

8 Mr. Alberts, what's the deal with that?  
9 Maybe we can just cut through this.

10 MR. ALBERTS: This was actually dealt with  
11 in front of Judge Yelenosky. Did I say that right?

12 THE COURT: You did.

13 MR. ALBERTS: It's not valid. The order  
14 states that it's subject to Travis County orders. It  
15 was a temporary order that said they think things ought  
16 to be done this way where we have mom bearing expenses  
17 for this and mom bearing expenses for that.  
18 Judge Hathcock said no, we're not doing that.

19 THE COURT: I see. Okay. Well, without  
20 more proof on that, as far as I'm concerned, based on  
21 the proof before me today, you owe \$200. So you're 200  
22 short on the child support. By when will you pay that?

23 MR. MORGAN: I can probably get it,  
24 you know, maybe in another month.

25 THE COURT: Okay.

1 MR. MORGAN: In about a month.

2 THE COURT: You can pay it within 30 days?

3 MR. MORGAN: Within 30 days, I believe.

4 THE COURT: Is that reasonable?

5 MR. ALBERTS: Yes, Your Honor.

6 THE COURT: Great. So ordered. And your  
7 child support's going to go down just a little bit, by  
8 the way, with this new calculation. It's going to go  
9 down slightly from the 775 once we reduce it. I mean,  
10 it's going to be very slight, but it's 20 percent of a  
11 lower net than we're doing 20 percent on now.

12 MR. ALBERTS: Just out of curiosity, are  
13 you using the 2011 chart?

14 THE COURT: I believe so, yeah. I'm using  
15 my -- the only book that the library will buy me anymore  
16 is the --

17 MR. ALBERTS: You've got the updated one?

18 THE COURT: Yeah. They won't give me the  
19 Sampson Tindall anymore unless I do it out of my budget,  
20 but I've got the family --

21 MR. ALBERTS: They only have 2010 in  
22 Sampson Tindall.

23 THE COURT: Yes. I've got the 2010-11  
24 Jenkins and Randall Wilhite book, which I'm sure you're  
25 familiar with, and it's the family chart. I used the



1 chart in there. If that's in error, then please point  
2 out the correct chart. I pulled --

3 MR. ALBERTS: It's --

4 THE COURT: Excuse me. I pulled the  
5 3880.52 from that chart and it is the current book.

6 MR. ALBERTS: It's accurate. The only  
7 reason I brought it up is most people are unaware that  
8 there's a 2 percent drop for this year only in social  
9 security withholding.

10 THE COURT: Okay. Well, whatever it is it  
11 is. But in any event, it's not likely that 775 is going  
12 up. It's probably going to be down a couple bucks, but  
13 not much.

14 Okay. I think that takes care of every  
15 ruling you need. It's 5:30. I need to let the court  
16 reporter go home to her family. Anything else you need  
17 from me in the way of rulings?

18 MR. ALBERTS: No, Your Honor.

19 THE COURT: You will leave here with an  
20 order -- I mean, sorry -- a date that you'll have to be  
21 here for unless you get me a decree that is signed by  
22 both of you approved as to form. I know dad doesn't  
23 agree as to some of the substance. He thinks I should  
24 be doing something else with regard to Hannah. But  
25 you'll have to approve it as to form, dad, approving

1 that the form of the order is exactly what I ruled.

2 You'll agree it says what I just said today.

3 I'll need the ad litem to sign off on it.

4 It will keep her on for the six months of alcohol  
5 testing that will be supervised by the DRO. And I'm not  
6 making any further orders about alcohol usage, but I  
7 hope you'll take what I said to heart because it's --  
8 it's so tempting to self-medicate and you're going  
9 through a very, very stressful time. I don't know how  
10 well I would handle it at age 30, and it's very tempting  
11 to self-medicate. And I've seen that a lot and it  
12 worries me when I see it. So for your sake and Hannah's  
13 sake, I hope you'll be careful about that and take to  
14 heart what I'm saying because I don't mean it in a mean  
15 way. I mean it in a way in which I sincerely hope that  
16 you're going to be only occasionally drinking and  
17 drinking very responsibly because it's very dangerous.

18 MR. ALBERTS: If I may, there's one more  
19 thing. Almost everything of a personal nature on the  
20 property is in this house. We just need clear guidance  
21 that she gets access to it in the next day or two.

22 THE COURT: Yes. Well, you're going to  
23 have Hannah the next couple days.

24 And how do you want to get access to the  
25 house? What are you asking to do?

1                   MR. ALBERTS: I want to just make sure  
2 that she's given access starting tomorrow. We would  
3 just like access to the truck -- to the house tomorrow  
4 evening to remove the items on this list.

5                   THE COURT: To move the items? Yes.  
6 During what period of time?

7                   MR. ALBERTS: We'll have the truck after  
8 5:00 p.m. tomorrow.

9                   THE COURT: Well, when do you want to -- I  
10 think it would be good to have dad -- I guess she  
11 doesn't have a key to the house, so dad would have to  
12 unlock the house; right?

13                   MR. ALBERTS: Right.

14                   THE COURT: And she's going to be with  
15 someone.

16                   MR. ALBERTS: I hope so, yes.

17                   THE COURT: Yeah. I don't think it's a  
18 good idea right now for mom and dad to be doing this  
19 just by themselves. Tomorrow's Tuesday. At 5:00 p.m.  
20 you'll have a truck. Do you want to do this Wednesday  
21 during the day?

22                   MS. MORGAN: We can try to do that I  
23 guess.

24                   THE COURT: I don't know how many items  
25 there are, Mr. Alberts. Just tell me what hours you

1 want to load up this truck and I'm sure dad will be  
2 agreeable to that.

3 MR. ALBERTS: If dad can open it up  
4 Wednesday morning, that may be fine.

5 THE COURT: He may have a work situation.  
6 I don't know. Can you open it up Wednesday morning and  
7 let them --

8 MR. MORGAN: I can do tomorrow evening.  
9 Wednesday morning I have to work.

10 THE COURT: Can we do it tomorrow evening?

11 MS. MORGAN: That's fine.

12 THE COURT: Great. He'll do it tomorrow  
13 evening. At what time?

14 MR. ALBERTS: She gets the truck at 5:00,  
15 so 6:00.

16 THE COURT: We'll say 6:00 o'clock.  
17 They'll arrive with the truck, and then you'll unlock  
18 the house and get out of the way and let them move their  
19 things out; right?

20 MR. MORGAN: Yes. I just need to know who  
21 else is going to be there as well as --

22 MR. ALBERTS: I was actually going to, if  
23 I might, suggest a terrible imposition because it  
24 appeared that Zach Morgan might be the appropriate  
25 person.

1 THE COURT: Because everyone feels  
2 comfortable with Zach Morgan being there?

3 MR. ALBERTS: I am fine with Zach Morgan,  
4 and I assume his brother is.

5 THE COURT: Would that be okay?

6 MR. ZACH MORGAN: Yeah, that's all right.

7 THE COURT: Thank you, Zach. Thank you,  
8 Mr. Morgan.

9 MR. ALBERTS: I didn't mean to draft you.

10 THE COURT: Well, I think it's a good sign  
11 actually that we're doing that. Great.

12 MR. MORGAN: I just have one more thing.

13 THE COURT: Sure.

14 MR. MORGAN: And it's very small, but I  
15 have her car key and I know she's got one of mine.

16 MS. MORGAN: I brought yours. It is at  
17 the hotel.

18 THE COURT: Great. There will be an  
19 exchange of car keys. That's good.

20 MR. ZACH MORGAN: I just want to ask, what  
21 about Milo?

22 MR. MORGAN: The dog is on the list.

23 THE COURT: All right. That's all the  
24 rulings I have I think. And you'll leave with that  
25 date. I need the decree to me four business days before

1 the date of the hearing. And that way if for some  
2 reason there's some dispute, if between now and then dad  
3 has a lawyer drafting decrees -- I don't think that'll  
4 happen, but I want to see what I'm being asked to sign  
5 four business days before the hearing. And that way if  
6 there's any dispute about the language, I'll be -- I  
7 will know what I'm going to sign before I walk in here.  
8 Do you see what I mean?

9 I don't think it'll be a problem because I  
10 think you're going to be the only one drafting things,  
11 but that'll give you a deadline so that you'll have to  
12 give your first draft to dad so that he can give you any  
13 suggestions for the tweaking. You'll have to get your  
14 draft to the ad litem so she can look at it far in  
15 advance and tell you anything she thinks you've gotten  
16 wrong.

17 MR. ALBERTS: Understood.

18 THE COURT: All right. Thank you all very  
19 much. And also, we need to have in the order that -- I  
20 guess what we'll do is contemplate that the ad litem --  
21 the DRO will be discharged at some point in the future.  
22 We probably need to set that in the future or put in the  
23 decree that there will be a motion to discharge, because  
24 they're going to stay on the case for six month, but  
25 they don't want to stay on this case in perpetuity or

1 until --

2 MR. ALBERTS: Again, in my idea of not  
3 coming back, does it work for us to have a future  
4 discharge date from you that could be sought to be  
5 modified if there's a problem?

6 THE COURT: Why don't we -- why don't we  
7 do that. Why don't we say the ad litem is discharged,  
8 you know --

9 MR. ALBERTS: Seven months.

10 THE COURT: -- seven months following the  
11 signing of the decree absent further order of the Court.  
12 But if the ad litem sees anything in the testing that  
13 concerns you, then I would -- I'm requesting that you  
14 ask to stay on the case for another six months so we can  
15 see how we're going to progress.

16 MS. MASSAD: Your Honor, I have one  
17 question to clarify. You didn't give Mr. Morgan any  
18 orders, so I'm assuming, though, that you're expecting  
19 him not to be drinking if I'm testing him?

20 THE COURT: Well, I don't have enough  
21 information, firsthand information, but I have enough to  
22 be worried. And yes, I think we ought to have in the  
23 order that -- I see what you're saying -- for time of  
24 possession there will be no alcohol consumption.

25 And, dad, you don't have a problem with

1 that during the time you have possession of Hannah?

2 MR. MORGAN: Absolutely not. I won't have  
3 time.

4 THE COURT: Great. So for 24 hours prior  
5 to having Hannah and until Hannah leaves your  
6 possession, there will be no consumption of alcohol  
7 pending further orders of the Court. All right? That's  
8 what you had in mind.

9 MS. MASSAD: Yes.

10 THE COURT: Great. All right. Thank you.

11 MR. ALBERTS: Thank you, Your Honor.

12 THE COURT: Thank you.

13 MR. ALBERTS: May we be excused?

14 THE COURT: Yes. Thank you.

15 *(Court adjourned)*

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**REPORTER'S CERTIFICATE**

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THE STATE OF TEXAS )  
COUNTY OF TRAVIS )

I, Chavela V. Crain, Official Court Reporter in and for the 53rd District Court of Travis County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in this volume of the Reporter's Record, in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I further certify that this Reporter's Record of the proceedings truly and correctly reflects the exhibits, if any, offered in evidence by the respective parties.

WITNESS MY OFFICIAL HAND this the 22nd day of January, 2024.

/s/ Chavela V. Crain  
Chavela V. Crain  
Texas CSR 3064, RMR, CRR  
Expiration Date: 10/31/2024  
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