

August 10, 2004 Hearing
DM 95-2675
Unofficial Transcript

[1:33:09]

JR: The record should reflect that today's date is August the 10th, 2004. The hour is 1:30 pm. The court calls the case of Floyd H. Grant III vs. Leslie D. Interrante also known as Leslie D. Cumiford. Bernalillo county number DR-95-02675. Good afternoon counselor, will you state your appearance please.

SML: Good afternoon, Your Honor, Sandra Morgan Little and Les Sandoval for the petitioner Hank Grant who is present. Also present at counsel table is Ester Lopez, a paralegal in our office.

JR: Thank you, good afternoon. The Court notes that the respondent, Mrs. Cumiford is not present, so the Court is going to go in recess very briefly to allow her some time to appear. And if she doesn't appear within a reasonable period of time, we're going to proceed. Record should also reflect that Dr. Zieman is present. I want to make an inquiry of you, counsel. And that has to do with whether or not the Court of Appeals has issued a stay of enforcement of any of the provisions of the order entered by Judge Walker on October the twenty-ninth of 2003 [1:34:29]

SML: No, Your Honor.

JR: Alright, so there's no stays.

SML: No stays, no request for stays, and the Court of Appeals has not issued one on its own.

JR: Thank you. Court'll be in recess for 10 minutes. Madame Bailiff I'm going to step into chambers again. The record should reflect that the hour is 1:34 and all parties, including respondent Leslie Cumiford are present and the court's in session once again. The Court convenes, the Court wants it noted at the outset that this lawsuit is over nine years old. That I was appointed in this nine-year-old litigation on October the twenty-ninth of 2003. And that since having assumed responsibility for further direction of this litigation, I've entered eighteen orders, noticed thirteen hearings, all but nine of which, convened nine evidentiary hearings, excluding today's hearings. And the only reason that I mention that is that three hours are set aside this afternoon and the Court is going to complete its work in that allotted three hours. Pursuant to Rule 11-706 of the New Mexico Rules of Evidence, excuse me, 11-614A of the New Mexico Rules of Evidence, the Court is going to direct an inquiry to Dr. Zieman, the Court convening pursuant to the order on pre-trial motions which was entered on this case on July 20th 2004 in the Notice of Non-Compliance filed by Dr. Zieman on July 20th, 2004. Dr. Zieman, let me ask you to stand, to raise your right hand and to be sworn. Do you solemnly swear that the testimony you will give to this Court will be the truth, the whole truth, and nothing but the truth, so help you God?

GZ: I do.

JR: Thank you very much, sir. Once seated, would you state your name?

GZ: Gayle L. Zieman.

JR: Thank you. Dr. Zieman, would you state your occupation and profession?

GZ: Yes, I'm a child and family psychologist.

JR: And are you certified and licensed in the state of New Mexico?

GZ: I am.

JR: And how long have you practiced in this area, Doctor?

GZ: I have practiced for 22 years.

JR: What are your educational credentials?

GZ: I have a Bachelor's Degree in Psychology, a Master's Degree in School Psychology, a Doctorate Degree in Counseling Psychology, and an internship, training program in Clinical Child Psychology. All of the educational requirements were completed at Colorado State University.

JR: Thank you. And when were you first licensed in New Mexico, Dr. Zieman?

GZ: First licensed in July of 1983.

JR: And have you practiced continuously as a, uh, in the area you describe?

GZ: Yes I have.

JR: And Dr. Zieman, as I understand, the Court's going to take judicial notice of a stipulated order appointing an 11-706 witness, which is entered in this case on November 20th of 2002. Dr. Zieman, according to the order that I've made reference to, the parties agreed, Ms. Cumiford and Mr. Grant by their counsel, agreed, and the Court approved the agreement, appointing you to perform a custody evaluation, and to determine what arrangement for custody and time sharing was in the child, Alexander Interrante-Grant's, best interest. Does that comport with your recollection?

GZ: Yes, that's my understanding.

JR: And pursuant to the appointment, did you contact both parents, or were you contacted?

GZ: I believe I was contacted by both of them shortly after, but contact was made and the evaluation begun.

JR: And did either express to you at that initial contact that they're having stipulated to an appointment that they did not want you to perform the duties that they asked to court to give you?

GZ: No.

JR: Did you consummate an agreement, a written agreement for fees when you met with these parents?

GZ: Yes I did.

JR: And do you have a copy of that agreement?

GZ: I have that here, yes.

JR: And was that signed by Mr. Grant?

GZ: It was signed, each party signed their own.

JR: Alright, and did Mrs. Cumiford sign the agreement?

GZ: Yes she did.

JR: Alright, and can you give me a true and accurate copy of the written agreement for your services that were signed by Mrs. Cumiford.

GZ: Your Honor, I did forget to bring a copy, I do have the original which you can look at. I'll certainly supply an...

JR: What we can do, unless there's an objection on the part of either party is substitute a copy for the original. Do you have an objection Mrs. Cumiford?

LC: No, I do not.

SML: No, Your Honor.

JR: Alright. Can you hand that to the reporter, please. And with a paper clip will you mark that as Court Exhibit One. And Dr. Zieman was this contract signed before you undertook to perform the professional services that the parties stipulated you were to perform?

GZ: Yes it was signed prior to beginning the first appointment.

JR: And what fee did these parties agree to pay you for the professional work that you were asked to do?

GZ: That the total evaluation would be \$5100 dollars . . .

JR: Alright.

GZ: . . . for two stepparents, two parents, and one child.

JR: And was that for all of the work that you did in this case?

GZ: It was for the evaluation which was completed in March, there were then requests – the Guardian *ad Litem* - yes, it was a report completed on March 14, presented to the attorneys later that month of 2003.

JR: Alright. Now was that the end task that you were required to perform under the written agreement that's marked Court Exhibit One?

GZ: It was not. I was contacted by letter and phone by the Guardian *ad Litem* and asked to update the evaluation based on new events.

JR: Okay, let me just stop there. Madame Bailiff, will you please show this New Client Information and Services Agreement, what the Court has marked as Court Exhibit One to Ms. Little and then to Ms. Cumiford, please.

SML: Thank you.

JR: Do you have a copy of the March 14th, 2003 evaluation with your recommendations?

GZ: Yes, I do.

JR: May I see it, please?

GZ: Yes.

JR: Madame Bailiff, once that's marked as the Court Exhibit Two. We'll copy that and return the original to you, Dr. Zieman.

GZ: Okay.

JR: Let the reporter mark that with a paper clip without adhering the sticker as Court Exhibit Two.

SML: Your Honor.

JR: While that's being marked in, I'll allow you an opportunity to object in just a minute. Now with respect to the first, the contract, Court Exhibit One, did the parties pay the 1500, five thousand one hundred dollars that is specified in your contract?

GZ: They did.

JR: Alright. Now after March 14th, 2003, when you submitted your evaluation, as I understand you were asked to do additional work?

GZ: Yes, the Guardian *ad Litem* specifically contacted me by telephone and by letter with copies to the parties asking that I immediately undertake a follow up evaluation due to new events in the case.

JR: And did you consummate a contract for those additional services?

GZ: What I did was understanding that the Guardian *ad Litem* had the power to direct the parties, I sent them a letter in which I outlined the procedures for the follow up evaluation and in which I outlined the fees for the follow up evaluation.

JR: And when did you send that letter?

GZ: That letter was sent on, I believe, July the 20, April the 29th. And I have a copy if you wish

JR: I do.

GZ: Okay.

JR: April 29th, 2003?

GZ: 2003, yes.

JR: And do you have a copy of that letter as part of your records?

GZ: I do have a separate copy and this is what the court may have

JR: Alright. And Madame Bailiff, if you could hand that to the Reporter, mark that as Court Exhibit Three, please. And did you send the same letter to Mrs. Cumiford as well as to Mr. Grant or to counsel?

GZ: Yes.

JR: Is that document that is being marked as Exhibit Three a duplicate of the letter that you sent to Mrs. Cumiford?

GZ: That's a duplicate. Yes.

JR: And what did you require, did you require Ms. Cumiford to reply to the letter, indicating acceptance of the terms?

GZ: She was asked to reply by making an initial appointment to begin what was requested by the Guardian *ad Litem* as a follow up.

JR: Did she make the appointment?

GZ: No.

JR: Alright. Do you have any objection, did you receive an objection from Ms. Cumiford to the letter?

GZ: I received nothing directly from her to the letter. What I did receive was a copy of the letter she sent the Guardian *ad Litem* in which she told the Guardian *ad Litem* she was not going to participate as requested in the follow up.

JR: Do you have a copy of that letter?

GZ: I have it here. I don't have a copy, but you're very welcome to . . .

LC: I have a copy in my evidence packet, Your Honor.

JR: Alright.

LC: Would you like that at this point?

JR: I have your evidence packet, I believe. Did you request special services to bring the originals from the prior hearing that was convened on . . .

LC: Your Honor, this is a packet for this hearing, specifically associated with the Order to Show Cause.

JR: Okay. Do you have a copy of the letter here?

GZ: I have this here.

JR: Alright. Can you go ahead and remove that, please? Mark that Four. So tell me what happened after you sent the letter of April 13th. You didn't get a response.

GZ: Yeah, I did not get a response, other than, as I said, this copy, which was sent to me, and I got no response, and I, through e-mail and phone made contact, asked to make an appointment, did not get any response to that. Finally things got to

where the Guardian *ad Litem* sent the letter to Ms. Cumiford, in which, in the letter, the Guardian *ad Litem* stated that he would vacate an appointment that he had with the party's son at four o'clock one afternoon if I would make that time available to interview the child. I then made that time available, informed Ms. Cumiford that I had rescheduled people in my office to use that time that had previously been set aside by the Guardian *ad Litem* and waited for her to bring the son. She did not.

JR: Now I wasn't in this case and consequently I want to ask some questions about your participation. Did you appear in court after April 2003?

GZ: I appeared in court in June. There was a hearing in June, I believe June the 20th.

JR: And is it your understanding that Judge Walker, my predecessor, authorized and directed you, the 706, to do a follow up evaluation?

GZ: Yes, I was present, Judge Walker did direct me to and so ordered, and I'm looking for the exact date when that was, but Judge Walker did. That was on June the 6th. I'm sorry. There was a minute order by Judge Walker which directed that I was to complete the evaluation started in April and May.

JR: That was June 6th, 2003, is that right?

GZ: Correct.

JR: Alright. And were you in court when that happened?

GZ: Yes, I was present.

JR: And was Ms. Cumiford present?

GZ: I believe she was.

JR: And with Ms. Cumiford being present at the time that order was entered, did you get her cooperation after that?

GZ: I believe I left the court prior to the end of the hearing so I did not . . .

JR: I'm not talking about that very day.

GZ: Okay.

JR: But subsequent to that day did Ms. Cumiford cooperate with you?

GZ: She cooperated in that she made an appointment. I, through her attorney . . .

JR: Madame Bailiff - yes sir.

GZ: The, understand - Ms. Cumiford had directed that I was not to have any communication with her directly.

JR: Well, I understand that, but I'm interested in what the Court ordered and then I'm asking you about her compliance to the order.

GZ: Right.

JR: [Aside.] I need the rest of the files in this case.

GZ: What I'm trying to explain to you is I had to work through her attorney.

JR: Okay.

GZ: Since I was requested not to . . .

JR: Alright.

GZ: So I contacted her attorney, an appointment was made and I sent a letter in which I was specific that we would have an appointment. I believe it was on the, somewhere in June, the 11th or something like that and that I expected her to pay the fees that were due from the, May, in interviewing her son and trying to do the update that she had not participated in and stated that I would not hold a meeting

with her if she did not take responsibility for the fees that were already outstanding.

JR: And those fees were subsequent to your initial evaluation that you identified as Court Exhibit Two, is that right?

GZ: They were subsequent to the letter which you have there in response to the Guardian *ad Litem* asking me to do a follow up. If you'll see the copy of the letter that is . . .

JR: Yes, I see it.

GZ: Okay. And you will see that there is a paragraph there describing fees for which her portion . . .

JR: That's the April 29th, 2003 . . .

GZ: Yes, that April 29th letter and when she came in June, I requested that she make payment on those fees before I would continue services. And at the, in my waiting room that morning, she and Ms. Galloway acted surprised that I expected those fees to be paid and would not pay those fees and I did not hold that meeting with them on that day.

JR: In the Order that the parties stipulated to, November 20th, 2002, Judge Walker, as I understand, ordered that, well to read from the document, the second page of Judge Walker's order, "Hank Grant shall pay 60% and Leslie Cumiford shall pay 40% of Dr. Ziemann's fees, subject to reallocation by the court." In respect to the \$5100 for the initial custody evaluation, recommendation, dated March 14th, '03, were the fees paid in that proportion?

GZ: Yes.

JR: Alright. And in the amounts that you were billing for your professional service, pursuant to Judge Walker's June 6th, 2004 Order, did you bill in the same ratios?

GZ: Yes

JR: So you were billing Ms. Cumiford 40% of the fees to do the follow up that Judge Walker ordered, is that correct?

GZ: Correct.

JR: Alright. And as I understand, from what you're telling me, you made your fee known in the April 29th letter, and then again when Ms. Cumiford finally appeared at your office.

GZ: Correct.

JR: And she didn't pay it.

GZ: Correct.

JR: Okay, so what did you do?

GZ: The, after that meeting in my office, I talked to the Guardian *ad Litem* and believed that it was important for the son, that we needed to gather some information from mother and consequently I wrote to her three days later and stated that what I would do is if she would pay for the services from June 6th forward, as ordered by Judge Walker, that I would allow the fees that had come between April 25 until the June 6th hearing, I would allow the basically the May and June fees to be decided by the Court at the August hearing.

JR: What was her response?

GZ: And the response was that they would make an appointment. However, they did not make an appointment and finally in a letter dated July 11th, I complained to

Ms. Galloway that we still did not have an appointment. I made an offer of an appointment, and we were finally able to do two appointments: one interviewing the son, brought by Ms. Cumiford, and one where I interviewed Ms. Cumiford and she had Ms. Galloway in her presence on August 8th, 2003. At no time however, did they offer that they were agreeing to pay the fees.

JR: And did they protest the fees that you had scheduled at those occasions.

GZ: On those two occasions they did not protest the fees, but neither did they accept or make any payment toward the fees that were incurring during the month of June, July, and early August.

JR: But you're telling me that you kept Ms. Cumiford and her counsel fully aware of . . .

GZ: We were sending, my bookkeeper was sending invoices.

JR: Alright. So did you do an updated evaluation based on the information that you had obtained from Ms. Cumiford, her counsel, and from [unintelligible]

GZ: That was issued a report on August 11th. And I might add, Your Honor, for fuller understanding, at the request of the Guardian *ad Litem*, that evaluation, that part completed over the summer last year, involved a trip to Oklahoma to interview the child, since he was staying in Oklahoma for the summer.

JR: Okay. Now, apart from the initial work that you did, culminating in your March 14th, 2003 report, what is the outstanding fee that you're due for services subsequent to March 14th, 2003 from Ms. Cumiford?

GZ: Okay, at this time for the services of the update between April to early June the total due is \$575.04 and for the portion from June 6th forward it is \$1232.05.

JR: And the total of those two?

GZ: The total of those two. I don't have the grand total, but that's . . . Let me just add it up, Your Honor. I don't have that immediately.

JR: Use a calculator.

GZ: I've got it, except I have it, my bookkeeper gave it to me somewhere, I just don't, we'll bring it up here: \$1807.09.

JR: And have you . . . the Court wants to ask Ms. Cumiford. Ms. Cumiford, I know that you appealed my predecessor, Judge Walker's Order of October 9th, 2003 entitled Modified Order of Custody, Time Share, and Child Support. Is that correct?

LC: Yes, Your Honor, it is.

JR: And has the Court of Appeals stayed enforcement of that order?

LC: No they have not, at this point in time.

JR: Alright. Well, the Court takes judicial notice of the Order of October 9th, 2003 entered by Judge Walker, specifically, the decedral portion of page 6, subparagraph 2, which says, and I quote, "Any outstanding fees for the 11-706 expert shall be split between the parties with Hank Grant paying 60 percent and Leslie Cumiford paying 40 percent." My question is: on or after October 9th, 2003, did you send Ms. Cumiford a bill for 40% of the outstanding services?

GZ: Yes I did.

JR: And that bill was in the total amount due of \$1807.59 cents, is that right?

GZ: That's correct.

JR: And did you receive any payment?

GZ: I did not receive payment. I only received a letter in reply stating that she would be, says, "I will be filing a malpractice suit against you in the near future."

JR: I see. Did she indicate she was disputing your bill?

GZ: It says, "I dispute your bill on the grounds of your bias and misrepresentation of the facts was the cause for additional expense."

JR: Okay. And what was the billing rate that you were charging Mr. Grant and Mrs. Cumiford which culminated in the unpaid balance due from Mrs. Cumiford of \$1807.09?

GZ: That was a billing rate of \$140 per hour.

JR: And I see that you disclosed that billing rate in your letter to Mrs. Cumiford and Mr. Grant of April 29th, 2003, is that right?

GZ: That's correct.

JR: And that's prior to the time that she appeared for the first appointment. Is that right?

GZ: Um, I'm sorry . . .

JR: That was before she appeared, after Judge Walker entered her Order for you to do a follow up. Is that correct?

GZ: That's not correct. That letter is an April letter. The services agreement of the \$140 per hour that was signed at the first appointment, which is an earlier exhibit, I think actually Exhibit One.

JR: That was Exhibit One, that's...

GZ: That has that rate disclosed.

JR: Now is that a fair and reasonable rate for a certified psychologist of your credentialing and experience in Albuquerque, New Mexico?

GZ: Yes.

JR: Is it comparable with those of your colleagues?

GZ: Yes.

JR: Okay. Thank you. Do you have any questions on cross?

SML: Your Honor, I don't have any question.

LC: Your Honor, I haven't . . .

JR: I'm going to ask you, I'm going to give you an opportunity to cross.

LC: I'd like to give an opening statement on the order to show cause, please.

JR: No. No opening statements. We have, you asked for half an hour last time and your opening statement took the half an hour.

LC: This is a new issue, Your Honor . . .

JR: No. No. No, I don't want an opening statement.

LC: The order to show cause is a new issue that wasn't before the Court . . .

JR: You've already had your opening statement, Ms. Cumiford, and we're going to finish this proceeding today. What I want to know is, do either party have an objection to the Court's admission into evidence Court Exhibit One.

SML: No, Your Honor.

JR: Mrs. Cumiford.

LC: Your Honor, I would just like to ask if we could redact my personal information from that before it is admitted as evidence. It has e-mail and phone numbers on it.

JR: Do you ask that the court seal the exhibit?

LC: Not necessarily . . .

JR: I'm not going to redact it. That would change it.

LC: Okay.

JR: Do you want to make a request that the court seal it?

LC: Sure.

JR: Any objection?

SML: Your Honor, I have no objection as long as it's available to counsel for Mr. Grant.

JR: Alright. Court Exhibit One will be admitted. It will be sealed by the reporter at the request of Ms. Cumiford, and available to Ms. Cumiford and to Ms. Gilman upon request of the Special Services Division. Do either party have an objection to the admission of Court Exhibit Two which is the recommended parenting plan that the witness prepared dated March 14th, 2003?

SML: No, Your Honor.

LC: No, Your Honor, but it was, I believe it was an exhibit to the trial. I don't know what the rules are on making it a second exhibit.

SML: That's correct, Your Honor. It, that evaluation, along with the second and third evaluation, are all exhibits at the trial so they've already been entered into evidence.

JR: I'm going to withdraw it and I'm going to refer to this only as necessary because it is in evidence already. Is there any objection to Court Exhibit Three which is a letter to the parties by Dr. Zieman regarding the updated evaluation dated March 29th, 2003?

SML: No, Your Honor.

LC: No, Your Honor.

JR: Three is admitted. Is there any objection to Exhibit Number Four which is Ms. Cumiford's letter to Dr. Spring?

SML: No, Your Honor.

LC: No, Your Honor.

JR: Okay, Four is admitted. Now do you have a cross examination?

SML: I do not, Your Honor.

JR: Alright. Now Ms. Cumiford, I'm going to allow you a cross examination within the scope of my direct, but I'm going to tell you right now that if you want to make a claim for malpractice you do it in a civil court by filing a lawsuit and proving the allegations. But to the extent that I've asked questions on direct, you may proceed with your cross.

LC: Thank you, Your Honor. I would like to, Your Honor, before I begin, voice my objection on the record, this is a new issue, the order to show cause that was not . . .

JR: Overruled.

LC: . . . before the Court.

JR: Proceed with your cross.

LC: I would like to complete my objection . . .

JR: No. I overruled your objection.

LC: and I did not get to give an opening statement.

JR: No opening statement. You get one. You had one when we convened this hearing and I'm not going to give you another one. So let's proceed with the cross.

LC: Okay. Good afternoon, Dr. Zieman.

GZ: Good afternoon.

LC: You submitted a Notice of Noncompliance to this Court regarding my payment of fees. Is that correct?

GZ: That's correct.

LC: On July the 20th, I believe, it was stamped into the record. And do you have that with you?

GZ: Yes I do.

LC: Could you please read the statement that you wrote under Failed to Comply with Court Order.

GZ: It says, "has paid zero dollars toward outstanding 706 fees from March to August 2003 which Judge Walker's Custody and Time Share Order paren paragraph Q on page 6 quote orders to be paid, orders dated 10-9-03, see attached.

LC: At any time before the Order to Show Cause came out did you inform the Court that I paid you in full for the first custody evaluation that was ordered on November 20th?

GZ: I'm not sure, certainly we . . .

LC: Yes or no.

GZ: . . . went to court over that, and I don't know whether I was asked that question. It's already of course in evidence here today that you did pay for that evaluation.

LC: Did you ever inform the court of that? Prior to sitting here today?

GZ: I don't know that I directly informed the court that you had paid that. It may have been in previous testimony.

LC: Okay, let's see, there was a Stipulated Order appointing your work as an 11-706 expert. Is that correct?

GZ: That's correct.

LC: November 20th, 2002. And do you have a copy of that?

GZ: The order, appointing me?

LC: Um-hmm.

GZ: Yes.

LC: Okay, could you please read the part that starts, "Gayle Zieman, Ph.D. is hereby appointed. . ." Read that paragraph, please.

GZ: Okay. Let me find the Order.

JR: Dr. Zieman, to facilitate the process, Madame Reporter, will you hand Dr. Zieman a copy of the November 20, 2002 Order?

GZ: Yes. In paragraph 3, it reads, "The parties disagree as to the modification of custody and timesharing."

LC: No. The one that starts, that says, "Gayle Zieman, Ph.D. is hereby appointed . . ."

GZ: Okay. That's the next line. "Gayle Zieman, Ph.D. is hereby appointed as a Rule 11-706 expert to perform a custody evaluation as to what arrangement for custody and time sharing is in the child's best interest. The Guardian *ad Litem* will work with Dr. Zieman . . ."

LC: That's fine. Thank you.

GZ: Okay.

LC: Just before the words "custody evaluation", what is the modifier there?

GZ: "To perform"?

LC: After "perform"? What is the article, sir?

GZ: "a".
LC: "a".
GZ: Yeah.
LC: Now how many evaluations does the word "a" imply?
GZ: One.
LC: One. Thank you. Okay, and when did you receive your next order from the Court ordering you to do any sort of evaluation?
GZ: I believe the next order was the letter from the Guardian *ad Litem*. My understanding . . .
LC: From the Court.
GZ: . . . was the Guardian *ad Litem* had . . .
LC: Excuse me. My question was: from the Court.
GZ: Directly from the Court, the Minute Order of June 6.
LC: Okay. And I would like to quote from NMRA 11-706.
JR: I'll allow that as argument, but if you have another question, ask it.
LC: Okay. Do I save my argument till after the . . .
JR: Yes.
LC: . . . testimony? Okay. Thank you, Your Honor. This is the first real trial I've done so I'm a little confused. Let's see. Okay. I have some evidence I'd like to pass out. There is a copy for the . . . Your Honor, would you like me to approach?
JR: Hand those to the Reporter, please. I assume that you . . . [unintelligible] . . . let's see what happens.
LC: May I approach the witness, Your Honor?
JR: You may. Have those been marked?
LC: I didn't have any stickers. They're marked on the lower left-hand corner [unintelligible] stickers.
JR: Alright. Let me see what, Madame Reporter, the Court's copy of those exhibits. Thank you. You're referring to Exhibit B?
LC: Yes, I'd like to enter Exhibit B into the record, please.
JR: Does this cover the first evaluation?
LC: It covers all the billing statements throughout Dr. Zieman's time as a court evaluator on this case.
JR: Is this for the initial custody evaluation?
LC: For all the evaluations. It's in time order, Your Honor.
JR: Well, you'd better listen to that testimony.
LC: Pardon?
JR: You'd better listen to that testimony from the witness.
LC: Okay. Are there any documents in here that you believe are not genuine?
JR: No. No. No. Ms. Cumiford, you're concerned with Exhibit B.
LC: In Exhibit B. Excuse me, Your Honor. Thank you.
JR: Yeah.
LC: In Exhibit B that you find would be in error in any way?
GZ: I find that, I do not find any here that I believe are in error. I believe that it appears that these do reflect the invoices up through October 7, 2003. I believe that there was also an invoice November 2003. However, the basic amounts did not change from those listed in October other than a \$10 rebilling fee.

LC: Thank you. Let's see. Let's turn to the bill dated 10/7/03. It's near the end of the packet. The third page from the end is where it starts.

JR: Okay. In view of that foundation, is there any objection to Exhibit B?

SM: No, Your Honor.

JR: Alright. Exhibit B is admitted.

LC: Could you please read the handwritten note at bottom that starts "Leslie".

GZ: Yes. "I am sending you a copy since I cannot be sure now that the Court Order is done that you continue to retain Ms. Galloway."

LC: Now, based on that statement, while Ms. Galloway was my attorney of record, who did you send your billing statements to?

GZ: After somewhere in the middle of the summer they were sent to Ms. Galloway at your request.

LC: In fact, she requested that all your communication go through her rather than me. Is that true?

GZ: Yes. I was forbidden to have contact with you in any way.

LC: And my attorney is the one that suggested that. Is that correct?

GZ: She was the one that informed me of that.

LC: Okay. So, conceivably, the first time you could really be sure that your later billing statements were actually brought to my attention was on October 7 according to this evidence. Is that true?

GZ: That's true for bills that would have been sent from July forward.

LC: I thought you said mid-June a few minutes ago. Is it mid-June or is it July?

GZ: One, I cannot be certain because I don't know the exact date that my bookkeeper mailed invoices in June, whether that would be after being informed by Ms. Galloway to not send things directly to you or not.

LC: Do you think that period would have covered any of the work you did toward your third evaluation in which you started it with your first meeting we attempted to have on the 16th of June?

GZ: It certainly, certainly things from July forward would have contained billings from work that was done in the latter part of June and July. I just object to the characterization of the third evaluation in that Judge Walker referred to it as: complete the evaluation. That's the wording of her Minute Order.

LC: So you did a first evaluation, initiated a report, then were told it wasn't complete, so you completed it once, then you completed it a second time?

GZ: No.

LC: What is your characterization?

GZ: I was asked to complete an evaluation, which was completed in March of 2003. The Guardian *ad Litem* stated that there were major changes in circumstances which required that that be updated to reflect new circumstances. I was not able to fully complete that update as requested because of your failure to participate. And consequently, Judge Walker asked that I complete, and that's her term in the Minute Order, complete the evaluation. That's what was done over the summer last year.

LC: Did Judge Walker ever issue an order asking you to do an update the first evaluation? Did you ever receive anything from her by way of an Order for the

evaluation that the letter, the April 29th letter that's already been submitted as the Court's, I'm not sure which . . .

JR: There's a Minute Order dated, the Court will take judicial notice of a Minute Order entered June 4th, 2003, which is a result of the Court's pretrial conference. Page three of that three-page Minute Order states that, paragraph number 7, "Dr. Gayle Zieman shall complete his evaluation and shall make every effort to provide it to all parties at least one week prior to trial. Dr. Anne Rose shall have access to all information Dr. Gayle Zieman has. If Dr. Zieman receives information after that time, he may supplement his report and provide the additional information to everyone."

LC: Thank you, Your Honor. My question was a little bit different. That was actually after the first update, the second round of this stuff occurred. So my question was, did you ever receive an order from Judge Walker directing you to do an update based on the report, an update from the evaluation, the first one, which you reported on in your Family Report and Parenting Plan of March 14th. Did you ever receive an order from Judge Walker to do that work?

GZ: No.

LC: Thank you. Okay, and I believe this has already been entered as one of the Court's exhibits. It's my Respondent's D. The letter of May 3rd . . .

JR: Are you referring to your letter . . .

LC: The letter of May 3rd, 2003, to Frank Spring, copied to Gayle Zieman.

JR: It has been admitted as the Court's Exhibit, let me get you the number, and I don't want it in the record again.

LC: That's fine. I just wanted to confirm, Your Honor, which one it was.

JR: It's the letter that you wrote dated March 3rd, 2003. It's the Court Exhibit 4. Correct?

LC: Right. Would you please read this letter, Dr. Zieman.

JR: Madame Reporter, would you, you gave all the documents back . . .

LC: I have a copy if you need one.

JR: No, no.

Reporter: Just let me find which one it is.

JR: It's the document marked 'Exhibit 4' with the red sticker.

Reporter: Yes.

GZ: Again, Ms. Cumiford, read which portion?

LC: Read the whole paragraph, please.

GZ: The whole paragraph. Okay. "I received the attached letter from Gayle Zieman late this week stating that you have urged him to reopen the custody evaluation because of a change in circumstances since his evaluation was concluded a few weeks ago. I am not aware of any changed circumstances that would warrant a new evaluation so soon after the first one was completed. Such an evaluation represents additional stress for my family, particularly for Alex, and additional expense. I would like for you to make a formal recommendation to the Court stating the specific changed circumstances that warrant this repeat evaluation. I will await your recommendation and the judge's decision to determine whether my participation is necessary.:

JR: Ms. Cumiford, how can this letter obviate the October 2003 Order that Judge Walker entered for you to pay 40% of the balance? Is it offered for that purpose?

LC: It is offered in order to, for argument in Rule 11-706, Your Honor. About . . .

JR: Reasonableness of the fees?

LC: Reasonableness of the work. Under the law, under the Rules, whether it is appropriate to bring an 11-706 to proceed without a court order in evaluation work.

JR: The rule says expert witnesses so appointed are entitled to reasonable compensation in whatever sum the Court may allow.

LC: Would you like . . .

JR: I'm going to allow you to ask questions calculated to show that the \$1807.09 is unreasonable compensation. . .

LC: I'm working on that, Your Honor. . .

JR: That's all I'm going to allow you to do, because that's the focus of this hearing.

LC: Your Honor, in NMRA 11-706 (A) it says, and I quote, "A witness so appointed shall be informed of the witness' duties by the Court in writing, a copy of which shall be filed with the clerk." What we've established here so far, is that Dr. Ziemann's second, whatever you want to call it, second evaluation, first update, was not ordered by the Court.

JR: It was ordered by the Court twice. Once in the November 20th, 2002 Order that you agreed to, and secondly in the June 4th, 2003 Order Judge Walker entered at a status conference. Those are written instructions to the 11-706. And that's the ruling of the Court.

LC: Neither order, Your Honor, covered the second evaluation.

JR: The second order, June 4th, 2003.

LC: That was after . . . Gayle, Dr. Ziemann, when was your second evaluation completed? Can you please state that for the Court so we can clear this up?

GZ: My second report was issued on May 20th, 2003.

LC: Your Honor, for your review, I have a copy of all four of Dr. Ziemann's reports. They have already been entered into evidence at trial. So that it's clear, the timing on this.

JR: Okay, can you repeat, can you just ask the witness about the dates of his report, referring to those documents?

LC: Yes, Your Honor.

JR: Okay. The first one we know is March 14th, 2003.

LC: March 14th, and Dr. Ziemann, those, the two reports that came out of that are the Family Psychological Evaluation and Recommended Parenting Plan. Is that correct?

GZ: Correct.

LC: And then your second report came out, is it correct, on May 20th, entitled "Addendum to Family Psychological Evaluation and Recommended Parenting Plan"?

GZ: Correct.

LC: And that's the one we've been talking about here. Do you have a written order of the Court asking you to do this?

JR: Excuse me. You said there were four. I heard two. What are the other ones?

LC: There were two in the beginning, this is the second one on May 20th.
JR: What's the third and the fourth?
LC: The third one was August 11, 2003, is that correct?
GZ: That's correct.
LC: Entitled "Second Addendum to Family Psychological Evaluation and Recommended Parenting Plan".
JR: And the fourth is what?
LC: There were two on May 14th. One was the Parenting Plan and one was the Psychological Evaluation.
JR: That's part of his single report dated March 14th.
LC: There are actually two different reports, Your Honor, and they were admitted into evidence at trial. I would be happy to give you copy of these. . .
JR: They were marked here, right. I have those.
LC: Okay.
JR: Okay. So there were submissions by this witness March 14th, 2003, May 20th, 2003, [unintelligible]. Thank you.
SM: Excuse me, Your Honor, I think it's 2003.
LC: Yes, I'm sorry.
JR: That's correct. 2003.
LC: Let's see. Okay. So you had a clear order to do the first evaluation. Is that correct?
GZ: Correct.
LC: Who asked you to do the second evaluation?
GZ: That was, as I've already stated in evidence, I was directed by the Guardian ad Litem, who I believe was acting on a February order in which my understanding is the parties were requested to follow directives of the Guardian ad Litem.
LC: Okay. Did you ever receive any written communication from Judge Walker for that second evaluation?
GZ: I did not.
LC: Did you approach the Court to ask for confirmation after you received my letter?
GZ: I did not.
LC: Did Mr. Spring, to your knowledge . . . well I guess that's hearsay. Did he communicate to you at all that the judge had ordered it?
GZ: No.
LC: Okay. Thank you. Okay. Let's see. So would you say that a May 3rd letter in response to your April 29th letter was a fairly timely response to your request to do a new evaluation.
GZ: Yes.
LC: And did you consider it your position to decide whether that legal argument was appropriate or not for whether I should participate in that evaluation?
GZ: I did not attempt to do so.
LC: How did you interpret me sending you that letter? What were your feelings about that as you expressed on June 16th at our brief meeting?
SM: I'm going to object to that because I think it's outside the scope of direct.
JR: I think you're getting off course but I'm going to allow the witness to answer the question. Go ahead.
GZ: Would you please restate the question?

LC: What were your feelings about that May 3rd letter as you stated them to me on June 16th when we met in your office. Actually, we didn't even go up to your office because you were so angry you didn't let us.

GZ: The feelings of June 16 were different . . .

SM: Your Honor, I'm going to object the form of the . . . The witness asked her to rephrase the question. She rephrased the question except then she added testimony. I'm going to . . .

JR: Okay. I'm going to overrule the objection, but I'm going to ask you to restate the question because I . . .

LC: Thank you, Your Honor. I'll restate the question with evidence that I'd like to submit Respondent's G, it's marked Respondent's G. May I approach the witness, Your Honor?

JR: You may.

LC: Dr. Zieman, do you recall writing this letter to Mr. Spring?

GZ: Yes, I do.

LC: Would you say this is an authentic copy of the original letter that you wrote to him?

GZ: Yes.

LC: I would like to admit this as evidence, Your Honor?

JR: Any objection?

SM: No objection.

JR: Alright. Is that marked already, Ms. Cumiford, what you gave the witness?

LC: It's marked Respondent's G on the bottom.

JR: Thank you.

LC: Could you please read the middle paragraph of your letter.

GZ: Yes. "I've held firm to my statement by letter of my June 12, 2003 that I would not begin new services with Leslie without her accepting responsibility for past services. I informed both that I am angry with Leslie for her repeated attempts to obstruct my work."

LC: Okay. And do you confirm that that were your true feelings on the 16th? You were angry?

GZ: As I stated to you on the 16th, yes, that I was angry with your repeated attempts to obstruct my work.

LC: Okay. And this responsibility for past services, are you referring to the work on the second evaluation, the testimony, the output of that, that you just established, no judge ever ordered? And was it requested by Frank Spring and not a judge?

SM: Your Honor, I'm going to object to the question, I don't believe that . . .

JR: I think it calls for a legal conclusion. I'm going to sustain. In other words, I think implicit in your question is every time that this witness submitted a supplemental report, that there was a new 11-706 order required. The answer of the law is, no. So your question is, you can ask the witness, but that order of November 20th didn't have an end date.

LC: Which, responsibility for which past services were you referring to in this letter?

GZ: I was referring to the services that had gone, services throughout the six months of 2003, because there were numerous times when I believed that you had obstructed my work, including twice during the original evaluation which I . . .

LC: We are outside the scope of the question, Dr. Zieman. . .

JR: Ma'am, don't interrupt the witness when he's answering your question.

LC: He's gone beyond the scope . . .

JR: You asked a question and you waived an objection. Please complete your answer, Dr. Zieman.

GZ: Okay. As I was saying, there were numerous incidents which I considered to be obstructing my work. They occurred during the original portion of the evaluation as marked by a letter I sent to your then attorney, Mr. Johnstone, complaining about your obstructing my work. It involved your nonparticipation in the update that was done and attempted in May and June, and it involved the June meeting in my waiting room in which you acted as if you did not know that you had fees due to me, and that you were not prepared to pay.

LC: Dr. Zieman, are you sure that you sent a letter to Peter Johnstone about those issues?

GZ: Absolutely. I'm prepared to show the Court, I'm prepared to show a copy of that letter to the Court sent in February to Mr. Johnstone.

LC: Okay. But you just said that covered the time period of June, May, June, and July.

GZ: No. No. No. I believe I stated that there were incidents in the original portion of the evaluation, in the early portion of 2003 . . .

LC: Okay.

GZ: . . . where I believed you to be obstructing the process and I then wrote to Mr. Johnstone.

LC: Okay. Let's talk about that for a minute. If we could go to the exhibit marked Respondent's O. And Dr. Zieman, these documents were obtained from you through subpoena. I'm sorry. You don't have a copy. May I approach, Your Honor?

JR: You may.

LC: Could you please look through these exhibits and tell me if there is anything that you see in here that is not a valid copy of the email records that you provided to us on subpoena?

JR: Are you asking this witness about the entire stack that you handed him?

LC: I believe there are only. . .

JR: Or is this just Exhibit O?

LC: Exhibit O, Your Honor.

SM: Your Honor, I can't tell what Exhibit O is. I don't know if I have copies of Exhibit O.

JR: I found it. I found the document.

LC: It should be right after N.

SM: Well, it should be, but I know that we have . . .

JR: Why don't, Madame Bailiff, why don't you hand counsel the Court's copy so we don't get delayed here.

LC: If we could go to, oh, are we still working on validating, Dr. Zieman?

GZ: Yes. I'm simply pausing, Ms. Cumiford, because I'm a little, with the last two pages, I'm just a bit confused as to who wrote which portion of this email. So if we're going to refer to those two pages, I will need to do some more . . .

LC: I'll help you with that.

GZ: . . . research on them, but . . .

LC: I'll help you with that. No problem.

GZ: . . . I'm having difficulty understanding those last two pages. The others appear to be accurate copies which were supplied to you of emails.

LC: Okay. Can you turn to the third one from the back, please? It's dated Wednesday, 8th of January, 2003.

GZ: 8th of January. Yes.

LC: And it is from Hank Grant to you. Is that correct?

GZ: Yes, it appears to be.

LC: And the parts with the lines are communications that Hank Grant had sent to you that you were – I'm sorry – that you had sent to Hank Grant, that he was responding to you. For example, let's start with the one that says, "Called Leslie. She doesn't feel that she is doing well enough." Is that correct? Did you, is that your communication?

GZ: Let me see here. It says called . . .

LC: Read the first line there. "In a message dated 1/8/2003 . . ."

GZ: Right. Right. It says, "In a message dated 1/8/2003, 8:25:49 am central standard time", and then my email address writes, "Called Leslie. She does not feel that she is doing well enough to move up her home visit with Alex to next week. I did get her husband scheduled for next week and a plan for the two girls to call for an after school appointment."

LC: Is this part of what you were referring to as far as being obstructive?

GZ: No.

LC: What specific meeting were you trying to schedule that you considered to be obstructive?

GZ: I was trying to schedule two meetings that were either at the very end of January, which was my understanding was this was after your illness, your surgery, far enough that you would have improved. End of January, on through the month of February, there were two appointments where I was having difficulty with getting you do appointments. One was a requested joint meeting appointment between yourself and Mr. Grant, and the other was the final appointment for the entire evaluation process which needed to occur.

LC: Okay. Now, you're referring to me not feeling well. What was . . .

JR: Excuse me, Ms. Cumiford, I'm going to be out of here at 4:30, and I'm going to rule.

LC: Okay.

JR: And I would appreciate it if you would confine your questions to the reasonableness of the fees, which is the focus of the Court, and your dispute as to the reasonableness of the fees. Because the longer this takes on this testimony that doesn't go to those issues, the less time remains for the disposition of your pending motion that was continued from June 9th.

LC: Your Honor, is it the Court's position that the reasonableness of the fees should be separated from the work that was done? Whether it was done accurately?

JR: You've disputed the fee, and I'm going to give you an opportunity to show that the fee was unreasonable. That's what I'm going to allow you to do. I know you're here claiming fraud, you're claiming this, you're making many claims

about Dr. Zieman. And those claims are best brought in civil court, not in a divorce court. Because there is an order for you to pay these fees. Pay reasonable fees. It's undisputed you haven't paid, so I'm going to give you an opportunity to show that the fees that Dr. Zieman's charged are unreasonable. But I'm not going to go into all this other stuff because it doesn't relate to that.

LC: Your Honor, I have a question for you. Is it the Court's position that a blanket order that doesn't give a specific amount is an order to pay whatever an 11-706 requests to be paid, regardless of whether it was reasonable or not?

JR: You need to hire an attorney to answer those questions. Proceed with the cross.

LC: What I'm attempting to do here is show that the work that was done was not reasonable and contributed to the ongoing, over and over evaluations that went on.

JR: I don't understand that. This witness recommended that your son live in your household in his March 14th recommendation. Are you saying that was unnecessary?

LC: No, Your Honor.

JR: Then what, specifically, are you talking about?

LC: The second evaluation completely reversed all decisions, and . . .

JR: You mean the Addendums that were dated May 20th and August 11?

LC: Yes, and that's what I would like to explore. How we got to the May 20th conclusion and why the last one was needed.

JR: Well, ask him that question.

LC: Okay. Dr. Zieman, for the May 20th conclusion, who did you take in [unintelligible]

SM: Your Honor, if I might, all this was done last August at the trial.

JR: I understand. I'm not going to retry the case. But I'm going to give Ms. Cumiford an opportunity. Apparently what she's trying to do is to show that these Addendums dated May 20th and August 11th were unnecessary.

SM: Okay. Thank you, Your Honor.

JR: And I'm going to allow the witness to answer those inquiries as to the necessity.

LC: Who did you take input from – so we've established for the one that you did that culminated on May 20th, that it was not ordered by the Court directly to you; that you got . . .

GZ: Correct.

LC: . . . that directive from Mr. Spring.

GZ: Correct.

LC: And that you did not confirm with the Court that that was an order.

GZ: Correct.

LC: From the Court. Thank you. And, so who did you take input from before you made your final conclusion? Your May 20th conclusion?

GZ: As already in evidence, I requested to have meetings with both yourself, Mr. Grant, and to meet with the child when accompanied by both of you. Given that I was unable to either interview you or to interview your son when you brought him, the information came from meeting with Mr. Grant to get his input as to what had changed or what had occurred on his behalf. Speaking with the Guardian ad Litem. Speaking with the therapist appointed by the Court, Dr. Rene

Silleroy, and a review of a narrative by Mr. Grant and a review of a deposition that you had done on April the 8th.

LC: So you spoke with Dr. Silleroy without me ever signing a release?

GZ: No. It says specifically – I'm in error – attempted with the child's psychotherapist. Could not get a release of information signed by mother.

LC: Thank you.

GZ: So I'm in error. I did not because of the lack of your signature.

LC: Okay. Dr. Zieman, let's see. I just want to finish up the point I was making. You were aware that I had a hysterectomy on December 23, a full hysterectomy, and bladder repair, and rectocele surgery?

GZ: I'm certainly aware that that occurred in December.

LC: Okay. And were you aware that I contracted a secondary hospital infection and I ended up staying - I had medical leave for almost two months after that surgery? Did I communicate to you and inform you of that?

GZ: I'm certainly aware that you communicated that you had some complications. I cannot say that I know all of the specifics to which you have referred.

LC: And so, nevertheless, you still thought that was obstructive behavior to not show up until the end of February.

GZ: Well, particularly since I made a home visit during that time and that was while you were quite functional during the home visit so I certainly did not have any reason to feel that coming to my office for an interview or accompanying your son was outside of an expectation of you during the month of February.

LC: Okay, so you just read that I wasn't doing well enough to move up the home visit with Alex. Right? When do you have in your records that the home visit actually occurred?

GZ: Well, in your first one we're talking about January 8th, so it's early January, that thing, and the home visit, let's see when that occurred. 22nd of January, 2003.

LC: So I was willing to meet with you to accommodate you even though I was still on medical leave as my doctor's directives for another month. Is that correct?

GZ: No. You were not willing to meet with me after that time. That's the reason for my complaint to Mr. Johnstone.

LC: For the home visit.

GZ: You were willing, during the home – I did not consider the home visit a meeting. I was talking about the office appointments requested.

LC: I would like to use for purposes of review a report from Dr. Charlene McIver that was already entered as evidence and testified about at trial, Your Honor, to ask Dr. Zieman a couple of questions about his report.

JR: Does that relate to the reasonableness of Dr. Zieman's fees?

LC: I think it does. It has to do with whether the report should have been done or not. The second one.

JR: Show it to Ms. . . .

SM: Little.

JR: You've already got it memorized?

LC: This was an exhibit, I believe it was Respondent's Exhibit K at trial.

JR: While she's looking at that, Ms. Cumiford, let me see the supplemental reports that you offered earlier dated May 20th and August 11th, 2003.

LC: Permission to approach.

JR: [unintelligible] because they've already been admitted. Madame Bailiff, would you please bring those to the bench. I'd like to see what they are.

LC: I've handed you all four reports, Your Honor. May I approach the witness, Your Honor?

SM: Your Honor, it is the – I don't know if it's Exhibit K that is entered at trial, but it certainly was entered. It is entered.

JR: Alright.

LC: Dr. Zieman, could you please read, starting at the very last partial paragraph on the first page. Your Honor, would you like a copy of this?

JR: You've marked a copy in this pile, is that right?

LC: No, I did not not, Your Honor.

JR: Madam Bailiff, will you please bring that to the bench?

LC: Would you please read that, starting at that last part of a paragraph.

GZ: "When an updated evaluation was requested in May 2003, Dr. Cumiford refused to comply without a court order. Dr. Zieman's addendum was released and recommendations made without having interviewed Alex or his mother. Therefore, these recommendations were made without sufficient information, especially when the recommendations include such a profound change as Alex's relocation to Norman, Oklahoma, with very limited time with his mother."

LC: Thank you. And do you agree with that?

GZ: I do not.

LC: Okay. Let's move up to, let's see. Let's move up to, let's talk about your deposition on June 26th.

JR: No. You're going to have to use that as impeachment only.

LC: Sorry.

JR: Unless it goes to an admission that relates to the unreasonableness of his fees.

LC: Dr. Zieman, have you ever had a case in which you did three, a custody evaluation and two back-to-back updates in such a short period of time.

GZ: Not in a time period as short as this. No.

LC: Have you ever done three evaluations, a beginning one and two updates, on any single client?

GZ: Yes. In one other case.

LC: Okay. And how much time were those spread over?

GZ: Are you asking the previous one?

LC: Yeah, just do you recall?

GZ: Certainly somewhere in the neighborhood of 2 ½ to 3 ½ years.

LC: And these evaluations, I believe they spanned 9 months. Do you disagree with that statement?

GZ: Yes, in the characterization of them as evaluations, in that there was a requested update, and then the one ordered by the Court on June 6th was, as Judge Walker said, a completion of what was started.

LC: Wouldn't you agree that if a judge got two completely different recommendations for custody and timeshare in a row it would be necessary to go back to the expert and reconcile them?

GZ: Yes.

LC: So, would you agree that it's very important to have the third one because of the two completely different reports?

GZ: I'm confused by your questions as to the reference of the third one.

LC: The Second Addendum.

GZ: I guess, what I'm confused is, the meaning of, maybe if you just restate the question so I understand what you're asking about the Second Addendum.

LC: You submitted a first Parenting Plan that said to, basically, we would retain primary timeshare, it would still be joint custody, and you set up a parenting plan, essentially, was the only change to the existing situation. Is that correct?

GZ: Primarily true. Yes.

LC: And in your second report, you recommended a full change of custody to father, an immediate removal of him from my home for toxicity, made diagnoses in your signed report of narcissism and pathology, and a number of other claims. Is that correct? About me.

GZ: I will say that I did recommend to the Court based on the changed circumstances that there be a change in primary residence. The other things which you are stating, they are portions of my evaluation, but I believe they are being mischaracterized by your presentation here before the Court.

LC: How would you characterize it?

GZ: They are listed in my report as areas of concern, and at no time did I make distinct diagnoses of any individual.

LC: Did you use the words narcissism and pathology associated with your description of me?

GZ: In my description of you I did use the term narcissism or possibly the adjective narcissistic as a descriptor of my concerns about you. I may or may not have used the word toxicity. We will have to refer to my report.

LC: Okay.

JR: Would you like to refer to your report?

GZ: Yes, I would if there is further questioning on this point.

LC: I would like to direct you to the Addendum, page 4.

JR: Just a minute, ma'am. This is the August 11th, 2003 Addendum.

LC: This would be in the May 20th one, Your Honor, this is the one we are discussing.

JR: [unintelligible] with that one, you gave me two March 14ths.

LC: Yes. There should be four all together. Two March 14ths, an Addendum, which is May 20th, and a Second Addendum, August 11th.

JR: The May 20th Addendum is not here. So, is that the report that you need to make reference to, Dr. Zieman?

LC: I have further copies of those, Your Honor.

GZ: I need to refer to the, I believe to refer to the May 20th to answer the questions I anticipate. I do have a copy of that.

JR: Oh. Okay. Alright.

LC: And I do have a copy, Your Honor.

JR: Thank you, Ms. Cumiford.

LC: You're welcome.

JR: Okay. Please proceed with the examination.

LC: Okay. In there look on page four, the first full paragraph. Pathology. Will you read the first sentence there, please?

GZ: Yes. Unfortunately, Leslie's recent actions show that the degree of her pathology related to her son and Hank Grant was underestimated.

LC: Thank you. And did you have any test results showing any scientific basis for claiming either narcissism or pathology?

GZ: I did not have psychological tests which had a narcissism scale to them. So in answer to your question, "Was there a test result indicating narcissism?" No. And I did have test results which showed some concerns that could be considered in the area of pathology.

LC: Okay. Let's go to your deposition.

JR: No.

LC: I'm sorry.

JR: You can use that to show that he testified contrary to what he said on this witness stand.

LC: Okay. I'm sorry, Your Honor. I keep forgetting. My apologies. Let's see. Okay. We talked about this area of narcissism and during a period of questioning, we asked you in detail what your basis for the narcissism was, didn't we?

GZ: That certainly was a line of questioning in the deposition.

LC: And finally, you came out with one primary reason for the narcissism label. Is that correct?

GZ: Without referring to my deposition, I don't think I can attest to that.

LC: May I provide Dr. Zieman with a copy of his deposition, Your Honor?

JR: Why don't you give a page and a line reference. . .

LC: I will.

JR: . . . and then read the question, read the answer.

LC: You want me to just read it into the record?

JR: No. Give a page reference in the deposition. What is the date of the deposition?

LC: It's dated August 15, 2003, page 210. And I have a copy for the court. . .

JR: Okay. What line are you going to read from?

LC: I'm going to read from line, let's see, actually, I'm going to read from line 17 on for about a paragraph.

JR: Alright. The question is? Read the question.

LC: Okay. So my question is, let's talk about the pathology first. You had one primary reason . . .

JR: No. No. No. Are you going to read from the deposition or are you going to ask another question?

LC: Oh. Okay. You said . . .

JR: No. No. Read the question, then read his answer, please, from the deposition.

LC: Okay. In the deposition, my attorney stated, she repeated that sentence from your page four: "Unfortunately, Leslie's recent actions show that the degree of her pathology related to her son and Hank Grant was underestimated." And the question to you was, "Please tell me what recent actions you were referring to in that sentence."

JR: And his answer?

LC: His answer was, "Much as I have already testified to, that I had hoped and had some belief that she would accept the Parenting Plan that I recommended. And I know that her attorney told me he was going to recommend that she did so." And then as we move . . .

JR: Is that the end of his answer?

LC: No. There are parts of . . .

JR: Are you going to read the rest of the answer?

LC: Oh. Okay. "Of, you know, of visiting Oklahoma during summers, Christmas and Spring Break, that kind of thing. And that rather than her being more accepting or seeing some, that this issue between parents was coming to a conclusion, that things seemed to rev up. There seemed to be more activities in terms of . . ." And the question was, "What was that activity?" And the answer was, "The activity we had, you know, it seemed again, there was more issues around, there were more issues around phone calls. There was, as I said, seeing the website bothered me, that this happened in the springtime."

JR: Ms. Cumiford, I understand you don't have counsel, but depositions may be used in a court case to prove that the witness has testified in court in an inconsistent manner than he testified to in the deposition. And that passage is not inconsistent.

LC: Dr. Zieman, what was your primary reason for writing this sentence on page four about the degree of my pathology?

GZ: I think that you will find that there are a list of those things contained in the report of May 20th . . .

LC: No, I'm talking about what you said on August 15th . . .

JR: No, finish your answer to the question, which was, "Why did you put that in your report?"

GZ: I put that in my report because of several events which had come to light that occurred in the time frame since my first report of March. They are, I think, well, listed in the report as relating to things such as your continued claim that Mr. Grant was an alcoholic with multiple DWIs, which I had never seen any data to show that that was true, that allegation. That the phone calls, there had been continuing difficulties in your doing phone calls with your son. That there was an incident reported by the Guardian *ad Litem* where the Guardian *ad Litem* had sent a representative to the home to observe one of the phone calls due to the phone issues, and observed that you videotaped your son, including when he climbed under the bed to talk on the phone. There were issues around you joining his karate class at the end of the year when he, it was anticipated he would be likely be going for the summer with his father, and that you had continued the, as I said, there was no continuing evidence that you had dropped your contention that Hank is sexually abusing Alex, and I believe there are others listed here. Those are an example of some of the things which led me to the conclusion statement which I read out a few moments ago.

LC: Okay. That's not what you said during deposition on August 15th. Although you did mention those issues . . .

JR: If that's the case, read the question, giving counsel the page number and the line number that you're going to read from.

LC: Okay. It's the deposition of August 15th, page 210. Would you like a copy of the deposition, Your Honor? I have one here for your review, if you'd like to use it.

JR: Why don't you give it to the witness and ask him if he answered as you are going to read.

LC: Okay. Please turn to page 210.

JR: Give him the question please. What line number?

LC: And the question starts, she repeats your sentence . . .

JR: What line number?

LC: . . . line 17 . . .

GZ: Line 17.

JR: Okay.

LC: The sentence about pathology. And then the question starts in line 20. It says, "Please tell me what recent actions you were referring to in that sentence." And how did you answer that day?

GZ: Well, the answer began with . . .

LC: Starting from page 22.

JR: No. Read your answer.

GZ: "Much as I have already testified to, that I hoped and had some belief that she would accept the Parenting Plan that I recommended, that I know that her attorney told me he was going to recommend to her. You know, visiting Oklahoma during summers, Christmas, and Spring Break, that kind of thing. And that rather than her being more accepting or seeing some that this issue between parents was coming to a conclusion, the same things seemed to have revved up. There seemed to be more activities in . . .

[several minutes of unintelligible communication]

LC: . . . addictive substance.

JR: When was the perjury committed that you're talking about?

LC: This particular statement was made at trial . . .

JR: Ma'am. Ma'am.

LC: August . . .

JR: [loudly] When was the perjury that you're accusing this witness of committed?

LC: August 20th, 2003, and again on June 29th, 2004.

JR: Alright. Where was this perjury that you're complaining about committed?

LC: In this courtroom.

JR: And who, in proceedings before judge?

LC: The first one was before Judge Walker and the other one was the hearing just before this one in this case.

JR: And what was the perjured testimony?

LC: Dr. Ziemann claimed that Temazepam is not an addictive substance.

JR: And, is that a matter of medical opinion?

LC: No, it is a matter of record. It is a matter of, you can get it in a medical book . . .

JR: Well, is that a matter that professionals might disagree about?

LC: No. It is a Class IV controlled substance, and as such, it is an addictive, and I have an expert here to testify to that as well, in case, and I have also . . .

JR: Is this the sleeping pills that you asked about?

LC: Yes.

JR: Alright. What does that have to do with the reasonableness of his fee?
LC: It has to do with whether he was of sound and clear mind while he did all this.
JR: He answered. He answered that question.
LC: I am, I am . . .
JR: You're disputing it?
LC: . . . disputing it.
JR: Okay. And you're saying that that has to do with the fairness of his fee?
LC: Yes. In my opinion, Your Honor, if the Court has an obligation to enforce a client to pay a fee to an expert, then the Court has the responsibility to check . . .
JR: Are any of these witnesses pharmacologists?
LC: No. The witness is a recognized American Psychological Association expert on narcotic substances . . .
JR: Do you have a pharmacologist that's going to say that today?
LC: No, but I do have the prescription, the insert to the prescription medicine from the pharmacy.
JR: Alright. I think if you, if you believe that a perjury has been committed you have an obligation to call the District Attorney's office and file a complaint.
LC: I think . . .
JR: If you have a pharmacologist today that's willing to say that on the witness stand, I'd be happy to hear him or her.
LC: Your Honor, I have the insert from the medication from a pharmacologist, it is used by the manufacturer across the country. . .
JR: No. No. No. No ma'am.
LC: . . . And I do have an expert that I will put on the witness stand after we finish with Dr. Zieman. I have a couple of other questions for you regarding your testimony from last time, Dr. Zieman. Let's see, I have, and this is Respondent's K, an official transcript of the June 29th hearing, 2004, in this case. Let's see, you said that, do you recall talking about Mr. Grant's test results?
SM: Your Honor, I think this is outside of the scope of direct. I don't think this goes to . . .
JR: Way outside of the scope of direct. It's way outside the scope of direct. All these services according to the invoices that you submitted were concluded before October 2003. You want to introduce evidence that occurred in the following year.
LC: Your Honor . . .
JR: Tell me how it's relevant.
LC: Your Honor, we did submit a motion . . .
JR: He was called out of order as a rebuttal witness and I reserve the issue of admissibility depending on what you show today in support of your motion.
LC: Your Honor, Dr. Zieman, we did file a motion asking that the 11-706 expert be withdrawn. In fact, I have. . .
JR: And I declined to grant that motion.
LC: No. This was last year, in 2003.
JR: Well, what does that have to do with this hearing?
LC: It has to do with whether the fees are reasonable.

JR: Okay. You ask the question related to reasonableness because we're getting way out of line.

LC: Okay.

JR: And I'm going to give you another fifteen minutes to conclude your cross.

LC: Okay.

JR: And then we're going to go into recess and we're going to get on with this.

LC: Okay. I'd like to move to Respondent's P.

JR: Do you have any objection to the consideration of the admission of the Respondent's Exhibit P?

SM: Your Honor, I'm sorry.

JR: Take your time.

SM: Thank you. I've got to find it.

LC: Your Honor, may I approach the witness with the document?

JR: You may.

SM: I'm sorry, Your Honor, because they're, it's difficult. If Ms. Cumiford can show it to me.

JR: This is a history?

LC: Are these subpoenaed notes from your records, Dr. Zieman?

GZ: Yes, they are.

LC: So you validate the, or you agree to the validity of these as an accurate representation of your notes?

GZ: Yes. They appear to be direct photocopies of notes from my record.

LC: Okay. And did you at any point in all three of your evaluation reports, ever mention that there were any issues with past drug use, or any issues about Russell not being comfortable with Mr. Grant, his stepson.

SM: Your Honor, I believe this is outside of the scope of the . . .

JR: What does that have to do with the reasonableness of his fee, Ms. Cumiford?

LC: Your Honor, again, if I had had a chance to do an opening statement, I . . .

JR: Ma'am, you've made several in the course of this cross examination. Just answer that question. Relevance.

LC: I would have said that my objective is to show to the Court that very significant evidence . . .

JR: Objection sustained.

LC: . . . was left out of the reports and important information that I provided was not included so that Dr. Zieman misled the Court regarding the condition of the families.

JR: Those are pretty serious allegations.

LC: I know they are, Your Honor.

JR: I'm going to sustain the objection.

SM: Thank you, Your Honor.

LC: Let's go to the reasons for doing the evaluation update, the first one that you started with your letter on April 29th.

GZ: Okay.

LC: Was one of the reasons have to, did it have to do with claims by Mr. Grant that the phone calls were not being made as per court order? There were problems with phone calls?

GZ: I do not know. I conducted the update at the request of the Guardian *ad Litem* and if you wish we can refer to the Guardian *ad Litem*'s letter of instructions to me.

LC: You don't recall why you did an updated evaluation?

GZ: Why certainly I do – at the request of the Guardian *ad Litem*.

LC: And in the beginning of that, you asked, you sent out a letter on April 29th and asked the parties to provide to you information regarding how things were going. Is that correct?

GZ: That's true.

LC: Okay. And did you receive this document with is Respondent's N from Mr. Grant? Your Honor, may I approach with that document?

JR: You may.

LC: Do you recall that? And I have added to the back of it an update that I provided to you in our August meeting. Regarding the . . .

[several minutes of unintelligible conversation]

GZ: . . . during the phone calls. There were behavioral concerns on his part about your son's behavior during phone calls, and a report about the concern by the Guardian *ad Litem*, to which I've already referred about the videotaping of the telephone call.

LC: Now let's just go through this report a little bit, starting on page two at the updated events section. You made a claim that I refused to make an appointment with Dr. Silleroy. And when we met with you on August 8th, did I give you evidence that showed that I had made appointments?

GZ: I'll have to look. I certainly don't recall that evidence that you had made appointments with Dr. Silleroy.

LC: Okay. Let's go to your deposition, then. Deposition of August 15th . . .

JR: No. No. Ms. Cumiford, you may do that only if he's testified contrary to what he said on the witness stand.

LC: He doesn't recall something that . . .

JR: That's the only way that you're allowed to use a deposition in a court, unless the party is absent and more than 100 miles from the trial, so page . . .

LC: Okay. At our meeting on August 8th, let me just go through the deposition, we're on page 210. Okay . . .

JR: No. No ma'am. You have to show, you have to first cite the page, the line, and the question and then the answer that's inconsistent with the testimony.

LC: Okay . . .

JR: Otherwise, you're not permitted to just refer to depositions at random.

LC: Okay. So we've already covered the pathology, the matter of pathology being related to me not accepting the parenting plan and the fact that you were provided with that information that day. Is that correct?

GZ: I don't believe so, although I may be misunderstanding your reference to provided with that information.

LC: Were you told that we in fact filed a Motion to Adopt the Parenting Plan?

GZ: I was told that you had filed such a motion.

LC: Okay. And did you clarify that point at any time before the Court to correct what you had said earlier in your statements about me? Did you ever let the Court know that you found out different information about that point?

GZ: I don't believe I discussed that point anywhere, even though I learned that, I believed that was not your position . . .

LC: Okay. And then we talked about the Silleroy issue, didn't we? There was a question that you brought up in your updated events in your second, in your first Addendum from May 20th where you stated that I had been obstructive and I had not begun the recommended psychotherapy; I'd rejected Dr. Silleroy. Do you recall us speaking about that point at our August 8th meeting? Do you recall me handing you documents?

GZ: I do not. If you would like, I will refer to my notes from the meeting.

LC: Okay. Let's see, well let's just go to the deposition.

JR: No. You have to point out that witness has testified inconsistently in his deposition from what he's saying here on direct. And if you can do that, we will go to the deposition, and if can't we will not go there. You have seven minutes.

LC: Okay. Were you given information about, that corrected your opinion about the DUIs? Your Honor, all this has been covered in court testimony at trial. It's just the fact that Dr. Zieman is back again . . .

JR: That was your claim that Dr. Zieman's fee is unreasonable, not what's been covered in another trial. And you've got seven minutes left.

LC: Dr. Zieman, are there any information that you related as, any kind of information that you related as factual in either your first or second report that were clarified for you with evidence prior to your Second Addendum which was your third report, that you failed to notify the Court you had information countering your first reports on that subject? Did you ever go back about the DUI?

GZ: I'm not, I cannot say that I've gone back on every one of the issues that you have listed or might list . . .

LC: Was there any issue – feel free to look at your Second Addendum. If you need a copy I have it. Were there any issues in your May 20th report, any at all, that you cleared up in your August 11th report after we provided you with evidence? That would include phone calls, DUI, sexual abuse, Dr. Silleroy, what else was in the list? Karate, the cellular telephone, the Easter weekend. Were there any of those issues that you updated to the Court, after making your claims against me in the May 20th report, were there any of those issues, once we met with you and we provided you with evidence, that you bothered to go back to the Court and clear up, based on the new evidence you were provided?

GZ: I cannot do that from recall, Ms. Cumiford. If you would like, I will certainly compare my August report with my May report, and see which were listed and then go look at the evidence you provided. Because, of course, you provided rather large stacks of things during my depositions. And you may recall, some of the things I did not accept from you because I don't believe a deposition is a place to pass information to the witness.

LC: No. This was during our August 8th meeting, Dr. Zieman.

GZ: Okay. And you did give me some things during August 8th.

LC: And what do you recall that I gave you. Did I . . .

GZ: I do not have a recall for what you gave me during that meeting.

LC: Did I give you GYN records on myself?

GZ: I at some point saw some medical records regarding yourself. It may have been at that meeting. I simply can't recall . . .

LC: And what did I, and did I claim that I was sexually abused by Mr. Grant?

GZ: You made that claim during my times with you. I cannot tell you without referring to my records on what specific dates you made that claim.

LC: That's fine. And did you receive a second call from my therapist, Judy Borich, regarding that subject?

GZ: Let me check. Do you know approximately when this second call would have come?

LC: It would have been before the first evaluation was completed on March 14th.

GZ: I certainly spoke with Ms. Borich on January 24th, and, I'm not seeing a second call from Ms. Borich to me. You're saying it occurred before the March . . .

LC: Yes.

GZ: Okay. Maybe the 24th was not my first conversation with her, then.

LC: Let me ask you this question. What did, did she talk about sexual abuse of me?

GZ: Ms. Borich did speak with me about sexual abuse and your belief that you had been abused by Mr. Grant. Yes.

LC: And did she anything about what her opinion was?

GZ: I can check my records on that – by the way, I stand corrected. I do see that I spoke to her on the 14th of January, 2003 and the 24th.

LC: And did we have . . .

JR: Two-minute warning, Ms. Cumiford. You have two minutes left.

LC: Okay. Did we have a meeting where we discussed my sexual abuse past with Mr. Grant?

GZ: Yes. You, somewhere in the approximately January time period, I recall that you requested a time with me specifically because you wished to tell me about sexual matters that related to your relationship with Mr. Grant.

LC: And did I state that those were abusive? Was that the focus of the conversation?

GZ: Yes.

LC: And did I state that I was concerned about that because of our son?

GZ: I certainly would say you were certainly concerned about it. I don't recall necessarily being concerned about it because of your son.

LC: And at some point in time, you have testified that I gave you some GYN records about me for that time period. Is that correct?

GZ: I certainly believe at some point prior to my August report that you provided me with a gynecological or medical report of some kind. The contents I cannot recall.

LC: And are you a specialist in gynecology?

GZ: No.

LC: Did you consult with a specialist in gynecology regarding those records.

GZ: I did not.

LC: Did you make any attempt to investigate what those records showed and whether it was relevant to your custody evaluation?

GZ: I certainly looked at those and did not feel that for the recommendations I was being asked to make on parenting at the time in 2003 that your genealogical reports were a major factor that required further investigation as to the meaning of what your gynecologist wrote?

LC: And did you make any mention of that at all at any time in your testimony or in your multiple reports to the Court?

GZ: I don't believe that your gynecological records are mentioned in my reports. I cannot say whether there has been any reference in any testimony.

LC: What about sexual abuse of me? Did you ever mention that at any point in time?

JR: That's the last question [unintelligible]. Answer the question. We're done.

GZ: I cannot tell you without reading my reports whether they mention sexual abuse which is of course had been brought up by you. So I cannot answer that question without reference to the reports to see whether that is contained in them.

LC: Thank you.

JR: Thank you, Dr. Zieman. You may step down, but I'm going to ask you to remain here.

GZ: Okay.

SM: Your Honor, may I be allowed to cross examine?

JR: Yes sir. Ma'am. You may Ms. Little.

SM: Thank you, Your Honor. Now? Or after a break?

JR: Now.

SM: Thank you. It will be short. Dr. Zieman, in your first evaluation in March 2003 – I'll allow you to get that. What finding did you make as to which was the home that was more appropriate and a better home for Alex?

GZ: I believe that I made a very specific statement as to that fact. Let me find it here. I wrote on page eight of my March 14 report, page eight of the Family Psychological Evaluation, that report, I wrote, "of strong concern to this psychologist is the conclusion that Hank can better accept and support Alex' love for his mother and desire to live with her than Leslie can accept and support Alex' love for his father and desire to live with him." And I wrote, "A distinct concern is the psychological conclusion that Leslie will be emotionally rejecting of Alex in a very damaging way if Alex lives with his father and reports that he enjoys life in the paternal household." I then, in two paragraphs above, or, there is another statement along this line that I am looking for. Give me a moment. Ms. Little, I'm, I believe there is a statement that I'm not finding. I believe there was a statement, or it may be in the other report, that I stated that the Grant household was more stable than the Cumiford household, but I do not find that, so.

SM: What was your primary reason for recommending in the first evaluation that Alex remain with his mother?

GZ: Primarily the paragraph which I have just read out. My concern was that if Alex lived with his father, that while he would be in a very good household setting, that if he went to live with his mother, or with his father, sorry, that his mother would be so angry that she would be very rejecting of him for living with his father and would not be accepting of his simply enjoyment of life in living with his father.

SM: During the time of the first evaluation, the attempt at the second evaluation, was the second evaluation completed, the evaluation that we're referring to as the First Addendum, the May 20th evaluation?

GZ: No. As I reported in the beginning of this, I simply was thwarted in my ability to collect all the information that I requested and I could not do all the portions of

the evaluation that I requested and I noted that to the Court, that I could not do what I wished to do to complete that as thoroughly as possible.

SM: And you testified as to that evaluation in late May to Judge Walker. Is that correct?

GZ: That's correct. Yes.

SM: And she heard your testimony at that time.

GZ: Yes.

SM: And it was at that hearing that she sent Alex to Oklahoma. Is that correct?

GZ: That's correct.

SM: During, then, did you believe that Judge Walker ordered you to complete what you had begun from the second evaluation?

GZ: That's my understanding. Particularly the wording of her Minute Order which says to complete the evaluation.

SM: Did you receive all the necessary information to finally complete that evaluation?

GZ: Yes I did, finally, by the time we got to August.

SM: So you're, the Second Addendum, or what we call the third report, your August 11th report, was the completion of the report that began the update to the evaluation.

GZ: Correct.

SM: And you had a different recommendation in August. Is that correct?

GZ: Different from?

SM: As to where Alex should reside.

GZ: I had a different recommendation from my conclusion of March 2003.

SM: But you had, in May 2003, you also recommended that Alex reside in Oklahoma.

GZ: Correct.

SM: During the eval - Ms. Cumiford has asked you questions about information that she provided to you during that time. Did you find Ms. Cumiford to be an accurate reporter?

GZ: To say that I'm not sure that I can give a definitive answer to that question in that there were some things I could verify, some things I could not. I don't think I can give a yes/no answer to that question.

SM: Ms. Cumiford made allegations in the beginning to you that Alex had been sexually abused by his father. Is that correct?

GZ: That's correct.

LC: Your Honor, I object. I never made that . . .

JR: Overruled.

LC: . . . statement. That's been corrected a number of times.

JR: Overruled. I'm going to let you testify in a little bit.

SM: Did she ever . . .

JR: I didn't hear the answer to that question.

SM: I'm sorry.

GZ: Would you . . .

SM: I'll repeat the question. In the beginning of the evaluative process did Ms. Cumiford allege that Alex had been sexually abused by his father?

GZ: Yes, she did. I believe even to the point of writing it on one of my initial questionnaires.

SM: Did she provide information to you that she had taken Alex to a pediatrician to have him examined?

GZ: She called me about that. I may or may not have seen pediatric records, but I certainly was telephoned about such a pediatric visit.

SM: And were you aware that she also reported Mr. Grant to Human Services as to sexual abuse?

LC: Your Honor, this is outside the scope of whether I am paying fees. We're trying this case all over again here. This is not about what he is reporting . . .

JR: I'm going to . . .

LC: . . . reporting. We're now into . . .

JR: . . . sustain.

LC: . . . what I said at other places. . .

JR: I don't want a speech. I'm going to sustain the objection. Let's move on.

SM: Thank you, Your Honor. Did Ms. Cumiford ever recant to you any allegations of sexual abuse?

GZ: I'm pausing because I do not recall them being recanted. To be 100 percent certain I would need to refer to my notes from August 8 to see if there was anything in the August 8, but to the best of my belief, no.

SM: Ms. Cumiford provided information to you that Mr. Grant had been convicted of numerous DWI's. Is that correct?

GZ: I believe your question was that she provided me with information?

SM: Yes.

GZ: I do not recall any information received other than a statement that he had DWIs.

SM: Did you receive information from Mr. Grant as to Ms. Cumiford's claims of sexual abuse of her by him?

GZ: I certainly did ask him about that, and he was responsive to my questions.

SM: Did you believe that there had been any sexual abuse of Ms. Cumiford by Mr. Grant?

GZ: I concluded that I really could not determine. I mean, we were talking about incidents in their relationship which were some time past, where I had each of their verbal reports, and I did not believe that I could reach a conclusion as to what had occurred during their relationship with regard to sexual matters.

SM: Dr. Zieman, you testified that you began the second, the update to the evaluation in March based on a request by Frank Spring, the then Guardian ad Litem.

GZ: That's correct, except the date was, I began after April 25th, 2003.

SM: After April 25th. Do you, were you provided with any order from Frank Spring that allowed him to make recommendations to the parties and that it was to be followed, the parties should follow the recommendations of the Guardian ad Litem pending further order of the Court?

GZ: Yes. I was aware, and I have somewhere a copy of a order of the Court that I believe comes from February 2003 in which the parties are instructed to follow the directives of the Guardian ad Litem.

SM: So did you feel it was necessary for you to get an additional order from Judge Walker to continue with the evaluation?

GZ: No.

SM: You referenced a February letter from Peter Johnstone to you.

GZ: I believe I referenced a letter that I sent to Mr. Johnstone.
SM: That you sent to Mr. Johnstone. Could you read that letter to us?
GZ: Sure.
LC: Don't we have to establish validity, Your Honor? I'm sorry. I should have stood up.
JR: Do you have a copy of that letter, Ms. Cumiford?
LC: I do not have it here with me. That's why I'm asking. . .
JR: Alright. Madame Bailiff?
LC: . . . Can we establish whether it's a valid letter?
JR: Take the letter. Show it to Ms. Cumiford. And then once she's seen it, if you have some objection to make, Ms. Cumiford, the Court will hear it.
LC: Thank you, Your Honor.
JR: You're welcome.
LC: Thank you. Your Honor, Mr. Johnstone provided me with a complete record of my legal file and it did not contain this letter, so I do not agree with the validity of this letter. There . . .
JR: Well . . .
LC: . . . is no indication that it was ever mailed . . .
JR: Well . . .
LC: . . . and my attorney never told me about it . . .
JR: You're entitled to cross examine the witness about it. Can you lay some foundation, Counsel, . . .
SM: Thank you, Your Honor.
JR: . . . with regard to the letter.
SM: Dr. Zieman, you testified earlier that there was correspondence you sent to Mr. Johnstone in February of 2003, Mr. Johnstone, Ms. Cumiford's attorney at that time. Do you have a copy of that letter?
GZ: Yes, I do.
SM: And where did you retrieve that letter from?
GZ: That letter has come from my files of events during the different evaluation processes.
SM: Is the letter that you have in front of you a true and correct and accurate copy of what you sent to Mr. Johnstone?
GZ: Yes, and I believe it was also sent to Ms. Cumiford, Mr. Spring, and yourself.
JR: Proceed.
SM: Thank you, Your Honor.
LC: Your Honor, I object. Mr. Johnstone isn't here to validate that. It was not part of the legal file. . .
JR: Objection is overruled.
LC: There is no evidence that it was ever sent.
JR: The witness testified he sent it. He's testified that that copy of the letter he's pulled out of his file is a business record. And so it's, he's going to be allowed to read from it.
SM: Would you please read that letter, Dr. Zieman?
GZ: Yes. I'm writing to you because your client, Dr. Cumiford, has become unresponsive to requests by me to complete the evaluation in process. In January,

specifically, in a January 16 email and the next week at her home visit, I informed Dr. Cumiford that all which remained to be scheduled were a joint meeting between her and Dr. Grant and a final meeting for each parent. You will recall that scheduling the joint meeting was so difficult I finally called you and you stated you would see that Dr. Cumiford came to my office on February 13, which she did. After the February 13 meeting, I reminded her in person that she needed to schedule her final appointment. She stated that she needed to talk with you before scheduling. I emailed her two days ago with a reminder to schedule her time and have received no response. Earlier in the evaluation, Dr. Cumiford was very responsive to all forms of communication but has become nonresponsive. If she does not call by February 28, 2003 and schedule a meeting in a timely fashion (within ten days of the first appointment times offered to her) I will be forced to write directly to the Court with a notice of noncompliance. Then my signature.

SM: Your Honor, I would move that as Petitioner's Exhibit 1 to this hearing.

LC: I object, Your Honor.

JR: Dr. Zieman, would you take that letter out of your file and hand it to the reporter, and Madame Reporter, will you mark it as Exhibit 1? You have an objection to its admission, Ms. Cumiford?

LC: Yes, I do, Your Honor. There is no evidence . . .

JR: State what it is.

LC: . . . Pardon me?

JR: State your objection.

LC: The authenticity has not been validated by the recipient.

JR: It doesn't have to be. It's been authenticated by Dr. Zieman as a business record. Copy.

LC: Well I object. It has never shown up as part of the legal file or anything. There is no evidence in the legal file that it exists, of Peter Johnstone's.

SM: Your Honor, I . . .

JR: Objection's overruled.

SM: Thank you, Your Honor . . .

JR: Let's move on.

SM: I would ask that the . . .

JR: Admitted. One's admitted.

SM: . . . that . . .

JR: And this is a letter to Mr. Peter Johnstone signed by Dr. Zieman, dated February 21, 2003. It says courtesy copy, Leslie Cumiford, PhD, Frank Spring, Esquire, Sandra Morgan Little, Esquire.

SM: Thank you, Your Honor. I'm going to ask that a copy of that be placed in the Court file, if that is Dr. Zieman's original. If that's possible.

JR: It's possible.

SM: I don't have any other cross, Your Honor.

JR: Okay.

LC: I just have one question, Your Honor.

JR: Alright.

LC: You stated in your earlier testimony that I made allegations that Mr. Grant sexually abused Alex. Is that correct?

GZ: That's correct?

LC: Are you sure? Could it have possibly been that I said I was concerned about that issue?

GZ: It's certainly possible that you used the phrase that you were concerned that he was sexually abusing your son. But certainly you asked me in a telephone call early in the evaluation to on an emergency basis see your son because you believe that he may be sexually abused and that you were going to take him to the pediatrician and you certainly were asking that he be seen because you thought he was going to Oklahoma where sexual abuse was occurring . . .

LC: I said that sexual abuse was occurring in Oklahoma?

GZ: I believe I said you believed was occurring?

LC: Did I say I was concerned or I believed . . .

JR: That's four questions, but I'll let you go on a little longer. Go ahead.

LC: Did I say I was concerned or that I believed it happened?

GZ: I would have to refer to the records to know whether you said you were concerned or you believed. If that is important to you I will check the record.

LC: Another question, Dr. Ziemann. Hypothetically, if you did have a woman in your office who, hypothetically, was sexually abused for, over a period of time, by the person that ends up being the parent of her child, would it be a normal, natural outgrowth of that experience for her to express a concern about that kind of victimization going on to her child? Is that normal or would that be way outside of bounds for somebody who hypothetically has been sexually abused?

GZ: Given your hypothetical question, it would not be, it would not be abnormal or way out of bounds for a woman in that situation to question.

LC: And if, hypothetically, a woman was in that situation, and her gynecologist, after she asked him some questions, referred her and told her she needs to get across the hall right away and get her son into a pediatrician, would that be, would it be strange for her to follow that directive? If he called from his office to set up the appointment? Should she have walked away?

GZ: It would not be unusual under the hypothetical presenting, if the woman's gynecologist requested an evaluation by the pediatrician.

LC: Thank you. Your Honor, I request that we let Dr. Anne Rose go next . . .

JR: Just a minute, now, Ms. Cumiford.

LC: I'm sorry.

JR: Dr. Ziemann, thank you for testimony. I'm going to ask that you be seated at that third table there.

GZ: Okay. Thank you.

JR: Alright. Ms. Cumiford, I'm going to give you an opportunity to testify upon your oath concerning what reasons you have for disputing the bill.

LC: Thank you, Your Honor.

JR: And so, if you'd like to do that at this time, I'd ask that you raise your hand and be sworn.

LC: Your Honor, may I please request that Dr. Rose go next? It's costing us a lot of money to have her here.

JR: Oh, money appears to be no object in this case! But I, if you're going to try to prove perjury, you need to know what the elements of proof are. They're set forth

in the New Mexico Uniform Criminal Jury Instructions, number 14-2501. You have to prove three things to establish a prima facie case of perjury and ever get the charge to the jury. And you have to prove these things beyond a reasonable doubt. One, you have to prove that the person made a false statement under oath. Two, that the person who made the statement knew the statement was false when he made it. And three, that the false statement was material to the issue in the judicial proceeding, and the statement had a natural tendency to influence the decision, that this happened in New Mexico.

LC: Alright, Your Honor . . .

JR: Now if you're going to waste my time, and you don't have evidence of that, I'm not going to be very pleased. But we're going to finish these hearings today.

LC: Your Honor, this . . .

JR: Have a seat, call your witness.

LC: Okay. At this time I'd like to call Dr. Anne Rose to the stand. And I'd just like to clarify, Your Honor, I'm not asking her to prove perjury, but we are speaking to the results of the evaluation. . .

JR: No, you told me that this witness committed perjury.

LC: I did, but that's. . .

JR: And I, when you make a statement like that in this court, it's a serious allegation the Court doesn't take lightly.

LC: I understand, Your Honor . . .

JR: Dr. Rose, will you please stand and raise your right hand and be sworn. Do you solemnly swear that the testimony you will give to the Court will be the truth and nothing but the truth, so help you God?

AR: I do.

JR: Thank you very much. Be seated, please. State your name.

AR: Anne Rose.

JR: Thank you. Proceed, please.

LC: Thank you, Your Honor. I'd like to start by asking Ms. Morgan Little, at one point in time in the past . . .

JR: No, no, no. Ms. Cumiford . . .

LC: . . . we stipulated to her credentials . . .

JR: You're not going to ask, you're not going to ask any questions to anyone but the witness.

LC: Okay. Well, I'd like to find out whether we can stipulate to Dr. Rose's credentials as we did at trial so that we can save some time.

SM: Your Honor, I don't know what she's going to have Dr. Rose testify to, so I don't know what she's asking for Dr. Rose to be considered an expert at.

JR: So the answer is you're not willing to stipulate?

SM: I'm not willing to stipulate.

JR: Alright. Let's proceed, please.

LC: Okay, Dr. Rose, good afternoon.

AR: Hello.

LC: Let's see, do you have a PhD in clinical psychology?

AR: Yes, I do.

LC: And are you licensed as a psychologist by the New Mexico State Board of Psychologist Examiners?

AR: Yes.

LC: And have you been for some time?

AR: Yes I have, since 1982.

LC: And do you have, do you hold an American Psychological Association Certificate of Proficiency in treatment of alcohol and other psychoactive substance abuse disorders?

AR: Yes, I do.

LC: And that's current at this point in time?

AR: Yes.

LC: And do you regularly appear as an expert witness forensic psychologist to testify about psychological test results?

AR: Yes, I do.

LC: I would like to submit that Dr. Anne Rose is qualified as an expert to testify in the questions I am about to ask her.

JR: To testify on interpretation of psychological test results?

LC: And on the drug Temazepam and its effects.

JR: She didn't testify she has any expertise on anything other than interpreting psychological test results and that she's proficient in holding a certificate in drug and alcohol abuse.

LC: Psychoactive substance use. Dr. Rose, would that . . .

JR: Does that have any, do you have any pharmacology, Dr. Rose?

AR: There is training in pharmacology that is part of the certification that I have. It's an examination that one has to take and many of the questions have to do with that, so.

LC: And would that include the class of drugs benzodiazepenes?

AR: Yes, benzodiazepenes. Yes.

LC: Benzodiazepenes. Thank you. Obviously, I am not an expert in benzodiazepenes. Let's see. So are you familiar with the drug Temazepam?

AR: Yes, I am.

LC: And is it an addictive substance?

AR: Yes, it is.

LC: How, can you describe that a little bit more fully?

AR: It's a member of the class of drugs called benzodiazepenes that act on the body in such a way as to create dependence over time. It's a Class IV drug which means the FDA considers it to be highly addictive and regulated.

LC: And how is it related to the substance Valium?

AR: Well, Valium is also a benzodiazepene. So they're both members of the same class. When you have a drug [30-second period unintelligible on recording]. Temazepam is usually prescribed for short-term use. If you use it longer than two weeks, say, for most people, now everyone's different, but for most people, if you use it longer than two weeks, you're likely to have two things happen. You're likely to have the effectiveness of it diminish, but you're likely to develop a physiologic dependence so if you try to stop taking it you have rebound effects. So if a drug is a sleeping pill, then you'll have trouble sleeping if you try to get

off of it. In fact, it's more dangerous to get yourself off of a diazo, a benzodiazepene than it is, say heroin. It's harder to withdraw.

LC: Okay. So, would you say, then, a person would experience classic withdrawal symptoms?

AR: Most of the time, yes.

LC: And hypothetically, if you were on a case and you had a court-appointed expert taking . . .

SM: Your Honor, I don't believe, I don't believe this witness has yet been accepted as an expert, and I don't believe she can answer a hypothetical . . .

JR: No, I don't know what the Cum, the hypothetical is. So let's let Ms. Cumiford . . .

SM: Okay. Thank you.

JR: . . . recite the hypothetical, and then make your judgment.

SM: Thank you.

LC: Hypothetically, if you had a person performing as an expert that would affect decisions, say, a court expert on a case where you were a litigant, would you be comfortable with a person taking that dosage of that drug over that period of time? With the conclusions and things, would you have any concerns about side effects?

SM: Your Honor, I'm going to object to the question. This witness has not been accepted as an expert, and a hypothetical has been given to her as to whether she would be comfortable as to a litigant, something happening with a litigant. I don't believe she certainly has been qualified as an expert in that area.

JR: Well, I think the central inquiry, you produced a transcript, Ms. Cumiford, of the proceedings that were held in this court in June.

LC: Yes, Your Honor.

JR: . . . that have, that form the basis for that hypothetical.

LC: Okay, I will, Your Honor. . .

JR: Go to the page references that support the hypothetical fact in the question you are asking.

LC: Thank you, Your Honor. Okay. I'm referring to Respondent's K, which is a transcript. I wanted to point out, in page two of this transcript, it says, "June 29, 2003".

JR: Is this the transcript of, it says, "per Leslie Cumiford who provided the tape to be transcribed" and it says, "index . . .

LC: No, that's a different one, Your Honor. This one is Respondent's K. That was of a meeting on the 16th of June last year with Dr. Zieman.

JR: Okay. And that's in the two that you gave me? Is that right?

LC: Yes. It's Respondent's K.

JR: Okay. And the page reference to the thirty milligrams a day is where?

LC: Okay. Let's see. Just a second, Your Honor. Here it is. Let's see. It is on page 37.

JR: Okay. I don't see any thirty milligram reference here.

LC: May I approach the witness, Your Honor?

JR: Where is the thirty milligram reference?

LC: Your Honor, may I approach the witness with a copy of this document while we talk about it?

JR: No. You're going to have to satisfy me . . .

LC: Okay.

JR: . . . that there is evidence in this transcript of the hypothetical facts that you're asking this witness. Where is the reference to thirty milligrams?

LC: Okay. Let's see. At the top of page 37, and we talk about Temazepam, and then . . .

JR: And the witness says, "I do not."

LC: . . . and then if you move . . .

JR: You asked, "Do you take Temazepam." And the answer is, "I do not."

LC: . . . and if you go down a few more lines to about the sixth line, Your Honor, I say, "Did you, at the time you were an expert on this case, taking it." And he says, "Yes."

JR: Right. Right. Okay.

LC: Okay. I asked him if it is a deriv . . .

JR: But where's the basis for your testimony, your hypothetical, that this witness has been taking Temazepam, thirty milligrams, for a considerable period of time.

LC: Okay. If you keep going through the page, I ask him if it's a derivative of Valium and he says, "No." I asked him if it's an addictive medication and he says, "No." I asked him how much did he take at that time and he said, "One tablet, one standard tablet at bedtime." And I asked him how often and he said, "Most nights at bedtime."

JR: Okay.

LC: And I asked, "For how many years did you take that medication at that dosage?" And he says, let's see, "A few years prior to then. I don't know the exact timing of it." In his deposition, he states more clearly how he uses that drug. Let's see. And so he's already testified . . .

JR: You don't have a basis to ask about 30 milligrams.

LC: Well, if you go on the top of page 38, the second line, his testimony is the same as the deposition. "I'm going to talk about the medication. The impact that a 30 milligram . . ."

JR: No, that's not him. That's you. LC: "His testimony is the same as the deposition. I'm going to talk about the medication, the impact that a 30 milligram a day on an individual." Show me where Dr. Zieman says that as opposed to you.

LC: There was a fire alarm that interrupted the answer to his question on that. I do have that in deposition. He has stated that on the record before as well, Your Honor, at trial. . .

JR: Do you have page and reference?

LC: We weren't allowed to make a transcript of the trial. It's still a Court Order that we cannot make a transcript of the trial in August.

JR: Well, a deposition isn't a trial.

LC: Oh. The deposition? Sure. I'd be happy to do that. It is in the August 15th deposition.

JR: Page and line?

LC: It is page 150 which is about two or three pages in. "What is the medication?" He says, "Temazepam." "Is that similar to Valium?" "It's in the same class of medications." "And did you take any of that today?" "No." "Did you take any of it last night?" "Yes." "How much did you take?" "Thirty milligrams." "Have you

taken it routinely?” “Not on a daily basis, but frequently” And he testified the other day that he took it . . .

JR: Alright.

LC: . . . fairly, every day.

JR: I’ll allow you to ask a hypothetical within that testimony in that deposition.

LC: Thank you, Your Honor.

JR: And you’d better include in that hypothetical to the doctor that it’s prescribed medication.

LC: Pardon me, Your Honor?

JR: That it’s prescribed.

LC: Yes. Hypothetically, Dr. Rose, knowing what you know about this drug and its side effects and impacts, would you be comfortable, if you were a litigant in a case, and there was a court expert who is taking Temazepam at 30 milligrams and has for several years on mostly a daily basis, would you be comfortable that he was able to do a viable evaluation to recall things that had been told to him and to properly report it back to the Court?

AR: If I were a litigant?

LC: Yes. If that was going to impact you.

AR: If that was going to impact me I would be concerned.

LC: And why would you be concerned?

AR: Some of the side effects that are actually cumulative over time with continual ingestion of Temazepam have to do with memory problems and confusion and actually brain cell death after a while, depending on the dose. And it’s individual. It depends on the person as well. People react differently to drugs. But in general, I would be concerned if it were affecting me. Yes.

LC: Okay. And would you object to that person being used as a court expert on that basis?

AR: Again, if I were a litigant.

LC: Yes.

AR: I guess I can say I would prefer that an expert testifying in a case I was a litigant in was not on any psychoactive drugs.

LC: Okay.

AR: Not on any benzodiazepines. Some psychoactive drugs, antidepressants and so on, don’t have those effects.

LC: Okay. Thank you. I have just a couple more questions. Let’s see. I’d like to give you a copy of the transcript of proceedings, official transcript from June 29, 2004. That’s Respondent’s K. May I approach the witness, Your Honor?

JR: Why don’t you just read from the transcript . . .

LC: Okay.

JR: . . . because we’re going to be finished here in 40 minutes.

LC: Okay. On the bottom of page 29 is what I’m referring to.

JR: Alright. And do you have a question that pertains to this witness or is this something that . . .

LC: It’s something that I’d like to ask the witness about rebuttal information on.

JR: Alright. Go ahead.

LC: Okay. Again, I want to ask you a hypothetical question. Let's see. Let me just ask the hypothetical question and then I'll refer to the hearing. If there was a patient that you were working with and you were ordered to be an expert in a case, and they scored a 93 percentile on the scale, the psychosomatic scale for, would that be on the MMPI?

AR: There is no psychosomatic scale on the MMPI. There's a psychosomatic profile, the conversion V. But the scale on the MMPI that measures somatical kinds of things is called "hysteria".

LC: Okay. And I believe Dr. Zieman referred to the hysteria scale, and then changed his wording there.

AR: I'm not sure what he's referring to.

LC: So hypothetically, if we were referring to the hysteria scale, and you had an evaluation to do, and you found that they tested at the 93 percentile level, is that something that you would feel belongs in the report back to the Court about that patient?

AR: Yes, . . .

JR: Just a minute. Ms. Cumiford, I'm not going to let you proceed with this. If you haven't shown this witness the psychological evaluation, the instrument that you're talking about, the test result, I'm not going to let her . . .

LC: Your Honor, I'm asking about any individual that scored 93 percent on that scale.

JR: This, nothing about 93 percent on this scale, on this page you cited. Show me.

LC: It's on the top of page 30, as he further elucidates what I was talking about.

JR: He, referring to Mr. Grant, he, scored up to ninety- [unintelligible] seven percent of the population. And those in his group tend to score that level or higher. So he's in the upper seven percent of the population.

LC: Right. And I'm asking . . .

JR: What is your question?

LC: I'm asking the question about the significance of a score at that level, and a person reporting back to the Court as an expert on that kind of a score, whether that is a significant score to report.

JR: Well, you'd better establish that she's done custody evaluations first.

LC: Dr. Rose, have you, do you have any experience in performing custody evaluations?

AR: Yes.

LC: Okay. And how long did you, were you involved in that?

AR: I believe, I stopped performing custody evaluations about ten years ago, but I did them for ten years, and I now do all kinds of other evaluations, but not custody.

LC: Okay. And do you use the MM . . .

JR: Just a minute. Did you say you did not do custody evaluations?

AR: I don't any more. I did for ten years.

JR: Okay. I'm sorry.

AR: Yeah.

LC: Okay.

JR: Go ahead.

LC: So hypothetically, if you had a patient test at 93 percentile on the hysteria scale, would you think that was information that should be reported to the Court?

AR: That's a, first of all it's not a percentage. It's a T-score. They're different from percentages, so the correct terminology is a T-score. If someone scored at the 93rd T-score I would be very concerned. That is not a minor elevation. Anything above 65 is considered pathologic.

LC: What are the implications of a 93 percent or T-score in the hysteria scale?

AR: Well again, it depends on what other scales might be elevated. There are all kinds of other issues. But I can certainly state that an elevated hysteria scale at that level indicates extreme denial of emotion, extreme denial of any kinds of psychological, emotional, psychiatric issues and usually what happens is the person in that denial sometimes develops extreme physical symptoms.

LC: Are there any other . . .

JR: Doctor, excuse me. Doctor, what you weren't told is that in that same transcript that Dr. Zieman testifies that Ms. Cumiford's profile . . .

LC: I'm getting to that, Your Honor.

JR: . . . also shows an elevation to the same level, at the 93rd percentile.

LC: I'm getting to that, Your Honor. He actually claimed that on a different scale. If you would allow me . . .

JR: Okay. I'll give you another five minutes, and then we're done.

LC: The pa [unintelligible for ten seconds]

AR: Yes, that's true.

LC: And then you gave me a battery of tests that included some that he took and others that he didn't give. Is that correct?

AR: Yes.

LC: Okay. That he gave me. And were there any indicators in any of those test results of either narcissism or pathology on my part?

AR: No.

LC: None at all?

AR: None at all.

LC: Okay. Was there anything in the test results that came from Dr. Zieman, well, I guess you already answered that. There was no indicator in the results that Dr. Zieman had of either of those two.

AR: There was nothing elevated to the 93rd percentile. Certainly not hysteria.

LC: Okay. My last question then . . .

AR: Excuse me. You were elevated in defensiveness . . .

LC: Defensiveness.

AR: . . . as he mentioned. Yes.

LC: And I think that we all agree that we were both elevated in defensiveness.

AR: Yes.

LC: Let's see. Okay. Dr. Zieman made a claim that the same level, the 93rd percentile, the elevation in her case relates to overt hostility scale, which is a scale which tends to suggest individuals who tend to hold in anger and then it comes out in outbursts. Were there any, I think you already answered this, but were there any scores of mine on either battery of tests that were anywhere near the 93rd percentile level on anything?

AR: No.

LC: What was the highest level you had on any score?

AR: On the MMPI?

LC: Mm-hm.

AR: The highest was a defensive measure which was at the 74th?

LC: Is that typical for someone undergoing a custody evaluation?

AR: In my memory, yes it is. It's not atypical, certainly.

LC: Okay. And is there any scale that relates to overt hostility?

AR: Yes, there is. It's overcontrolled hostility is the scale he's referring to. And I think, now, this is the readout. I sent Dr. Zieman's scores to Caldwell reports which gives the most in depth, in my opinion, the most in depth interpretation, and I can't find what I'm looking for here, but. . .

LC: Well, if we just . . .

AR: Overcontrolled hostility. I think yours was at, as I said, anything over 65 is significant. Yours was at 66, which is a very minor elevation.

LC: So it wasn't anywhere near the 93 percentile. . .

AR: No.

LC: . . . or the 93. . .

AR: No.

LC: . . . on the scale. Okay. And so was there any reason then, do you think Dr. Zieman, based on the scores you've seen that he had, did he have any reason to support his claims of overt hostility?

AR: Aside from that one-point elevation, I didn't see anything. Now I looked at what tests he did do. The other test was a Milan inventory of personality styles. That doesn't measure any of those issues. I couldn't see it.

LC: So once again, hypothetically, if you have a court expert who is claiming that someone got a 93 percentile elevation in that area when they in fact only got a 66 percent elevation, would you say that was a gross misstatement of the facts?

AR: Well, I wouldn't know how to explain it. Unless there's something I haven't seen, I don't see any evidence here of a 93rd . . .

JR: Both same or different tests?

AR: They're the same test.

JR: Okay.

AR: Yeah.

JR: And interpretations.

AR: Yes. The same test. I gave the same test out to . . .

JR: Alright. You gave a test, and Dr. Zieman gave a test. . .

AR: Yes.

JR: You're testifying that your test results . . .

LC: No.

JR: You interpret them differently than Dr. Zieman?

AR: No. No, no. I have Dr. Zieman's results.

JR: Okay.

LC: She's testifying over both batteries of tests. . .

JR: Alright.

LC: . . . and when she said my scores . . .

JR: What does this have to do with the reasonableness of Dr. Zieman's fee?

LC: Because I am attempting to prove to the Court that Dr. Zieman regularly and . . .

JR: Well, that's enough. That's enough.

LC: I have one . . .

JR: One more question.

LC: . . . more question. . . .

JR: And that's enough.

LC: One more question. Dr. Rose, you appeared at the trial of the merits in this case last year on August 22nd, I believe it was, 2003?

AR: I don't recall the exact date, but I did appear at the trial, yes.

LC: And during the trial, you had my test results and interpretations, both sets of test results, is that true?

AR: Yes.

LC: And did Judge Walker order you to release those results to Frank Spring and Sandra Morgan Little during a recess?

AR: To show them. Yes.

LC: And were they given an opportunity to look at all . . .

JR: That's it.

LC: . . . those results?

AR: Yes.

JR: That's it. That's totally irrelevant. Thank you, Dr. Rose, you may step down. Uh, I have some questions.

AR: Of me?

JR: Yes

AR: Okay.

JR: How much, you were, you were hired by Dr., by Dr. Cumiford . . .

AR: I'm sorry?

JR: You were hired by Dr. Cumiford to be a witness in this case on her behalf. Is that right?

AR: I was actually, it was requested by Mary Han, an attorney who I know.

JR: Represented Ms. Cumiford.

AR: She, I don't know if she ever did. She was considering it to do an independent evaluation of Ms. Cumiford.

JR: Okay. And did Ms. Cumiford pay you?

AR: Yes, she has.

JR: And what do you charge an hour for forensic work?

AR: My forensic fees are \$225 an hour. Well, let's see, last year, it was \$200 an hour, plus tax.

JR: And now it's gone up to \$225?

AR: \$225 for evaluation. My court time is higher.

JR: What is your court time?

AR: It was \$350. It is now \$375.

JR: Okay. And as I understand it, did you ever speak with another psychologist that was brought into this case on Ms. Cumiford's behalf, Dr. McIver?

AR: I gave my test results to Dr. McIver and I believe we spoke briefly.

JR: And she was also a psychologist brought into this case by Dr. Cumiford.

AR: I don't know who brought her in. I know she regularly does evaluations of this type.

JR: Thank you, Dr. Rose. You may step down. Ms. Cumiford, I'm going to give you a fifteen-minute opportunity to testify . . .

SM: Do I get to ask . . .

JR: No. Nope. If you'd like to. Thank you. You're excused.

AR: Thank you.

SM: Thank you, Your Honor.

JR: I'd like you to raise your hand and be sworn. Do you solemnly swear that the testimony you'll give to the Court will be the truth, the whole truth, and nothing but the truth, so help you God?

LC: Yes, I do, Your Honor.

JR: Thank you. You may be seated.

LC: Thank you, Your Honor.

JR: And state your name. I'm going to give you fif-, I'm going to give you ten minutes to tell me why in your own words you think that this fee is unreasonable and shouldn't be paid by you.

LC: Thank you, Your Honor. Should I also include my argument as well as testimony or do I get a separate opportunity for that?

JR: I'm going to allow you an opportunity to make a written closing argument. . .

LC: Oh, thank you, Your Honor.

JR: . . . because we're going to finish this case today.

LC: That would be great.

JR: Okay.

LC: Okay.

LS: Your Honor, is it possible I could be excused for just a moment?

JR: Yes. Most certainly. Go ahead. Thank you. Go ahead, Dr. Cumiford.

LC: Would you like me to go ahead? Thank you, Sir. Let's see. I think we've already covered the fact that I paid in full for Dr. Zieman's first full custody evaluation. It was deemed completed, and the Court heard the Motion to Adopt on . . . What date was that? On April 29, 2003, and at that time Mr. Grant's counsel objected to adopting the plan, stating that they wanted a deeper analysis and that they wanted a full trial and needed more exploration of the issues. Subsequently to that I received the April 29th letter from Dr. Zieman. I responded quickly, and I think the May 3rd letter has already been put into evidence. And at that time I was *Pro Se* counsel for myself, Your Honor.

JR: How many attorneys have you had? In this case?

LC: I have had three. Two said they didn't want to continue because of the complexities of the case . . .

JR: Okay.

LC: . . . with Frank Spring and Dr. Zieman and all the things that were happening, they did not enjoy battling that issue.

JR: Okay. Go ahead.

LC: Let's see. So I was acting as my own attorney *Pro Se* at that time. I responded in a timely manner and stated to Mr. Spring and copied that to Dr. Zieman that I thought we should not proceed with an evaluation. There was no order of the Court. That issue was brought up on April 29th that opposing counsel wanted to delve into more detail, and the Court did not issue an order at that time to do an

update of the evaluation. Nevertheless, in spite of my objections, Dr. Zieman proceeded with a one-sided evaluation. He met with Mr. Grant. He never did go back to the Court to clarify what his role was, as he testified earlier. And, so he proceeded to question Mr. Grant and Mr. Spring, and wrote his evaluation on that basis. I did not receive his report . . .

JR: But how could he consider what you had to say if you wouldn't meet with him?

LC: Well my objection was to the whole update. . .

JR: I know.

LC: . . . it was never ordered by the Court. . .

JR: But you wouldn't meet with him, and then you're here to complain that he was incomplete because he didn't meet with you. I don't underst. . .

LC: I filed a Motion for Clarification to the Court on this issue. It was never heard. The judge never set it for hearing. And then the next thing I knew, Mr. Spring appeared at my doorstep and taped to my door a very threatening Emergency Motion to Transfer Custody, five days before the hearing was held on May 21st. Dr. Zieman had not stated to me he was planning to issue any kind of report at that point. At 8 p.m. on May 20th I received an email containing the contents of Dr. Zieman's report. The hearing to transfer custody of my son was the next morning. So I had no attorney at that time. I had no time to even read and respond to his allegations in the May 20th report. The hearing was held. I was given no opportunity to provide evidence, no opportunity to provide testimony. And Dr. Zieman testified extensively to the seven or eight, we call them the "seven sins" in the closing argument, they were referred to as the "seven sins". All of those seven things were refuted with evidence at trial, and Judge Walker concluded in her closing, in her judgment statement on August 25th, with tears in her eyes, that this family seemed to be fine until the court system got involved. And at that . . .

JR: How many psychologists have you personally involved in this case, Ms. Cumiford?

LC: I'm sorry. I couldn't hear, Your Honor.

JR: How many psychologists have **you** involved in this case? How many have you brought in?

LC: Just Dr. . . .

JR: Dr. McIver,

LC: . . . just Dr. McIver. At that point I had to refute the recommendations from Dr. Zieman. . .

JR: No, just how many?

LC: Dr. McIver, for just a quick review of the evaluation. There was no time to do a cust-, a full second custody evaluation . . .

JR: And then Dr. Rose.

LC: And then Dr. Rose on the . . .

JR: And Dr. Zieman.

LC: . . . test scores. . .

JR: Because you stipulated to his appointment, right?

LC: That's true . . .

JR: All three, **you** voluntarily did, right?

LC: Actually, at the first hearing on this case, Ms. Morgan Little insisted that we have an 11-706 expert. And if you go back to the record on that case, I stated to the judge that I thought we ought to mediate, that there wasn't a need for a custody evaluation at that time. It wasn't until Ms. Whitefield became my counsel in September, that she really pressured me to get an 11-706 expert, and that's how that Stipulated Order came about. So my original intent was that to update a parenting plan. In fact, email evidence submitted at trial showed me repeatedly asking Mr. Grant, "Why don't we just update the plan? What do you want?" And there was some haggling going on over all that. And instead of trying to work out the plan, he filed suit against me. So there were multiple opportunities. Well, let's see. I want to get back to the Zieman issue. So Dr. Zieman completed that report with no input from me, provided testimony, our eight-year-old son was taken out of school in the middle of the day and moved to Oklahoma, and I was ordered out of my house while Mr. Spring and Mr. Grant went into Alex's room and took belongings from it and moved him out. After that time, based on Dr. Zieman and Dr. Spring's recommendations, my communication with Alex was severely limited. He was given an egg timer when he was on the phone with me, and when it dinged he was required to hang up. He had had an email account, and I provided Dr. Zieman with evidence that that email account, Mr. Grant would no longer let Alex use it, and he was insisting that all emails go through his account. Dr. Zieman never mentioned that evidence that I provided to him in his updated evaluations or that there were any concerns about preventing or hindering the mother-son relationship. Also at trial, it was ample evidence, and I think I've given you evidence since, Your Honor, that I've been more than willing to inform Mr. Grant of child-related events, even inviting him and giving him names and addresses and times and places. I believe that Alex needs two parents, and that he will be damaged if both parents aren't active in his life. So, you know, once I was able to see that my concerns about what might happen to Alex, he hadn't spent a lot of time with his father prior to this case. And so I had some natural concerns about sexual abuse, given the fact that I was sexually abused by the same person. But it appears at this point that there has not been any factual basis to continue to support those concerns at this point. And I have not voiced those to the Court. I do want to testify specifically, that I never, at any time, and in fact I stated this in open court on April 29th, 2003, never at any time accused Mr. Grant of being a pedophile, or of actually sexually abusing our son. Every time I mentioned it, it was simply a concern that I had. So I don't think it's reasonable for us to have to pay for an evaluation that Dr. Zieman concluded without even going back to the Court for clarification as to whether that needed to be done. There was a follow up evaluation, and that was ordered in June by the Court at the request of my attorney. The reason that was necessary was because Dr. Zieman went from recommending a parenting plan where I remained the primary parent to completely removing custody rights and giving very little timesharing to me. And moving Alex to a different state to a home he's never lived in and an environment he's never been in before, with a parent that he has never been with for more than a few weeks at a time. Mr. Grant and I were never in the same home, ever. Never in the same state. So because of the second evaluation with those kinds of results,

it was necessary to go back and clarify and clear up and provide evidence to refute the “seven sins” that were produced. At that time also, I obtained the services of Dr. Rose because I could see that there were allegations of narcissism and pathology and I hold a government security clearance. Any time someone with a government security clearance has a report from a psychologist with those kinds of diagnoses, it’s a reportable event, requiring an investigation. So I did meet at Sandia National Labs with the Ombuds, and ask him for advice. And he said I must refute that. I need to go get a second expert and I need to clear up that report. So I did so. Obviously, it was clear by the end of July and early August that Dr. Zieman was set in his ways. I want to testify about one other thing and submit this as evidence. I guess I’m testifying in narrative form here. There was a meeting on June 16th with Dr. Zieman, only it never turned out to be a real meeting because Dr. Zieman refused to meet. And during that meeting, Dr. Zieman kept us down in the waiting room, Ms. Galloway and I, claiming that I needed to pay not only the fees from the March, the May 20th evaluation, the testimony, and all that, but also fees for that day in advance before walking up to his office. And I stated to him, that I don’t have that, we didn’t have that much money in our account. We had no more money. We were depleted. We’d paid over \$50,000 in fees by then. And a family of our income level can’t handle that much . . .

JR: You . . .

LC: . . . cost.

JR: . . . incurred, or you paid?

LC: We had . . .

JR: Which? In other words, you had run up bills? Are you telling me you had run up bills that you actually paid? Or that you had incurred charges that you had not paid? Which are you telling me?

LC: We had paid over \$30,000 in actual fees by then. We may . . .

JR: Over years . . .

LC: . . . have paid more.

JR: . . . or what period of time are you talking about?

LC: Since June of 2002. So, less than one year. And that was actual payment across the transom.

JR: Go ahead.

LC: So we had no more available cash. What I did say, I would like to submit as evidence what’s marked as Respondent’s F. It’s an official transcript of a tape recording of the meeting on the 16th with Dr. Zieman, and I testify I was there and I took this recording.

JR: Do you have any objection?

SM: Your Honor, I do have an objection.

JR: What is it?

SM: In that a tape recording was made without Dr. Zieman’s knowledge or permission.

JR: I don’t know that. Dr. Zieman’s still here. You’re under oath. Did you have knowledge that a session with Ms. Cumiford was being tape recorded? No, tell me from where you are standing.

GZ: I did not. I had no idea I was being recorded.

JR: Did you give permission to be, to have that session tape recorded?
GZ: I did not.
JR: Thank you.
LC: Your Honor, it's a one-party state, and it is perfectly legal for an individual to tape . . .
JR: Well, it indicates the, why did you tape record the session?
LC: Well, because of an . . .
JR: Surreptitiously.
LC: . . . earlier session on, which is reflected in Respondent's M. This is a memorandum I sent to my attorney as a result of a meeting on March 13th with Dr. Zieman. After that meeting I began taping his conversations because in that meeting he said several things. First he said that he had formulated some conclusions based on the file of Janeanne Snow who was the 1996 evaluator. Janeanne Snow . . .
JR: What page . . .
LC: . . . had already said that she destroyed the file.
JR: . . . are you, what page are you referring to, please?
LC: Respondent's M, first page. . .
JR: Well wait a minute. We never finished . . .
LC: I know.
JR: . . . this F.
LC: Well you asked me a question, so I switched. [laughs]
JR: Yeah. What's the import of F?
LC: F shows the degree and the level and the reasons for Dr. Zieman's anger, and the fact that he suggested we go get a different 11-706 expert at that point.
JR: Those, it's, exactly consistent with what he said on the witness stand with regard to . . .
LC: That's right, but there is more detail in here. For example, I expressed my concern that that would impact his evaluation report. And he . . .
JR: Was Ms. Galloway with you when you made this tape recording?
LC: Yes, she was.
JR: Did she know you were doing it?
LC: Yes, she did. That matter is before the Disciplinary Court, at this, the Disciplinary Board at this point.
JR: You didn't, you didn't let Dr. Zieman know you were doing this?
LC: No, Your Honor, I had checked . . .
JR: Okay.
LC: . . . the laws on that and I knew it was a one-party state, and I didn't think I had to.
JR: Well, I'm going to admit Exhibit F. Go ahead.
LC: So he told us he was going to cancel the meeting because I could not pay, I believe it was about an \$800 bill. I don't have that . . .
JR: \$533.
LC: . . . before me, it's not . . . What's that?
JR: \$533 in the transcript.
LC: He also wanted me to pay for the services that day so it was a few hundred dollars more.

JR: Okay.

LC: Let's see. We were, we were, we had contentions about the part up to May 20th, though, which was 533. And he basically said, even though he was ordered to the Court, by the Court to do this evaluation, he said, "Don't come if you're not going to pay me." I offered to pay payments. I offered to pay whatever I did have in my checking account. That wasn't good enough for Dr. Zieman. And in the end, let's see, I asked him if he ever sets up payment plans for his clients. He said, "Every case is different." And in fact, later on at the August 15th deposition, he stated that he had allowed Mr. Grant to have services performed without making full payment in advance.

JR: Exhibit M? Are you talking about Exhibit M?

LC: No. That's a different issue, . . .

JR: Oh.

LC: . . . Your Honor. Let's see . . .

JR: . . . Okay, I'm going to give you another couple of minutes, and then I'm going to ask you some questions.

LC: Okay, Your Honor. So, Dr. Zieman expressed, and I'm quoting: "I'm angry with you for not paying and for not making appointments, and I'm not disputing that I'm angry with you for not paying and not making appointments." And I said, "Okay, well, how can you be fair if you're angry at me?" And Dr. Zieman answered, "I can be angry because of your behavior." Let's see. And he goes on to say later in the transcript, he says, Ms. Galloway says to him, "So what's going to happen after today if you're going to send us away saying you're angry because we're not paying? You're going to submit a report just based on what you have from Hank again because we can't pay?" And Dr. Zieman replied, "What I will do is say that you could not pay and that I could not go further with the update requested." He did not do so. And then, and then Ms. Galloway said, "And you're not going to show up in court to be an expert witness a second time?" And Dr. Zieman said, "If I'm asked to come with the data I have." So Dr. Zieman expressed right there that he was angry, and that he would show up in Court if asked and give another one-sided report for the third report.

JR: Okay.

LC: And I expressed [unintelligible for two minutes]. . . I don't recall exactly, Your Honor, it was somewhere between a year and a half to two years ago.

JR: Some time when this appointment order was entered? Of Dr. Zieman? 2002?

LC: Oh, no. Way before the trial started, Your Honor.

JR: Alright. And what are you paid for your 25 to 30 hour . . .

LC: I don't recall, I'd have to . . .

JR: What are you paid now?

LC: . . . I wasn't prepared to provide payment, paycheck . . .

JR: What are you paid now?

LC: . . . information.

JR: How much income was reported on your 2003 federal income tax return for compensation from Sandia National Laboratories?

LC: Your Honor, I have testified to that at trial. I have. . .

JR: Can you testify now?

LC: I don't, I don't know what it is.

JR: You're telling me you don't know how much money you made from Sandia National Laboratories last year?

LC: Yes, that is true, Your Honor.

JR: You don't know?

LC: I don't know.

JR: How much was on your last paycheck?

LC: [aside] Yeah, but that doesn't reflect regular . . . was it 900? [to judge] My last paycheck reflected \$900 over a two-week period of time.

JR: Net?

LC: Net.

JR: Okay. And you're paid biweekly?

LC: Yes, Your Honor.

JR: What was the compensation that you received from your company?

LC: It is a high-tech startup and it is in the startup phase, Your Honor. There, typically it takes about three years for a high-tech startup of this nature to start bringing in revenue, so there is no source of income. As I testified at trial, the company is making great progress, and it's . . .

JR: So you get no money from this company? Is that what you're testifying to?

LC: As is typically true of this kind of high-tech startup. It's a three-year investment before it starts bringing returns on the average. We are very close. . .

JR: So you get 1000 . . . I'm sorry?

LC: We are very close to finishing our product. . . .

JR: So your testimony . . .

LC: . . . We're about right on the typical time scale for that kind of a company.

JR: So your testimony is you receive no compensation?

LC: That's right. And you know, I could bring in expert if you need me to, Your Honor, to testify . . .

JR: No I just need your testimony right now, . . .

LC: . . . about those of companies.

JR: . . . that's all I'm asking. And, with respect to your household, you receive \$1298 a month from Mr. Grant as child support . . .

LC: No I do not, Your Honor.

JR: Less what you owe Mr. Spring that the judge ordered you to pay which was some deduction from that, is that correct?

LC: \$300 a month, Your Honor.

JR: Alright. Can you tell me why you should be excused from complying with Judge Walker's order entered on October 29th [sic] of 2003?

LC: Yes. Do you want me to give you my argument now?

JR: I'm going to give you five minutes. Give me your argument.

LC: NMRA 11-706(A) states: "A witness so appointed shall be informed of the witness's duties by the Court in writing, a copy of which shall be filed with the clerk." There was a copy filed to do a custody evaluation on November 20th . . .

JR: Mm-hm.

LC: . . . That evaluation was paid for in full by me, my 40% share. The judge gave no indication on April 29th . . .

JR: [interrupts, his words are unintelligible]

LC: . . . that an update was needed.

JR: On October the tw . . . okay, go ahead. I'm, just finish your argument.

LC: The judge gave no indication that an update was needed. In fact, that issue was brought up and she did **not** reflect that either verbally or in her written order on April 29th. Dr. Zieman proceeded anyways, without the order of the Court, even on my objection that I would like to pause and obtain direction from the Court. And I made steps right away to do so by filing a Motion to Clarify. Let's see. In addition, this is something we didn't have time to testify about, but deposition information shows that it was Dr. Spring who misled Dr. Zieman to say that I had not made any steps to adopt the parenting plan, that I was refusing the parenting plan. Also in deposition, Dr. Zieman stated that if that parenting plan had been accepted, he would have seen no need for further evaluations. There is an unreported conflict of interest between Ms. Morgan Little and Mr. Spring. And so my concern is, all these follow up evaluations were really at the directive of Mr. Spring. He misled Dr. Zieman. And I don't think it's fair for me to be ordered to pay three custody evaluations in a row, one of which was not ordered by the judge, and the third of which was required because of the major difference in the two reports. In the end, the Court agreed with me that Alex should be back here in Albuquerque. And that was the decision that was made. And so that is further evidence that that wild meandering out into the May 20th and the August 11th wasn't reasonable. Dr. Zieman states and continues to state, to misstate, my psychological status, which required me to bring in one expert to refute that to which we paid thousands of dollars, and because of his one-sided evaluation, we were required to bring in a second evaluator which cost us thousands of dollars. So I feel like we have paid, because of Dr. Zieman, we have paid more than triple the remaining amount he's asking for, just to defend ourselves. Also, this is just a technical point, Your Honor, but the Order does not state that we should pay Dr. Zieman whatever he wants *ad infinitum*. It states that the fees should be split. And I think the primary purpose of that paragraph of the Order was the splitting of the fees, not that it was supposed to be a blank check for whatever Dr. Zieman wanted to charge. I have validly and legally provided a dispute letter in the appropriate way to Dr. Zieman. The issue is on appeal. And to be honest with you, Your Honor, we are so depleted in funds. We've paid off all bills except the ones we dispute, except for a few hundred dollars to Mr. Johnstone. We've been regularly making payments to do all that, with as much as we have available. We are still going into debt every month. We have been asked to pay over \$90,000 in fees and that does not include the part Ms. Galloway put in about my time. However, I do have to spend a lot of time in these court situations and I can't both work and make money. In my part-time position, I do not get paid if I am not there. So I have lost considerable income. We are sending a daughter to college in two weeks. She's, she was sitting right over here. She left because she had to watch our son. If we pay this \$1800 right away, in compliance with any order you might present, she cannot go to Virginia to college. We are down to that. We have court orders to pay that tuition. . .

JR: Who is we? You and whom? You and who else?

LC: Well, her father is court-ordered to pay a portion of those fees. He's refusing to. So we have to pay a \$6200 bill on August 18th . . .

JR: Okay.

LC: . . . or she cannot register for school.

JR: Okay.

LC: That will crush her. We simply do not have the resources. So I would . . .

JR: Who, who is we? You refer to we.

LC: Me and Jim Cumiford, my husband.

JR: Okay.

LC: This has taken a considerable portion of his life savings and income. It's not fair.

JR: I didn't not realize you were remarried. I'm sorry.

LC: Yes. I've been remarried for six years. This is my husband, Jim Cumiford.

JR: Hello, Mr. Cumiford, I didn't know you . . . [laughs]. I was wondering who you were. It's nice to meet you, sir.

LC: This case has been so expensive that it has not only depleted my life savings, but we got married six years ago, and Mr. Cumiford came in with money, too. It's depleted all of his life savings. And I just implore the Court, given the evidence that you've seen about the misdirection and everything else that's happened with Dr. Zieman so far, that you would, to use a nonlegal term, cut us some slack, and allow me to dispute that in the proper way. We did pay in full for the one that was ordered on November 20th. And we paid in full for all deposition costs which were extensive. I paid about \$1500 or more in deposition costs just to deal with the misinformation that Dr. Zieman was providing to, in his reports and to the Court.

JR: Thank you, Ms. Cumiford. Do you have anything you'd like to say, Ms. Little?

SM: Your Honor, I don't believe, I don't believe you need to hear from me.

JR: Thank you. The Court certainly agrees with what you're saying, Ms. Cumiford, that this litany of litigation that's now seven volumes, I think it's the biggest in terms of sheer bulk case that exists in the courthouse in an active status. I don't understand. I understand that you and Mr. Grant are both PhD, you both earned your PhDs, you're both highly educated executive decision-making caliber people. You could be. And I agree with you, Ms. Cumiford, that this litigation has been doggone expensive. But you know who's to blame? **You**.

LC: Your Honor, I have a . . .

JR: Just a minute. I've listened to you, and you're going to listen to me. My rule.

LC: Okay.

JR: You brought three psychologists voluntarily into this court case. Nobody forced you. You did it. You brought Dr. Zieman in by the stipulation of your counsel. You brought Dr. Rose in. You brought Dr. Charlene McIver in. **You** did it.

LC: To defend . . .

JR: This is. . . just a minute. This is not something that the Court strapped you with. This is something that you did by yourself. And I might say that I'm a little bit affronted to hear you say that this is the Court's fault. It is not the Court's fault. If there is fault or remorse for having done what you did, you bear that brunt. You bear that burden. Nobody was twisting your arms. You did it by yourself. This is not a case where the Court superimposed over your objection a professional to do

for you what you and Mr. Grant should have been able to do yourselves, which was to chart the course for your son. You and your attorney and Mr., Dr. Grant and his attorney, asked the Court, and my predecessor approved an agreement, to hire Dr. Zieman. And that appointment Order was a Stipulated Order. This is not, and Dr. Zieman, you agreed that you would do a custody evaluation, and that he would be the Court's expert under Rule 11-706. And that Rule, under those circumstances, implicates an obligation on the part of the Court to see that the expert that you hired is paid. And it's not a conditional obligation. It's a mandatory obligation. Whether you like what that expert has to say, or you disagree with what that expert has to say, you've still got to pay, because the Court acted on your promise to pay. And I hear you, I hear this evidence, and I hear that after that recommendation was made, problems developed. I don't know what those problems were, but I've seen them raging. And the Court's focus with regard to Dr. McIver, basically, I can see what happened. He makes recommendations, he makes a report and recommendations. He sees problems develop after that data report. He tries to get you to participate. You surreptitiously record a session with him, which is a lucid display of your lack of good faith in cooperating with Dr. Zieman. That tells me a lot about you and what you did. And then, when he makes his supplemental recommendation, that omits your input because you didn't participate. You go hire another psychologist. Two more. You did that to rebut what he said. The Court has an obligation . . . and then basically, you just flat don't comply with the Court's orders. And I understand why you disagree with Dr. Zieman's work. I understand why you did what you did. But you know what? Neither you, nor the President of the United States, nor the lowest, lowest person on the employment totem pole who cleans gutters, will disregard this orders, the Court's orders. I think parents are the best qualified to decide what should happen to their children. But you and Dr. Grant have abdicated that role, and you brought it voluntarily into this Court, and you rage your battles voluntarily in this Court. [unintelligible for three seconds] Court Orders, and everybody's gonna follow those Court orders, including you. The Court finds that Dr. Zieman's fees of \$130 an hour are miniscule, incredibly reasonable, when I compare those to the fees of your expert, Dr. Rose. So the Court finds that the dispute with regard to Dr. Zieman's fees is going to be settled today. And the Court finds that you are justly indebted to Dr. Zieman in the amount of \$1807 that you should have paid almost a year ago but that you didn't pay. The Court's going to find that that is a dispute in view of the stipulated agreement to get Dr. Zieman over here to untangle this mess implicated another three hours of his time that are going to be paid and added to the bill at the rate of \$140 and paid by you because you necessitated this, plus tax. That's \$1807 plus \$420 plus tax is what you owe. And the Court's going to let you choose, Ms. Cumiford. I'm going to give you a reasonable opportunity to pay. I'm not going to, but I'm telling you that if you don't, I'll put you in jail for contempt.

LC: I understand that, Your Honor.

JR: Alright? And I understand that you're not going to agree with this order, but I've given you my reasons, and that's the order of the Court. And basically, you send your daughter to the University of Virginia, but I compute your net income, based

on what you've told me, without any verification, to be \$3600 a month net, without regard to the monies that you receive from Dr. Grant. And as a consequence . . .

LC: It's lower than that, Your Honor. It's much lower than that.

JR: Well you said \$900 a week net. Every other week.

LC: No, it's \$900 for two weeks.

JR: I stand corrected. It's lower than that.

LC: It's much lower.

JR: Without regard to your husband's income. The Court's going to require this of you, that beginning on the 15th of September and on the 15th of every month thereafter, until the funds owed Dr. Zieman are paid, you will pay payments of \$500, not less than \$500 . . .

LC: We can't do it.

JR: I think you can do it. I think you have the ability to do it, and I'm going to order that you do it under penalty of contempt. And that will be until the bill is paid in full. And I will allow you, as a result of your contempt in not paying anything, and making the allegations that you make of perjury. I understand that you are self-represented, but those are allegations are vicious, they are . . .

LC: I understand that, Your Honor.

JR: . . . they are serious allegations, and you didn't prove perjury.

LC: I didn't intend to prove perjury today, Your Honor.

JR: Well, I heard that you told me that he'd committed perjury, and he'd done this, and he'd done that, and I heard no evidence of that.

LC: I was responding to the Court's question . . .

JR: What I'm interested, what I'm saying is, is that I think you had knowledge of the Court's Order, you had the ability to comply with the Court's Order, and you chose not to comply with the Court's order, and I'm referring to the Order of October 29, 2004.

LC: October 9th? . . .

JR: But I'm finding your conduct in disputing it contemptuous, but I'm suspending sanctions, but since it is contemptuous, I'm going to permit you, Ms. Little, to make a written submission in the next ten days, asserting any claim that you might have, as occasioned by this failure to comply with the Court Order that's out there, to fees and costs for Mr. Grant. Court's in recess. Prepare the order.

LC: Your Honor, I have one question regarding a legal issue of the, you said that . . .

JR: You need to hire an attorney, Ms. Cumiford.

LC: I, I . . .

JR: You come into this, you come into this Court, knowing that you're not an attorney. And that's fine. You have a right to do that. But I'm not going to change the rules for you or anybody else that apply. The Court doesn't give advisory opinions. You need to seek counsel.

LC: My question is, in you resolving this dispute in this manner, are you making, are you drawing an opinion that Mr. Zieman's, Dr. Zieman's services were performed adequately and appropriately or are you reserving that issue for another court?

JR: Well, there's not going to be any more issues about Dr. Zieman. There was only one issue, and that was compliance with the Court's Order for payment. You've

- already had your trial, you've already had that and appealed it. We're not going backwards. That's the ruling of the Court.
- LC: So this is ruling strictly on the fees and not on the adequacy of Dr. Ziemann's services.
- JR: Ms. Little, prepare an order commemorating the Court's ruling. [unintelligible for 3 min 10 sec] . . . on the record, for purposes of . . . I'm not going to answer any of your questions either, Ms. Little.
- SM: Thank you, Your Honor, I'm not sure I'm going to ask any.
- JR: Court's on the record at 4:40 p.m. and all parties present are once again present. Clarification?
- SM: Thank you, Your Honor. Clarification. The Court has denied the psychological evaluation. We had responded and asked for sanctions and attorney's fees as to those motions. I'm just going to set that aside and then I have two other things that the Court may want to . . . The Court also noticed today for Ms. Cumiford to bring forth evidence that as to the allegations on the subpoenas that were issued, and then the third thing is, is that there is an order, a presentment of an order as to Ms. Galloway and Ms. Galloway has sat through this hearing and . . .
- JR: Well, I can't leave without addressing those issues.
- LC: I agree, Your Honor.
- JR: Look, I'm going to tell you, I'm going to tell all of you, all the, all the litigants, the Court's disposed to deny the Motion that was set for hearing here, but I want to make an inquiry of you, Ms. Cumiford – what additional testimony do you have to present to the Court concerning the, and let me return all these papers you gave me that were neither identified nor admitted – on the Motion that was continued for today which is your Emergency Motion for Order to Show Cause to Insure Proper Child Care and for Psychological Competency Examination of Petitioner Mr. Grant filed June 9, 2004. As I understand, and this was heard on July 20th, you withdrew the part of the Motion relating to proper care of the child, leaving only the competency examination. You want me to order a psychological examination of Mr. Grant.
- LC: Yes, Your Honor. I believe there are two things that testimony hasn't been heard on that are remaining issues out of that series of motions I filed. One is parental interference . . .
- JR: No, that's not in this Motion.
- LC: There were two Motions. . .
- JR: No, I'm not going to hear all motions. I'm, this is to be continued today. This one motion.
- LC: The parental interference was the one that was to be continued today. That was the one that was set for hearing on June 29th that was to be continued.
- JR: Well, the Order that I entered, the order that I entered on July 20th denied your Motion, Ms. Cumiford, for Release of Petitioner's Psychological Information to a Second Expert, to Strike Expert Testimony from the Record, and for a Limitation of Expert Testimony filed July 2nd. It denied a portion of your Emergency Motion for Order to Show Cause to Insure Proper Child Care and for Psychological Competency Examination of Petitioner you filed June 9th, insofar as it sought a psychological examination of Mr. Grant. It, and then I granted the Motion to

Quash your subpoena to Dr. Zieman and Dr. Charlene McIver. And so, and then what this Order says is that the Court will hear evidence in support of Petitioner's claim that the subpoenas were issued with a falsified [unintelligible for 1 min 20 sec]

LC: . . . there are still. . .

JR: Okay. The points are well taken. There . . . [unintelligible for 3 seconds]

LC: There are still the issues of the interference with the mother-son relationship . . .

JR: When did you file . . .

LC: . . . over the summer. . .

JR: . . . that motion?

LC: You know, I know I filed it. It's on record. I'm trying to find a copy . . .

JR: Well here's . . .

LC: . . . of it.

JR: . . . what I'm going to ask, here's what I'm going to ask the parties to do. I'm going to ask you, number one, Ms. Little, please get an order very quickly . . .

SM: Yes, Your Honor.

JR: . . . commemorating the disposition and the ruling that I'm making, including the findings of contempt.

SM: Yes.

JR: Alright. And then, I'm going to ask both of you, if it's possible, by Wednesday of next week at noon, to give me a list of all pending matters so that I can set them. And give me a realistic list of who you're going to call as the witnesses on those motions and how long it's going to take, because I don't like doing this case piecemeal any more than you do. And I think if you're going to come all the way from Oklahoma, Mr. Grant, you should be able to dispose of everything at once.

HG: Thank you, sir.

JR: So I'm going to ask you to do the same, Ms. Cumiford - by Wednesday of next week, a list of all matters that you have pending.

LC: And what were the other two things, Your Honor, please?

JR: I asked . . .

LC: Witnesses?

JR: Ms. Little, yes. A list of what you have pending from your side of the case, who your witnesses are going to be, and send a copy to each other, and give me a realistic estimate of how long it's going to take. Because, essentially, I'm not going to be a party to pouring gasoline on the fire that needs to be put out between you two.

LC: I agree, Your Honor. That was. . .

JR: I'm not going to . . .

LC: . . . part of the purpose of my Motion . . .

JR: . . . so you can grind your angst against each other. In fact, henceforth, if there's allegations made that aren't substantiated, the loser's going to pay the other side for coming. Now, what do you have here, counsel?

BG: Your Honor, may I approach?

JR: Absolutely. Ms. Galloway, you have a presentment notice for today?

BG: I do. Well, we said, when we were here, you had me come back, I believe in June 29th, there was going to be a presentment order regarding your, the contempt issue

that was raised by the Court. And I was here, and I sat through there, I guess, the entire afternoon. I was also subpoenaed by Sandra Morgan Little to be here. I sat through that entire thing that happened. I sat through the entire thing today.

JR: I've seen you.

BG: And nothing has happened.

JR: Well, I'm not going to find anybody in contempt other than Ms. Cumiford for the reasons I've already stated. Was this a contempt action against you?

BG: The, **you** did.

LC: You found, you found her to have violated your Order to Show Cause. This is from April 14th.

BG: About the, the . . .

JR: I told you to turn over the file, then I told you to turn over the attorney notes. And you did that, is that right?

BG: Yes.

JR: And then . . .

LC: No, she did not turn over the attorney notes.

BG: Your Honor, can I get on the record?

JR: Absolutely. Why don't you state your appearance, please.

BG: Yes. Your Honor, Bernice Galloway. I don't know who I am, here. [laughs]

JR: Well, you're an independent. . .

BG: Former counsel, subpoenaed witness . . . [laughs]

JR: Alright.

BG: Which, I don't know which hat I'm wearing. You asked me to turn over the records. I turned over the records to the best of my ability. There was a question about . . .

JR: . . . without the, without the attorney's notes . . .

BG: Well, there was a question about the sequestered tapes that I sent a fax to you about. I did not understand that your Order included attorney notes. Evidently you understood it . . .

JR: Well, the sequestered tapes, I think I made the sequestered tapes real clear. I wasn't going to upset what Judge Walker had done . . .

BG: Yes. And I have not . . .

JR: . . . because that was on appeal, I didn't think . . .

BG: Yeah. I haven't done anything with that.

JR: . . . I could order to do that.

BG: They still remain untouched.

JR: And that's appropriate.

BG: And I did not turn them over to anybody.

JR: Right.

BG: I did not understand you wanted me to turn over the attorney notes when we were here. God . . .

JR: But I clarified that.

BG: . . . only knows when, last time you said . . .

JR: I said, "Do it." No uncertain terms. I said, "Turn them over." And you did, I assume. Right?

BG: Yes, I turned them over, but then you sanctioned me some \$900.

JR: Because that was the cost of getting to the point where I had to tell you, “That’s part of the file. Turn it over to Ms. Cumiford.”

BG: Yes. But there was never an order presented. There was never an order written. So my understanding that we – excuse me, can I finish?

JR: You may.

BG: Thank you.

JR: Without interruption.

BG: Thank you. My understanding, there was supposed to be an order entered and so that’s why I spent half my afternoon in June waiting for that. I’ve spent half my afternoon today, Your Honor. I feel like if you add up the time that I have lost . . . [laughs]

JR: I don’t want to be any part of you losing any more time.

BG: I’ve lost a tremendous amount of time sitting here, not being able to take care of my clients. . .

JR: Have you paid the \$912?

BG: No, I’ve been waiting for . . .

LC: No she has not, Your Honor.

BG: . . . Your Honor, could you ask . . .

JR: Yes.

BG: . . . her to not interrupt?

JR: Ms. Cumiford, let’s nobody interrupt. Go ahead.

BG: Okay. I have not, I have been waiting for an Order to come out because I wanted to file a Motion to Consider [sic] and I don’t have an, I can’t refer to an Order to file my Motion to Reconsider or to file my appeal.

JR: Okay. The rule is, the rule has always been in this jurisdiction as I’ve understood it to be that the prevailing party prepares the Order. Ms. Cumiford, you get an Order done.

LC: Your Honor, I did prepare an Order. It was mailed to both counsel. And I got a response back from Ms. Morgan Little. I never received any response from Ms. Galloway. I followed your Order for Presentment and I mailed a second time, I sent Fed Ex to the Court, to Ms. Galloway, and to Ms. Morgan Little, at the end of July, a copy of the transcript from the hearing as well as my Order for presentment.

JR: Do you have the transcript and the Order?

LC: Yes. It’s somewhere in all these piles.

JR: I’ll give you some time.

BG: Your Honor, I believe that we had problems with the presentment.

JR: Okay.

BG: And I had a problem with Ms. Cumiford sending things to me for my signature because I’m not before this Court as a party’s attorney. So I did not believe that I should be sent that to sign off on because I’m not here as a party’s attorney. I’ve been brought in, and I sent Ms. Cumiford a letter when she tried to do it before. I fully explained to her why that was not right. . .

LC: I did not receive any . . .

JR: Let me see the Order . . .

BG: Could I please not be interrupted? [laughs]

JR: Yes.

SM: Your Honor, this is, this is . . .

JR: Go ahead, Ms. Galloway. I'm listening.

BG: Oh.

SM: . . . this is a copy of the Order and then I can tell you what our issues are with it.

BG: Yeah. We both had . . .

SM: There is some writing on that one . . .

LC: Your Honor, would you mind if you made copies? It would be faster than me locating my copy here. I also have a copy of the transcript from the hearing.

JR: Okay. Go ahead, Ms. Galloway, I'm [unintelligible]. I'm sorry. I really don't want you to have to come back. . .

BG: Where was I?

JR: You were telling me that you had problems with . . .

BG: Yeah. And I had sent . . .

JR: . . . you didn't want to be contacted . . .

BG: Yes . . .

JR: . . . by Ms. Cumiford because she sued you, right?

BG: No. Because. . .

LC: She sued me.

BG: . . . I was a party. I was not a party and I wasn't representing a party, and therefore there should not be a signature line for me. I sent her a letter, I explained that to her prior, and she still continues to send me things even though I tell her, "Please don't do that."

JR: Good.

BG: My position, I guess there are two things, Your Honor, I want to clarify. When I first spoke to you about this, and I could not recall which day it was, which hearing we were at, because I believe I've been back here three times now on this same issue, I told you at that time that I did not and would not defy an Order of this Court and that it was never my intent to do that. . .

JR: Well, it's the same principle that applies. . .

BG: Could I finish?

JR: . . . It cuts a lot of ways. No, let me just say something. . .

BG: Okay.

JR: . . . because we're just about out of time. She comes in here, Ms. Cumiford comes in here saying you cost her money because you didn't comply with the Court Order. Okay? And I think Mr. Grant's going to come back and say you cost me money, because you didn't comply with the Court Order. So what's your point?

BG: My point is this, I told you that, that I did not intentionally, I would not lie to this Court, I would not defy this Court. My question is this, you found me in contempt . . .

JR: Right.

BG: . . . so what I need to know is did you not believe me?

SM: He didn't find you in contempt.

BG: Or, you didn't find me in contempt.

JR: [unintelligible] that you didn't comply with the Order and that the deposition was precipitated because you didn't comply with the Order, you had to pay for the deposition.

BG: Your Honor, that deposition was created in both cases. It was in the civil action that she has brought against me for winning her case, and in this case.

JR: Well that's what happens when you extend credit.

BG: Pardon?

JR: That's what happens when you extend credit. That's what they, that's what you get.

BG: I didn't understand the last thing you said.

JR: That's what you get every time when you extend credit.

BG: Oh.

LC: To clarify, Your Honor, . . .

JR: You don't get a "thank you", . . .

LC: . . . it was Ms. Galloway that filed the suit.

JR: . . . you get a lawsuit.

LC: It was Ms. Galloway that filed the suit.

JR: Don't interrupt any more, Ms. Cumiford, please. Because if you do it again, I **will** hold you in contempt and put you in jail. Now finish. This is not the chance to reargue your case.

BG: No, I . . .

JR: What is your objection to this Order?

BG: No, all I wanted to know, Your Honor, basically, is whether or not you believed I was telling you the truth, or I believed I was telling you the truth, because if my truthfulness before this Court is in question, I need to know that.

JR: No.

BG: Okay.

JR: But ignorance is not an excuse.

BG: I can accept that, but, I can accept that. I did not understand that you wanted those attorney notes, and, okay, that was point number one, Your Honor. Point number two, you're not going to like this one much better. I have gone through my files in preparing for the case that Ms. Cumiford has brought against me, the counterclaim that she has brought against me. I found a folder that contains pleadings, letters, notes, and things like that that were not turned over. Depositions of . . .

JR: Was this inadvertently?

BG: Absolutely.

JR: Turn them over.

BG: But I have found them.

JR: Turn them over.

BG: As Gabay, deposition of Gabay, Greg, . . .

JR: Turn them over.

BG: . . . whatever her name is. So, I don't mind turning them over . . .

JR: Okay.

BG: . . . but I want her to pay the cost for copying. They are about that thick.

JR: Well, take it to Albuquerque Legal. Let them do it, and Ms. Cumiford. . .

BG: Well, I took them to . . .

LC: Your Honor . . .

BG: . . . Kinko's already. She interrupted, Your Honor.

LC: Sorry.

JR: One more time. I'm not kidding you. I'm warning you. Go ahead, Ms. Galloway.

BG: Okay. I have already taken the liberty to make copies of them. But since I have had a problem with extending credit to Ms. Cumiford in the past, I do not want to turn those over to her without her paying for those copies.

JR: I think I made it clear. Take it to Albuquerque Legal for copying.

BG: Okay. But I've already copied them.

JR: Well then, take it to, take the copy that you made to Albuquerque Legal, and let her pay for it over there. How much are you charging her for copies? I mean, how many . . .

BG: Eight cents a copy, Your Honor, whatever Kinko's call, it's whatever Kinko's charged me.

JR: I'm not going to get into these dog fights. It goes to Albuquerque Legal, just like I always told you. If it was inadvertent, it's not a problem.

BG: It's absolutely inadvertent. I found it, and . . .

JR: I believe you.

BG: . . . and it's a mixture of a lot of things.

JR: Okay. Thank you.

BG: Okay.

JR: What was your objection to this Order, Ms. Little? Thank you, Your Honor? I have three objections. One's the title. Order Finding Bernice Galloway in Contempt of Court. The Court never finds Ms. Galloway in contempt.
[unintelligible for three minutes]

LC: . . . sent copies to Albuquerque Legal to be copied. She had as many as ten copies of individual items, so I would prefer not to have to pay for all of that.

JR: Well, I know you prefer not to have to pay, but you have to pay if you want them.

LC: Well, the only thing I . . .

JR: Because, let me tell you why. Because you sued Ms. Galloway.

LC: No, she sued me, Your Honor, that's the other point I would like to clear up. She filed suit against me for an additional \$12,000 in fees after getting 27 . . .

JR: Well you were threatening to sue her for malpractice, so I assumed you sued each other, but . . .

LC: No, she sued me.

JR: Okay. Alright.

LC: Let's see. The thing I don't have, though, are the sealed copies of the depositions that I need for evidence. . .

JR: I'm going to, okay, I'm going to assign, I'm going to prove that. I'm going to prove that Bean gave you those sealed exhibits.

LC: Thank you, Your Honor.

JR: Alright. Thank you.

LC: But the thing that I don't have from Ms. Galloway's file that she didn't provide to me are the sealed, original copies of the depositions that I paid for with Kathy Townsend. All I got, because I had to pay that bill directly with Kathy Townsend.

All I got are unofficial copies and so I would like to request that the Court would order that the sealed copies of those depositions be given to me because I need those for future use.

JR: The statement of the court reporter, until you use them in court proceedings, are you talking about the originals?

LC: I paid for some sealed originals that are in Ms. Galloway's possession at this time of all the depositions that were done in the case.

JR: Give them to Ms. Cumiford without copying, the originals.

LC: The sealed ones.

BG: I don't have a problem with that, Your Honor, as long as she pays for . . .

JR: What's the problem? I tell you to turn over the file. You don't turn over the file.

BG: Your Honor, they were, I sent those to Albuquerque Legal.

JR: But the originals.

LC: The sealed ones.

JR: The sealed originals.

BG: I sent everything to Albuquerque Legal.

JR: The originals go to the client. That's her property.

BG: I sent everything. If they didn't copy it . . .

JR: You made copies of the originals that were sealed? Is that what happened?

BG: No. I took everything that I had boxed up and I took them to Albuquerque, I put them on my front door for Albuquerque Legal to pick up. I, this is the first I've heard that they did not make copies of those depositions or did not give her, I don't, I . . .

JR: Alright. We're going to stop right here. You give her the originals of those. You don't keep copies. They're hers. That's part of the court file. There's a difference between . . .

BG: I turned them over, Your Honor.

JR: Okay. Then what are you talking about?

LC: Not the sealed originals. I do . . .

JR: The sealed originals? Did you turn over the sealed originals?

BG: Everything that was in the file . . .

LC: I don't have a single sealed . . .

JR: Who has the sealed originals? Do you have them?

BG: Yes.

JR: Alright.

BG: They came back from Albuquerque Legal.

JR: I'm telling you. You turn over the sealed originals to Ms. Cumiford.

BG: I have no problem with that.

JR: Okay. Alright.

BG: This is the very first time . . .

JR: Okay. Alright. We're done.

LC: Other than that, Your Honor, I don't need any more information from Ms. Galloway, so I'd prefer not to have copies of anything else at Albuquerque Legal.

JR: Thank you.

BG: Your Honor . . .

JR: You're not going to have. Just a minute. You're not going to have copies. You're going to have the original in those depositions.

LC: That's all I need. Thank you, Your Honor.

JR: Thank you. Alright. The Court's going to enter the Order. We're in recess. That concludes the proceedings for today.

BG: Your Honor, there are things I know that she wants in there. There are notes that she probably wants. But I just want it on the record that they have been offered to her and she has refused.

LC: I believe this order takes care of the notes that supposedly are at . . .

JR: The attorney's notes.

LC: Yeah.

JR: It takes care of the attorney's notes. It takes care of the originals of the depositions.

BG: Your Honor, there are additional attorney notes in the group of stuff that she's not, that she's rejecting. And I said that before you, before I left for the day. There are attorney notes, there's a combination of everything in there.

JR: She didn't pick everything, she didn't pick all the copies up, is that what you're telling me?

BG: No. Your Honor, I said I found a folder that had additional things in it. . . .

JR: I know that. I know that.

BG: . . . in, within that folder, including. . .

JR: You take it, you take it to Albuquerque Legal, and leave it there 24 hours, do it within 24 hours and she's got 48 hours to pick it up. From now. And if she doesn't, we're done.

BG: Okay.

JR: End of story. Okay.

LC: Your Honor. . .

JR: Madame Bailiff, would you please ask Ms. Cumiford . . .

LC: I think we needed to clarify the paragraph three on the Order?

JR: No. No. We're done. We're in recess.

