

**Unofficial Transcript: Fields v. Greenblatt DM 2000-00240**

3/24/04

3:08:41

Judge Romero: Can you tell me of one good reason, Ms Fields, why I shouldn't hold you in contempt of court for failing to comply with the court's order that was entered in January of 2004?....

3:08:57

Shelly Fields: Yes, your honor...

3:00:58

JR: ... Directing you to make the payment that the court directed by the time the court directed.

3:09:08

SF: Yes, your honor, I can because I do not have the money. It was a question of paying the mortgage or paying the Guardian *ad Litem*. I contacted the Guardian *ad Litem*. I specifically told him the only funds I had were an IRA account and he directed me specifically, "Do not take the funds out of your IRA account." He has been paid. I took it out of my IRA account. I had no alternative. On the previous Guardian *ad Litem* he was very compliant with setting up payments with me and that's exactly what I had done, the previous Guardian *ad litem*.

3:09:35

JR: You didn't pay the previous Guardian *ad Litem*?

3:09:37

SF: What? I'm sorry?

3:09:38

JR: You haven't paid the previous Guardian *ad Litem*?

3:09:39

SF: No, No I have not in full your honor, and he also . . .

3:09:42

Attorney Parrish Collins: She's making payments.

3:09:44

SF: I'm going to make payments to him but he also added if you'll notice at the end of the minute order during our hearing when he asked that you compel me to pay within 30 days you specifically told him that that you would not require that he be paid within thirty days. The minute order I signed only was releasing him as a Guardian *ad Litem* and Mr. Carian added at the bottom of the minute order that it had to be paid within thirty days and I have a recording of that from the court. I'm having it transcribed at this time.

3:10:12

JR: Mr. Owens, what occurred here with regard to the statements of representation that were made to the court?

3:10:19

James Owens: Ummm

3:10:20

JR: Did you change the Court's order?

3:10:24

JO: Oh no (Inaudible.) . . . need notes of all my contacts with Ms Fields about money and I received no contact or conversation from her after being appointed on January the 30th.

3:10:43

JR: Did you hear the testimony that was just given? Did you hear that?

3:10:47

JO: Yes your honor.

3:10:47

JR: Is that accurate?

3:10:49

JO: No, it's not.

3:10:49

JR: All right.

3:10:50

JO: And Your Honor, the lack of accuracy comes from the timing. The first time she brought up the issue of payment to me was after what I believe we had settled the case on March the fifth at our status conference. Actually March the fourth, and I asked her not to dissipate assets because of cooperative spirit about the negotiation that took place. That conversation occurred 19 days after the court requirement to make certain that I was paid by the fifteenth of February. I began work on the case on February the 2<sup>nd</sup> through a series of very complex HIPPA releases and got all the medical information the court asked me to avoid getting into the file, which I did, and the most important thing in the file was that there was one child, [name withheld] who has had an inpatient hospitalization in his psychological condition and that of the minor child daughter's is so precarious that solely from the impact of the conflict between these folks and this case, and though neither party is to blame one way or the other, any more than the other I made an offer, I thought a gesture, to resolve all pending motions as well as the issue of the nonpayment to me by simply asking Ms. Fields to maintain a current balance. And I

prepared the billing statements to this Court that the Court has requested and Ms. Fields owed \$407. I never heard again from her until Mr. Collins got involved and he asked me to again allow her to work something else out and at that point I didn't feel it was about the money any more but it was about who was in control of the case. And I believe that the Court is and I think that the Court's Order should be complied with. Even if I were to be paid a dollar, it's my opinion that I wouldn't have been paid a dollar by February the 15<sup>th</sup> because there is a sense that somebody else is in control of the case and not this Court and not Mr. Greenblatt, or Ms. Becker, or Mr. Collins. So I'm concerned about that, Your Honor, and I'm concerned about all the inquiries that I have made with respect to these children. They are all overlaid with wanting to tell me something immediately. That suggests a high level of coaching in this case by the children's mother and this comes in a context, Your Honor, of a child who has already been hospitalized solely because of a conflict....

3:13:31

Parrish Collins: Your Honor this is not on the (inaudible)....

3:13:34

JR: Overruled! Don't interrupt, Mr. Collins. Please proceed.

3:13:34

PC: ...were talking about these . . .

3:13:36

JO: and, and the concern I have, Your Honor, is that the therapist has quit. I've never been involved in a case where the therapist has quit. There is a constant effort to keep things up in the air and undecided and I've learned that we're getting nowhere in this case. And we're about to spend a lot more money and time and energy on matters that are, could basically be resolved if the parties kept their spirit of cooperation which they had on March the fourth and entered the agreement that I thought we had at that status conference. And I'll defer on the evidentiary aspects of that ...

3:14:19

JR: Did you... Did I hear you say that at the status conference that the court directed on March the fourth that there was a settlement agreement?

3:14:26

JO: Yes, Your Honor. I, the...

3:14:28

JR: What was the settlement agreement?

3:14:29

JO: Your Honor, there was a four-pronged settlement that dealt with an immediate medical issue of allergy testing for the minor child [name withheld]. There was an agreement by the parties that they would enter into family therapy with either Christine

Nickelson or Charlie McIver. Mother, mostly through her attorney, Your Honor, had conceded to my request that Dad be vested with all medical decision-making powers and there was a two-pronged review mechanism in place. One - I could change that at any time, and two - it was temporary till from March the 15<sup>th</sup> of 2003 until March, I'm sorry, March the 15<sup>th</sup> of 2004 until March 15<sup>th</sup> of 2005. And the reason for that, Your Honor, is more important than what I'm asking the Court to implement or what I thought the parties agreed to. It's just there's so much conflict that these kids can't even get to get an over-the-counter prescription for allergies without a lot of effort from everybody's part and part of that comes from Mother's expertise in the medical field as an ER nurse and part of it is Dad's stubbornness, but the issue is that the children aren't cared for and my client has already been hospitalized once. His therapist quit on him and she stayed on from August 10th of 2003 until just last week but claiming that the conflict and the misinterpretations and misrepresentations she gets from mother are completely inappropriate and destructive and counterproductive to [name withheld]'s adjustment. So in addition to those features of the agreement or of the offer of judgment that I memorialized as soon as I got back to the office that day on March the 4<sup>th</sup> I'm asking that the child immediately be allowed to go to a new therapist of Dr. Sam Roll. Now as a perfect example of the kind of stuff that we've been dealing with today on money is that Mother and Father both agreed that Dr. Roll would be the new therapist, then Mother withdrew her agreement and so the child . . .

3:16:45

JR: That part of the agreement that was memorialized?

3:16:47

JO: This was part of an agreement that was given to the psychologist in, in August of 2003.

3:16:53

PC: Your Honor. . .

3:16:53

JO: So now. . .

3:16:56

JR: I'm warning you, Mr. Collins, don't interrupt again or I will hold you in contempt of court.

3:17:02

PC: I'd like my objection (inaudible)

3:17:03

JR: Your objection's noted but heed my warning. Please, go ahead.

3:17:09

JO: So Your Honor, since August 10<sup>th</sup> of 2003 when the beleaguered Dr. Levington let the parties know that she was no longer able to be their therapist because of their high impact of conflict until I guess last week, she served on a bi-weekly basis seeing this child. This child also went without any medical care after being hospitalized because of a dispute between the parents as to where and who should see the child and it's those kind of impasses and conflicts that have kept the child from moving forward in his life. And both of these kids are doing a lot better after the institution of the 50/50 time sharing, I believe in March of last year. It is Dad's contention that Mother never wanted to follow that order and from her behavior in missing appointments for the kids and failing to take them to extracurricular activities and being overly involved, overly involving them in this litigation process that seems to (unintelligible) out to me. But I don't have enough time or expertise in this case to this point to give you a conclusion about that, Your Honor. But I am concerned there are very simple steps that the parties have been asked to follow and the fact that they aren't followed not only causes us to be here, it causes a lot of difficulties for both children. And there is a perception that the children have adopted Mother's view of the case but that's only because she has had them right under her thumb with respect to her ability to suggest what is or isn't in their best interest and they need a little room to, to kind of grow. And I'm concerned about that, Your Honor, and it's as fallible as its ever been in any case I've been involved in. I appreciate the order of appointment. I have tried to exercise my independent judgment in this case with lots of diligence from a far away location, as the Court is aware. And I'm finding that the back and fourth is part of a dance that I'm not willing to participate in on behalf of my clients and I would just like the Court to end the dance now to go back to the Court's original question, Your Honor. The first contact that I had about, I had made several requests from Mr. Durard about money. The first sense I had was on March 4<sup>th</sup> that Ms. Fields was told by me not to dissipate assets. I told Mr. Greenblat the same thing because there was an effort to finance this by IRA's and I was very concerned that the future of the children was being mortgaged. When the disputes are very clear cut, there needs to be someone in charge of the medical destiny of the children. I've decided just based on my preliminary investigation that, that would be best vested in Dad as opposed to Mother. I have kept in place the ability to review that at any time if I am incorrect in that initial assessment or I have not got any information or any sufficient information from Ms. Fields. But as recently as last Thursday, Your Honor, I called the children's home and the next day I get a message from the mother saying I asked them what they told you and I don't want her asking my clients what they told me because then they're trying to perceive or report to me based on what it is she wants to tell me or there's a test as to whether or not they've been able to meet the requirements they're telling me so they're so geared to tell me something that that's....

3:20:51

JR: Did you review the file in this case as part of your study?

3:20:53

JO: Your Honor, I did.

3:20:54

JR: Didn't I enter an order prohibiting this case from being discussed with the children?

3:20:59

JO: Yes, Your Honor.

3:20:59

JR: That's what I thought, that's specifically . . .

3:21:00

JO: and . . .

3:21:02

JR: prohibited under penalty of contempt.

3:21:05

JO: Y.. Your Honor it's, it's almost an unconscious reflex action on Mom's part. I don't think she sees anything wrong with asking them what they told me or telling them what they are to tell me and there needs to be some education to her to get through to her because I haven't been effective in doing that. That she can't act in that way because it, it endangers two children, one of whom has already paid for a week inpatient at a psychiatric hospital and it's just not beneficial to my clients. And what I would ask the Court to do is, is to clearly instruct Ms. Fields that my relationship with the children is an attorney/client relationship and I should be entitled to confidential interventions with them and time alone with them.as As I said, they are so raring to tell me what it is that they want or need that I sense a great sense of coaching about this so in that backup, Your Honor, I did home visits to both families and convened the status conference but thought I had a pretty good handle on the case. I gave Ms. Fields the opportunity to pay me on a monthly basis. What was owed at that point was \$400. I never heard another thing until sometime on the 18<sup>th</sup> of March when Mr. Parrish called and, and said you told her not to pay by IRA so she can't pay you. Can she work out payments? And on the 22nd I was told I was going to be paid and on the 23rd I was told I was going to be paid and I got a payment today, Your Honor. So there's a high level of concern. There seems to be a high level of concern about the Petitioner's conduct and I haven't said anything about Dad, but this is a divorce that was entered in October of 2000 and we're dealing with issues that seem so fresh to the essence of the divorce and the separation that there's other stuff going on that really concerns me. And it appears that the children are benefiting from Mother's nurturing but it's not, it's a nurturing of the case and of the controversy and they are supposed to be kept out of the case controversy in my understanding.

3:23:28

JR: Your recommendations today are, are what for the best interest of the children?

3:23:32

JO: Your Honor, I would simply ask that the offer of judgment which I gave to both council on March 4<sup>th</sup> be simply implemented. I ask that, Mr. Collins got in the case and asked for an extension for time to answer and than had to go out of town I guess the first

two days of this week. But all I heard is that Ms. Fields doesn't want to agree to the to certain medical provisions investing the medical authority with Dad and no response to the rest of it which was just as important: the family counseling, the ability to review this and so on. So I was told that the Court does not take offers of judgment in family court here so in letter form I inquired again yesterday of Mr. Parrish's, Mr. Collins' office to say what's going on with the offer that I had drawn up. And, Your Honor, I don't want to step on anybody's rights, but I don't want to belabor points and litigation process but I think everybody has gotten their fair share of the Second Judicial District's resources and this Court's resources. And I don't think it's a time to slam either myself or any of the parties. I just want it to be abundantly clear that I may be new to the case but I'm clear as to what I believe the dynamics are and I'm also clear that they impact my clients very negatively. And so if I could just get the Court to introduce a truce period of time on the hotly contested medical issues and let Dad decide that, let Mom continue to contact me about her objections to what Dad's done, it would give me an opportunity to see if there aren't further problems with the children. Because there appears to be a possibility of a congenital psychological issue with the boy and this is a very angry guy. And I'm just afraid that his loss of therapist, she has no idea what's happening and the constant being there for Mother is not helpful to him and the separation would be, at least about the legal issues would be a lot more helpful than what's going on.

3:26:01

JR: Do you have a copy of the memorialized agreement?

3:26:03

JO: I do, Your Honor.

3:26:03

JR: Now on March the 4<sup>th</sup> of 2004 I understand that Mr. Collins was not there but did the parties agree to the terms of that?

3:26:13

JO: Your Honor, it's my sense that they had seven days to get back to me but they were going to try this issue before court sometime late in May.

3:26:24

JR: And did you, did they get back to you?

3:26:26

JO: Your Honor, Ms. Becker did and she did both orally and in writing saying she accepted. She wasn't happy with it that there are some things that we need to work out but she was willing for the sake of the process to move this forward. I understand that Mr. Collins may have been out of town again yesterday, but just yesterday I sent a letter saying, "Hey, I haven't heard from you. Please let me know. It's been two weeks since you requested the extension and I would like to know whether there's any merit to the other four pieces of this proposal that I'd made."

3:27:05

JR: Can you hand that to the Bailiff, Mr. Owens?

3:27:06

JO: Yes, Your Honor. Your honor, it's my only copy so I don't have copies for the other...

3:27:10

JR: We'll make a copy. That's appropriate, Mr. Collins. I have one more question to ask you, Ms. Fields. Did you attend parenting classes?

3:27:23

SF: Yes. In fact, I attended an additional one. I did actually two of them. May I comment on the...

3:27:29

PC: Wait. Your Honor, am I going to be allowed to cross examine Mr. Owens?

3:27:34

JR: Mr. Owens is an attorney and usually attorneys don't testify. I'll hear your comment concerning the statements...

3:27:38

PC: He's giving evidence. I mean he's testifying as a witness. I mean this is not his role as an attorney, he's testifying as a witness to this case. There are several...

3:27:51

JR: If you have any questions to ask him sit down and ask him the questions.

3:27:54

PC: Okay, can I ask him?

3:27:56

JR: Yes.

3:27:57

PC: All right. So last week when we talked I told you that I couldn't meet Monday and Tuesday because I was going to be out of town, correct?

3:28:04

JO: That's correct.

3:28:05

PC: And so why would you call me yesterday to check on an offer when you knew for a fact that I was out of town?

3:28:11

JO: I just faxed you your response.

3:28:13

PC: And then the, as for now also regarding this proposed settlement, when I first talked to you I addressed the allergy issues and in fact I provided you medical records from Dr. McAllister, the base pediatrician, for the children. Is that correct?

3:28:31

JO: That's correct.

3:28:32

PC: And so in those records from Dr. McAllister, Dr. McAllister the base pediatrician, working at the same base that Mr. Greenblat is a lieutenant colonel, stated that no allergy testing was required and even if conducted it would not change the course of medical treatment, correct?

3:28:50

JO: That's correct.

3:28:50

PC: Alright, so now you're saying and, and do you have medical training?

3:28:56

JO: Ummm, how so?

3:28:58

PC: Are you a doctor?

3:28:59

JO: No.

3:28:59

PC: Are you competent to question the expert advice of a pediatrician on the base?

3:29:05

JO: I don't believe so.

3:29:06

PC: Do you feel comfortable negating his recommendations that no allergy testing be conducted when you wrote this proposed offer that said "get an allergy evaluation"?

3:29:17

JO: Yeah. It was my understanding that the parties agreed to that.

3:29:20

PC: So are, do you feel comfortable, you know, to question, and as we discussed and just so I can get straight with what we did discuss, I suggested rather than this provision which is the only provision she has problems with, rather than fight over the allergy testing and have the two parties dictating this, that the parties rely on the medical expertise of Dr. McAllister, did I not?

3:29:46

JO: Um-hmm.

3:29:47

PC: And in the hallway before we came in here I said, "Don't you think that the parties should rely on the expertise of Dr. McAllister who is the children's pediatrician?" Two minutes before we walked in this doorway and...

3:30:02

JR: Mr. Collins, you've asked the question several times. Give him a chance to respond.

3:30:04

JO: I understand that that's what you said. The concern I have is that no matter... to give you another example, on August the 10<sup>th</sup> the psychologist said both of you agreed that Dr. Roll be the new therapist for [name withheld] and I would like Dr. Roll to be the therapist. That was eight months ago and we're still arguing about who the therapist for the child is even though we agree that or at least the parents agreed that Dr Roll would be the new therapist.

3:30:31

PC: Dr Roll is not a therapist, Your Honor.

3:30:32

JR: Ask a question please, Mr. Collins.

3:30:34

PC: Dr Roll is a, a psychologist. He conducts custody evaluations.

3:30:38

JR: Ask a question.

3:30:39

PC: Is it, was he to act as a 706 Expert or was he to act as the children's counselor?

3:30:44

JO: No. He was just going to replace Dr. Levington.

3:30:48

PC: Dr. Richard Reed.

3:30:49

JO: Dr. Levington.

3:30:50

PC: Well, Dr. Richard Reed was the original 706 Expert, correct?

3:30:53

JO: That is correct.

3:30:56

PC: Right. Then Dr. Roll would step into his shoes for the purposes of a re-evaluation?

3:31:00

JO: No.

3:31:00

JR: No, no. He, he . . .

3:31:02

PC: So, so Dr Roll is to step into the shoes of Levington?

3:31:04

JO: Right.

3:31:05

PC: And Levington is still involved. Is that correct?

3:31:08

JO: She was as of last Tuesday or so.

3:31:11

PC: But earlier in your testimony you said she quit. But in fact she is still involved. She is still the children's counselor, correct?

3:31:17

JO: She quit and agreed to do one more session as a termination as a favor to my office with Sam.

3:31:26

PC: So, but okay. So you're stating now just for the record that she is no longer the children's counselor after one more session?

3:31:35

JO: That is correct.

3:31:36

PC: Okay, and then regarding the IRA. Now you said you specifically instructed Ms. Fields not to dissipate assets. You were saying, "Do not dissipate assets." You were referring to her withdrawing monies from her IRA.

3:31:51

JO: Right. After the status conference, 18 days after the time had passed without anybody mentioning anything about fees.

3:31:59

PC: Okay. So she specifically spoke to you and she specifically offered to withdraw IRA monies in order to pay you. You told her not to do that.

3:32:10

JO: That's correct.

3:32:11

PC: Okay. And then, and she has in fact paid you from her IRA proceeds, correct?

3:32:17

JO: About an hour ago. Right?

3:32:18

PC: But you had specifically told her not to withdraw the IRA?

3:32:22

JO: Th.. There's two parts to that, Mr. Collins. One, I said that I would work with her, and two, I was concerned about her dissipating whatever future assets she had in exchange for reaching a conciliated agreement that day and so I said, "All you have to do is keep up with your monthly payments." And then another time passed, I guess twenty days passed, without any payments or acknowledgement of that agreement. So there were always opportunities and efforts to concede to her request without any action. And I had seen that as the dynamic in the case with the child's therapist. And so I'm not interested in having my client suffer because of a representation about something going to happen that doesn't happen. So the question I have is, "How does that happen to the children?"

3:33:14

PC: I'm not testifying here. What my question was is whether you instructed her not to withdraw money from her IRA and I believe your answer was "yes". The amount that she was to pay was \$1000. For someone that makes \$30,000 a year will you admit that \$1000 cash is a significant amount of money for someone to come up with?

3:33:35

JO: It's one thirtieth of either annual income.

3:33:37

PC: Right. That's gross income.

3:33:41

JO: That's correct.

3:33:41

PC: So that's before taxes, before mortgages, before insurance, before groceries, so its a thousand dollars....

3:33:47

JO: So here's what I would have done. I would have said, "Here's an opportunity to not take my assets out and here's an opportunity to pay you 50 cents, Mr. Owens."

3:33:57

PC: Did you, did you promote, did you suggest that?

3:33:59

JO: But I wasn't even offered fifty cents.

3:34:00

PC: But you didn't suggest it either, you suggested that she..

3:34:03

JO: I handed her a statement, Mr. Collins, and I handed her attorney a statement and I said, "Here is the amount that's already been incurred. It's, \$407 is your share. Make an arrangement to pay that." And I never heard anything else.

3:34:17

PC: But you did hear something else. You heard from me when I first got involved and I was talking to you about...

3:34:22

JR: Let's stop talking. Ask another question, please.

3:34:25

SF: Your Honor, may I add one thing as well.

3:34:26

JR: No ma'am. You may not.

3:34:28

SF: Okay.

3:34:28

PC: Okay. And you referred to a voicemail from the kids regarding Mom's discussion.

3:34:34

JO: No.

3:34:34

PC: You said that the kids had left a message saying that Mom had asked them or you know what they had talked about with you...

3:34:41

JO: No.

3:34:43

PC: Can we play back the tape? Is this on the tape?

3:34:44

JO: Can I tell you what I think I said and you can correct what I did? I contacted the children last Thursday. The next morning I heard from Mother in a phone call and she said I asked the children what they told you. That's the problem that I have.

3:34:59

PC: But you also referred to a message from the kids.

3:35:03

JO: No. I spoke to the children personally on the phone.

3:35:09

PC: Okay. So good then. You have a voicemail from Ms. Fields.

3:35:10

JO: No. I spoke to Ms. Fields as well.

3:35:11

PC: But earlier you said it was a message, so did you speak with her or was it a message?

3:35:15

JO: I thought I had spoken with her.

3:35:18

PC: Okay, okay. Now regarding Dr. Reed. Since Dr. Reed was involved originally and he recommended...

3:35:31

JR: Dr Reed's out of the case. He's a 706 Witness. Again, there's been your...

3:35:35

PC: Well I said, well he's given a lot of expert testimony, this...

3:35:38

JR: I don't have all day. You ask. There's a half an hour set for hearing. We're overtime. I've got parties waiting that are here on time, so . . .

3:35:45

PC: I didn't request this hearing, Your Honor and he's been a (inaudible)

3:35:49

JR: Don't argue with me, counsel. Dr. Reed is not in the case so ask another question. That's not relevant.

3:36:00

PC: Alright. So regarding certain other issues that are outstanding I sent you a letter because Ms. Becker had filed a Motion a while back. You know, asking that no further Motions be filed by Ms. Fields without your approval, and I sent you a letter saying there are a number of outstanding issues. And in that letter I had stated, you know, that Dr. Reed was never paid. That this was never paid...

Leslie Becker: Your Honor, this is not relevant to what is that we . . .

JR: Overruled. Finish your question.

PC: So do you have any opinion on that payment because you seem to have a lot of concern with the payment of Mr. Carian which she's arranged payments with. Do you have concern that Dr., I mean Mr. Greenblatt has never paid Dr. Reed which is why he withdrew from the case?

JO: You know some of the more substantive issues I'm not able to deal with because I'm here right now dealing with compliance with the original order. So that has come up to me that you have represented that Dr. Reed hasn't been paid. I have not called Dr. Reed to confirm that but . . .

PC: Did you read his report?

JO: I did. I think he was actually deposed as well and I've read a deposition of his, but . . .

PC: Ok and so . . .

JO: I need to say that these are the concerns that we get stuck on the side of the lake with when the issues are how are these kids doing and the answer is not very well . . .

PC: (Inaudible) and so . . .

JO: And so if there's a wait in the conflict as your client had agreed to on March the 4<sup>th</sup> then I'm all for that and we can get along a lot more efficiently than this. But if people

are gonna back out of what the they've agreed to and worked to, then how are the kids supposed to feel?

PC: Regarding the settlement, Ms. Fields has one objection to that settlement. That was regarding the allergist and that was made perfectly clear to you, correct?

JO: Well, I disagree. What you told me is that she disagreed with respect to this whole medical custody decision.

PC: Right, right. Which relates to the allergy.

JO: In this specific instance was the allergy which I just took care of not by flipping a coin but just saying, "What is this child allergic to? We don't know that yet." And there are all sorts of possibilities and rather than keeping the child on medication the rest of his life for an allergy, if there is something in one of the homes that he is actually allergic to I wanted to know.

PC: And so . . .

JO: And I felt I had a right to ask that this child be given an allergy evaluation.

CP: And that's in and even though that contradicts you still feel that way. Even having read Dr. McAllister's notes and Dr McAllister clearly indicating that no allergy testing was needed . . .

JO: I did.

PC: . . . or necessary or helpful to the child.

JO: I do.

PC: And you still feel that way?

JO: It's not that I feel that way. I think that what we need is a little bit more information about what the child is allergic to.

PC: Well, here, okay.

JR: Do you have any more questions, Mr. Collins?

PC: No, but I would like to . . .

JR: Thank you. Thank you, Mr. Collins. Please be seated.

LB: I have one. I have one question.

JR: You have one question.

LB: Okay. Mr. Owens, are you aware that Dr McAllister sent the children into a allergy therapist Dr [name unintelligible]?

JO: I am.

LB: And that she recommended allergy testing.

JO: Yes.

LB: That's all I have, Your Honor.

JR: Okay. Thank you very much. Do you desire your client to make a sworn statement, Mr. Collins?

SF: Yes.

PC: Yes. She wants to make some clarification.

SF: Yes, Your Honor.

JR: Okay. I'll listen.

SF: I'm already sworn. Do I need to be sworn again?

JR: Go ahead.

SF: Okay. First of all, Your Honor, I want to make it very, very, very clear and you have accused me of this as well, I do not talk to the children about what goes on at their Father's house. I thought it was very unfair at the end of the last hearing that you said, "Well, I think you are talking to the children about their Father." We have a new little thing now. I have just told them that, "unless you are being physically harmed you cannot tell me about what goes on at your Dad's house". I did not state to Mr. Owens that I had asked the children what they had told him. It's none of my business as far as I'm concerned. Just like their therapist its their, he is their attorney and it is their privilege and it is wrong. I have not coached them. I do not coach them. The children have their own emotions and feelings about what's going on and they tell him. I did not agree in that settlement conference we were talking about. I did not at any time agree to the terms of the agreement that he had proposed. I agreed with everything else. I do not agree with the allergy testing because I do not believe it's necessary. I agree with the doctor on the base who specifically told me and if we get him in here, subpoenaed in court, said he felt that he was pushed into that by Lieutenant Colonel Greenblatt. It's, he's been completely controlled on Zirtec. Mr. Greenblatt has lied about giving the children their medication. The only thing I ask them when they come back, I send their medication with them, their Zirtec which is a seasonal allergy medication that has to be taken daily. All I ask is, "Did

you get your medication this week?” That’s the only thing I ask. I do not question them about. I am under oath, Your Honor. I have no reason or motivation to lie to you about coaching them. I do not talk to them about their Father. The only thing I talk to them about is issues, “How was school? Did you have a good week? What went on?” And I tell them the only time they can tell me something about their Dad or what happened at their Dad’s house is if they were physically injured. And I will be bringing that up at a further thing. But [name withheld] came, I will bring it up in a further motion but something happened. An issue happened again last week where my children came home and told me something but I do not talk to them. I do not coach them as Mr. Owens is implying. He has seen them once with me and you know I don’t know what the children are saying but they certainly are not saying that I am telling them to tell anything when they try to tell me something about their Dad or what’s going on with their Dad. I say, “You either tell (their therapist) or you tell Mr. Owens. He is your attorney.” I have specifically told them that they cannot talk to me about anything going on with their court or anything that goes on at their Dad’s house unless they are being harmed. Period. I make that extremely clear to them. He said that also, too, about Mr. Durard. I didn’t even know about the February 15<sup>th</sup> deadline because I had not received that Motion. Mr. Durard had it and he’s like, “Oh, by the way we were supposed to have paid by the 15<sup>th</sup> of the month.” I knew nothing about that. I have documentation of contacting Mr. Owens on seven different occasions where he did not return my phone calls. I have, in fact I’ve got the phone records on that. I’m actually getting my other ones from Qwest, and from now on every time I call I’m faxing a, a confirmation that I called his office. He has not returned my phone calls. He specifically directed me not to use my IRA money. I was perfectly going to perfectly comply with that as soon as I learned that I was in obligation to pay the thousand dollars. Mr. Durard provided me with that Motion. He told me that there was a balance of \$409. He said he’d sent the statement to Mr. Durard. You can check with him. Mr. Durard did not receive a statement and did not pass one on to me. You’re talking about letters that were sent to Mr. Durard for discovery Ms. Becker is talking about. Mr. Durard never communicated any of that to me. It was never communicated to me, sir, and I’m looking you directly in the eye and I am telling you the truth. I have no motivation to lie. My only motivation is to protect my children and I am not lying to you. I do not talk to them about their Father. In fact the other day, [name withheld] brought it up. She asked me about something, trying to talk about their Father and I said, “[name withheld], the judge, you know what the judge’s orders are, and if anything is happening to you physically you tell me. Otherwise we don’t talk about it.” And she said, “Okay, Mom. From now on we’ll just say, “Bla, bla, bla, bla.” And so that’s our big joke. She’ll say, ‘What’d you do today, Mom.’ And we’ll say, “Bla, bla, bla.” And that’s the thing. I am not coaching those children, nor have I. I have been following your orders, Your Honor.

JR: Thank you. I’m going to dispense [unintelligible] Leslie cross-examination. Is there any other evidence that either of you have?

LB: No, Your Honor.

JR: I have a question of Colonel Greenblatt.

Eric Greenblatt: Yes, Your Honor.

JR: Will you stand to be sworn, sir?

G: Yes, sir.

JR: Do you solemnly swear that the testimony that you'll give to the Court will be the truth, the whole truth, and nothing but the truth so help you God?

G: I do.

JR: Thank you. Be seated.

G: Yes, sir.

JR: As I understand the last court child support order was \$567 dollars. Was that right?

G: I think it was \$537 or \$567, either one. Yes.

JR: \$537 and I directed that that be paid until a withholding order could be in place.

G: Yes, sir.

JR: Have you paid it?

G: Absolutely, and, and the issue of not paying spousal support, spousal support in accordance with the MSA was terminated in January of this year.

JR: Okay.

G: So it ran out.

JR: Alright. So here's what the, here's what the Court's going to rule. The court's been very, very patient with both of you. The court has taken you both and tried to explain very carefully from the Court's own experience the damage that the inter-parental conflict has on the children. And it didn't serve to lesson the conflict. The Court has specifically written an order on January the 30<sup>th</sup> of 2003. It wasn't mailed to Mr. Durard because Mr. Durard was not on the case. Ms. Fields, it was mailed to you.

SF: What are you speaking of, sir?

JR: I'm talking about the order appointing the Guardian *ad Litem* with directions to the parties that was filed directly January 30<sup>th</sup>. The certificate indicates that it was mailed to you *Pro Se*.

SF: It may have (inaudible)...

JR: Because you terminated your prior attorney and it was after that that Mr. Durard came into the case so you, so basically, you claimed that you couldn't comply with this order because Mr. Durard didn't tell you about it is not acceptable and the Court doesn't accept it as the truth. The Court finds that you had knowledge of the Court Order, that you had the ability to comply with the Court Order because your income was not \$30,000 taking your testimony that you earn \$27.61 an hour for 36 hours a week your income's \$51,684 a year at that rate.

SF: That was from August of last year, Your Honor.

JR: It's \$4,307 a month plus what you receive in child support at \$537. So the Court finds that you violated that Court Order. The Court found it necessary to appoint a successor Guardian *ad Litem* because of your unending complaints about Mr. Carian who was a previous Guardian *ad Litem* and . . .

SF: As Mrs. Becker, Mrs. Becker did as well.

JR: Don't interrupt me again, please, because I'll have you hauled off!

SF: I'm sorry.

JR: I'm warning you, all right?

SF: Yes, sir.

JR: Last year in April, April 24<sup>th</sup> of 2003 the Court entered an order and I know that you were both present and I did so after, after speaking with both of you because I think that was the occasion that I did tell you about this conflict or issues injuring the children. And the Court specifically joined paragraph two. This Court (unintelligible) the parties under penalty of contempt to discuss the other, the other parent at any time with the children in a negative way or discuss any aspect of this lawsuit with the children. The Court finds the statements of the Guardian *ad Litem* credible and your testimony not credible. The Court finds that you were in contempt of the Court for violating that order as well. The Court finds that you had the ability to comply with the Court Order. This Court orders you had knowledge of them and that your failure, refusal to comply with this Court's Order, Court Orders is continuing to injure the children and is willful and is deliberate and I'm going to hold you in contempt of Court and I'm going to sentence you to a term of incarceration in the Bernalillo County Detention Facility for fourteen consecutive days, suspended on the condition that you be booked today and released and any further violations in anything with the instructions of the Guardian *ad Litem* (unintelligible) the orders that this Court has made, I will execute the fourteen days. And the Court is going to follow the recommendations of the Guardian *ad Litem* and direct that the recommendations that were made March the 5<sup>th</sup> following the Court-directed conference, March the 4th regarding the allergist evaluation during family therapy and regarding the mechanism and the commemoration made by Mr. Owens be implemented immediately.

LB: Does that also include the appointment of Dr. Roll, Your Honor?

JR: Immediately, and officer, accordingly I ask you to take Ms. Fields into custody.

PC: Your Honor, can I ask you a question?

JR: Yes.

PC: Just procedurally, because I am a little confused procedurally, this is a Motion to Compel. Now you've ruled, you have all kinds of issues that have gone before the Court regarding speaking to the kids that wasn't before the Court and you ruled on a number of different issues. And I'm just wondering, you know, this wasn't an Order to Show Cause, this was a Motion to Compel Discovery and payment to the GAL. So I'm just, I'm curious procedurally how these other, and I objected early on and you didn't allow me to speak but I'm not sure that any of this should have been heard. This thing is set up for trial, all these issues that were testified to you today.

JR: I'm not going to. Thank you, your objection is noted.

PC: Okay, so . . .

JR: I've been as patient as I'm going to be. Words don't seem to sink in. Orders don't seem to sink in. Compliance issues are not forthcoming and I've, and, and, and these children are being injured and its going to stop and the Court has the inherent authority *sua sponte* to make sure that this injury of the children stops. The Court is exercising that authority and that's the end of the story. Officer, I will be in recess to prepare the remand orders. Take the prisoner into custody and the Court instructs the Guardian *ad Litem* to prepare an Order, with or without the concurrence of opposing counsel, ordering immediately the implementation of the recommendations that you've made, that's commemorated on your March 5<sup>th</sup> letter, Mr. Owens. Yes.

[Recess]

JR: All parties present prior to recess are once again present. Officer, I'm handing you a certified copy of the (unintelligible) Orders about to be executed. Ms Becker.

LB: Yes, sir?

JR: I want you to prepare an Order reciting the Court's actual findings in Court *sua sponte*, action based upon the findings that the Court's made and I expect to see the order adjudicating contempt (unintelligible) quickly.

[unclear who the speaker is]: This?

JR: No, no, no, no and then Mr. Owens I expect you to prepare an Order implementing immediately, effective today, the recommendations that you've made as commemorated in the March 5<sup>th</sup> letter. Any questions?

PC: No, Your Honor.

SF: No, Your Honor.

JR: Court's in recess.

LB: Thank you.

JO: Thank you.

G: Thank you.