

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT VEK

HON. MARILYN MORDETZKY, JUDGE

AUSTIN, GRACE,

PETITIONER,

-VS-

AUSTIN, DALLAS,

RESPONDENT.

NO. 19VERO00438

ORIGINAL

TRANSCRIPT OF PROCEEDINGS

THURSDAY, APRIL 21, 2022

APPEARANCES:

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OFFICIAL REPORTER

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1 CASE NUMBER: 19VERO00438
2 CASE NAME: AUSTIN VS. AUSTIN
3 VAN NUYS, CALIFORNIA THURSDAY, APRIL 21, 2022
4 DEPARTMENT VEK HON. MARILYN MORDETZKY
5 COURT REPORTER: LUCY I. MILIVOJEVIC, CSR #11496
6 TIME: P.M. SESSION
7

8 APPEARANCES:

9 PETITIONER GRACE AUSTIN, PRESENT WITH
10 COUNSEL, ERIC W. MEYER, ATTORNEY AT LAW;
11 RESPONDENT DALLAS AUSTIN, PRESENT WITH
12 COUNSEL, LAUREN E. MACKAY, ATTORNEY AT LAW.
13

14 THE COURT: NUMBER 10, THE AUSTIN MATTER,
15 1019VERO00438.

16 LET'S START OFF WITH APPEARANCES, PLEASE.

17 MR. MEYER: GOOD AFTERNOON, YOUR HONOR. ERIC MEYER ON
18 BEHALF OF PETITIONER GRACE AUSTIN WHO IS PRESENT.

19 MS. MACKAY: LAUREN MACKAY HERE ON BEHALF OF
20 RESPONDENT DALLAS AUSTIN WHO IS PRESENT.

21 THE COURT: THANK YOU.

22 EVERYONE COULD HAVE A SEAT.

23 GOOD TO SEE EVERYBODY. IT'S BEEN A WHILE.

24 WE HAVE TWO PROCEDURES. ONE IS AN RFO FOR
25 MODIFICATION OF CUSTODY AND VISITATION FILED BY RESPONDENT
26 ON DECEMBER 16, 2021. AND THEN THERE IS A REQUEST FOR
27 ATTORNEY FEES FILED BY PETITIONER ON DECEMBER FIRST --
28 STRIKE THAT -- JANUARY 18TH, 2022.

1 SO WE'LL START WITH THE RFO FIRST AND THEN THE
2 ISSUE OF ATTORNEY FEES WILL TRAIL BEHIND THAT.

3 MR. MEYER: OKAY. JUST A REMINDER THERE WAS AN RFO
4 REGARDING CUSTODY AND CHILD SUPPORT THAT WAS FILED BY
5 RESPONDENT.

6 THE COURT: THAT'S WHAT I SAID. I INITIALLY SAID
7 THAT.

8 MR. MEYER: I DIDN'T HEAR CUSTODY.

9 THE COURT: GO AHEAD.

10 MR. MEYER: YOUR HONOR, AS FAR AS EVIDENCE
11 PRESENTATION, I BELIEVE THE PREVAILING PARTY, THE ISSUE WILL
12 HAVE SOME CROSS-OVER WITH THE CHILD SUPPORT ISSUE. SO I MAY
13 INTRODUCE SOME EVIDENCE THAT IT'S BOTH, AND I IMAGINE WE CAN
14 PROBABLY SUBMIT ON THAT AT THE END. WE WILL SEE WHERE WE
15 ARE.

16 THE COURT: WE WILL SEE.

17 LET'S START WITH CUSTODY AND VISITATION FIRST,
18 WHICH IS RESPONDENT'S RFO THAT WAS FILED ON DECEMBER 16TH,
19 2021.

20 ALL RIGHT. SO LET'S DO -- THE FIRST THING THAT
21 WE'LL DO IS THE RFO THAT WAS FILED BY RESPONDENT TO MODIFY
22 THE CUSTODY AND VISITATION BEING MARKED AND IDENTIFIED.

23 WELL, BEFORE I DO THAT, YOU GAVE A BOOKLET,
24 MS. MACKAY.

25 MS. MACKAY: YES.

26 THE COURT: AND HOW IS YOUR EVIDENCE MARKED?

27 MS. MACKAY: IT'S MARKED STARTING AT 501.

28 THE COURT: AND DO YOU HAVE MARKED AND IDENTIFIED THAT

1 REQUEST FOR ORDER? IS IT PART OF YOUR EXHIBITS?

2 MS. MACKAY: I DON'T BELIEVE IT IS. THE INCOME AND
3 EXPENSE DECLARATIONS ARE, BUT THE REQUEST FOR ORDER -- LET
4 ME MAKE SURE.

5 THE COURT: YOU DON'T NEED TO WORRY ABOUT IT NOW.
6 I'LL MAKE A NOTE AS YOU'RE GOING THROUGH YOUR EVIDENCE.

7 HAVE YOU MARKED AND IDENTIFIED YOUR RESPONSIVE
8 DECLARATION IN ANY OF YOUR EVIDENCE?

9 MR. MEYER: I WOULD HAVE TO LOOK AT MY EXHIBIT LIST.
10 THE DECLARATIONS ARE ALL MARKED. AT LEAST MY CLIENT'S
11 DECLARATION, MR. AUSTIN'S FOR I.D. PURPOSE.

12 THE COURT: ALL RIGHT. SO COUNSEL, YOU CAN GO AHEAD
13 AND JUST PROCEED AND I'LL MAKE A NOTE TO THAT.

14 MS. MACKAY: SURE. SO BEFORE WE BEGIN, WE WANTED TO
15 FIRST -- I THINK IT WOULD HELP TO CLARIFY WHETHER OR NOT
16 WE'RE GOING TO FIND THAT THE SECTION -- FAMILY CODE SECTION
17 3044 PRESUMPTION APPLIES. THERE ARE TWO RESTRAINING ORDERS
18 IN THIS CASE. SO THERE WAS A RESTRAINING ORDER THAT WAS
19 INITIALLY ORDERED ON MAY 1ST, 2019, AND AFTER THAT
20 RESTRAINING ORDER, THE JUDGE DID FIND THAT 3044 APPLIED.

21 THE COURT: SHE WOULD BECAUSE SHE FOUND DOMESTIC
22 VIOLENCE.

23 MS. MACKAY: OF COURSE. AND IN THE FINDINGS SHE DOES
24 MENTION THAT SHE'S TAKING INTO ACCOUNT 3044 AND THEN SHE DID
25 ORDER JOINT LEGAL CUSTODY. SO OUR POSITION IS THAT 3044
26 WAS, IN FACT, ALREADY REBUTTED WHEN SHE ORDERED THE JOINT
27 LEGAL CUSTODY ON MAY 1ST, 2019.

28 THE COURT: OKAY.

1 MS. MACKAY: SO THEN THERE WAS A RENEWAL THAT WAS IN
2 FRONT OF YOUR HONOR AND THAT WAS ON AUGUST 25TH, 2021. AND
3 ONCE AGAIN, YOUR HONOR, KEPT THE JOINT LEGAL CUSTODY
4 PROVISION. SO I BELIEVE THAT 3044 HAS ALREADY BEEN REBUTTED
5 AND THAT WOULD -- NARROWING THAT SCOPE WOULD REALLY NARROW
6 DOWN THE EVIDENCE PRESENTED IN THE CASE AND I FEEL LIKE HE
7 WON'T HAVE TO RE-LITIGATE SOME OF THESE ISSUES BECAUSE WE
8 ALREADY LITIGATED.

9 THE COURT: TO THE FIRST HEARING WE KNOW WE HAVE THE
10 TRANSCRIPT, AND AS TO THE SECOND HEARING ON THE RENEWAL, I
11 WOULD HAVE HAD TO MAKE A FINDING UNDER 3044.

12 ARE WE SAYING THAT I DIDN'T?

13 MR. MEYER: MAY I RESPOND IN TOTALITY, BECAUSE I THINK
14 IT WOULD HELP.

15 THE COURT: YES.

16 MR. MEYER: FIRST OF ALL THE 2019 PROCEEDINGS, JUDGE
17 GOULD-SALTMAN DIDN'T CHANGE THE LEGAL CUSTODY ORDER THAT
18 ALREADY EXISTED PER THE NEW YORK ORDERS. THE NEW YORK
19 ORDERS WERE JOINT LEGAL CUSTODY WITH PETITIONER HAVING
20 TIEBREAKER AUTHORITY. SHE DID NOT MODIFY THAT ORDER.

21 SHE DID STATE, AS COUNSEL MENTIONED, THAT 3044
22 SHE FOUND WAS REBUTTED FOR PURPOSES OF THAT HEARING AND HER
23 REASON GIVEN FOR THAT, WHICH IS IN THE TRANSCRIPT, IS THAT
24 HER ORDER IS CONSISTENT WITH THE VISITATION THAT WAS OFFERED
25 BY PETITIONER ANYWAY.

26 SO SHE FOUND PETITIONER'S OFFER OF VISITATION
27 BE CONSISTENT WITH THE COURT ORDER REBUTTED 3044. SO OUR
28 POSITION IS OBVIOUSLY THE NEW EVIDENCE RENEWAL WHICH

1 CONTAINED NEW ACTS OF DOMESTIC VIOLENCE -- OR NEW ACTS OF --
2 YES, DOMESTIC ABUSE; IN ADDITION JUST RENEWING IT BASED ON
3 PAST CONDUCT AND THE FACT THAT THIS PROCEEDING IS WITH
4 RESPECT TO RESPONDENT SEEKING JOINT PHYSICAL CUSTODY AND
5 MODIFICATION OF THE JOINT LEGAL CUSTODY.

6 THE TIEBREAKING AUTHORITY ORDER IS THE COURT
7 WOULD AGAIN HAVE TO ASSESS 3044 BECAUSE AT THE RENEWAL
8 HEARING, YOUR HONOR DID NOT HEAR ANY EVIDENCE AND NONE WAS
9 SUBMITTED ON THE ISSUE OF CUSTODY BECAUSE IT WAS STRICTLY
10 WITH RESPECT TO IF THE RESTRAINING ORDER WAS GOING TO BE
11 RENEWED. SO OUR POSITION IS THAT EVEN IF IT WAS REBUTTED ON
12 A LIMITED BASIS AS TO THE VISITATION ORDER OF 2019, MR.
13 AUSTIN IS NOW SEEKING MORE CUSTODY, A MODIFICATION OF THAT
14 JOINT LEGAL CUSTODY ORDER AS WELL.

15 THERE'S BEEN SEVERAL YEARS OF INCIDENTS AND
16 EVENTS SINCE THEN; SO THE COURT WOULD HAVE TO CONSIDER
17 EVERYTHING THAT'S HAPPENED UNDER 3044, IN LIGHT OF BOTH THE
18 EVIDENCE THAT'S GOING TO BE PRESENTED AS WELL AS
19 MR. AUSTIN'S REQUEST OF THE COURT BECAUSE THAT'S DIFFERENT
20 THAN THE VISITATION THAT WAS GRANTED IN 2019.

21 THE COURT: I THINK YOU'RE RIGHT. I THINK YOU'RE
22 RIGHT. LET ME CHECK SOMETHING.

23 MS. MACKAY: MAY I PROCEED?

24 THE COURT: YES. JUST A SECOND.

25 HOW MUCH ADDITIONAL EVIDENCE, MS. MACKAY, DO YOU
26 THINK? I'M NOT GOING INTO YOU -- YOU ALREADY HAVE THE
27 RESTRAINING ORDER AND RENEWAL AND YOU HAVE THE BENCH OFFICER
28 THAT HEARD THE RENEWAL, AND I READ ALL THE TALKING PARENTS;

1 SO I KNOW WHAT I'M DEALING WITH. SO I CAN'T IMAGINE WHERE
2 THAT'S GOING TO BE A LOT OF EVIDENCE.

3 MR. MEYER: IF I CAN MAKE A COMMENT FROM MY SIDE AS
4 FAR AS THE TIMING AND PREPARATION. I BELIEVE MY
5 EXAMINATION, CROSS AND DIRECT WILL INCORPORATE TALKING
6 PARENTS MESSAGES AND RELATED MATERIALS; MOSTLY NEWER. SOME
7 WOULD HAVE BEEN PRIOR TO THE RENEWAL, BUT THEY WOULD BE IN
8 THE CONTEXT OF MR. AUSTIN SEEKING JOINT LEGAL CUSTODY. SO
9 ELEMENTS OF CO-PARENTING; IF TIEBREAKING AUTHORITIES SHOULD
10 BE MAINTAINED AND OUR REASONS IT SHOULD; ISSUES AS THEY
11 RELATE TO INCREASING THE CUSTODY PER HIS REQUEST.

12 SO ALTHOUGH THERE WILL BE SOME OVERLAP IN MY
13 EVIDENCE PRESENTATION, IF THE COURT WILL ACCEPT IT, IT'S NOT
14 FROM THE SAME PRISM WITH RESPECT IT WAS INTRODUCED AT THE
15 RENEWAL HEARING. IT'S MORE SO IN THE CONTEXT OF CUSTODY
16 BECAUSE THAT WASN'T HEARD AT THE TIME OF THE RENEWAL.

17 THE COURT: OKAY. LET ME SAY THIS. GIVEN WHAT THE
18 RESPONDENT IS REQUESTING, HE IS ASKING THAT THERE NOT BE ANY
19 TIEBREAKING AUTHORITY IN THE LEGAL CUSTODY CONTEXT. THAT'S
20 ONE.

21 NUMBER TWO, HE'S ASKING NOW FOR ESSENTIALLY
22 EQUAL ACCESS TO THE CHILD. SO THAT'S DIFFERENT. AND IF YOU
23 LOOK AT FAMILY CODE SECTION 3044, IT SAYS UPON A FINDING BY
24 THE COURT THAT THE PARTY SEEKING CUSTODY OF CHILD -- BECAUSE
25 THE CUSTODY HERE IS CHANGING -- WELL, IT IS BEING ASKED TO
26 BE CHANGED -- HAS PERPETRATED DOMESTIC VIOLENCE WITHIN THE
27 PREVIOUS FIVE YEARS AGAINST THE OTHER PARTY SEEKING CUSTODY
28 OF THE CHILD OR AGAINST THE CHILD OR THE CHILD'S SIBLING OR

1 AGAINST A PERSON IN SUBPARAGRAPH (A) OF PARAGRAPH 2 OF
2 SUBDIVISION (A) OF SECTION 301111 WITH WHOM THE PARTY HAS A
3 RELATIONSHIP, THERE IS A REBUTTABLE PRESUMPTION THAT AN
4 AWARD OF SOLE OR AS HERE JOINT PHYSICAL OR LEGAL CUSTODY OF
5 THE CHILD TO A PERSON WHO HAS PERPETRATED DOMESTIC VIOLENCE
6 IS DETRIMENTAL TO THE BEST INTEREST OF THE CHILD.

7 SO I DO BELIEVE, GIVEN THE FACTS THAT ARE
8 PRESENTED TO THIS COURT NOW, THAT IT WILL HAVE TO DO SOME
9 SORT OF 3044 BALANCING.

10 MS. MACKAY: SURE.

11 THE COURT: AND THAT IF THAT BALANCING, IT'S BY A
12 PREPONDERANCE OF THE EVIDENCE AND NOT A HIGH STANDARD.

13 MS. MACKAY: RIGHT. WHAT WE WERE HOPING IS TO NARROW
14 DOWN THE TIME FRAME FOR WHICH -- BECAUSE ONE OF THE FACTORS
15 IN 3044 IS WHETHER OR NOT HE'S CONTINUED TO PERPETRATE
16 DOMESTIC VIOLENCE AND THINGS LIKE THAT. THERE'S A DIFFERENT
17 DEFINITION OF PERPETRATING DOMESTIC VIOLENCE THAN THERE IS
18 OF ABUSE IN TERMS OF WHAT WOULD WARRANT A PERMANENT DOMESTIC
19 VIOLENCE RESTRAINING ORDER.

20 THE COURT: WE'RE NOT HERE FOR A DOMESTIC VIOLENCE
21 RESTRAINING ORDER.

22 MS. MACKAY: OF COURSE. BUT WHAT WE'RE ASKING IS TO
23 AT LEAST NARROW IT DOWN TO THE QUESTION OF WHETHER OR NOT HE
24 COMMITTED -- PERPETRATED DOMESTIC VIOLENCE FOR PURPOSES OF
25 3044 TO AFTER THE LAST ORDER FROM AUGUST 25TH, 2021, AND THE
26 REASON WHY IS JOINT LEGAL CUSTODY -- THE TIEBREAKING
27 AUTHORITY IS TIEBREAKING AUTHORITY WITH A TWIST. IT'S NOT
28 CARTE BLANCH TIEBREAKING AUTHORITY. FIRST, IN ORDER FOR HER

1 TO EXERCISE TIEBREAKING AUTHORITY, THEY NEED TO HIRE A
2 PROFESSIONAL IN THE FIELD OF DISAGREEMENT PAID FOR BY BOTH
3 PARTIES; AND AFTER HIRING A PROFESSIONAL IN THE FIELD AND
4 CONSULTING WITH THAT PROFESSIONAL; IF THEN THEY CANNOT COME
5 TO AN AGREEMENT, THEN SHE'S ABLE TO EXERCISE TIEBREAKING
6 AUTHORITY SUBJECT TO HIS ABILITY TO ALSO MOVE THE COURT.

7 SO IT'S NOT JUST STRAIGHT TIEBREAKING AUTHORITY.
8 BUT ALSO SHE WAS REQUESTING -- PETITIONER WAS REQUESTING IN
9 HER ORIGINAL REQUEST FOR A DOMESTIC VIOLENCE RESTRAINING
10 ORDER FOR SOLE LEGAL CUSTODY WITHOUT TIEBREAKING AUTHORITY
11 AND THAT WAS NOT ORDERED. THAT WAS DENIED AND THE ORIGINAL
12 JUDGE FOUND THAT HE HAD REBUTTED THE PRESUMPTION.

13 OF COURSE THE PRESUMPTION IS EITHER REBUTTED OR
14 IT IS NOT. I'M SURE THE COURT IS AWARE THAT ONCE 3044
15 APPLIES, THE COURT CANNOT JUST DECIDE WHETHER OR NOT THEY'RE
16 GOING TO ORDER JOINT LEGAL WITHOUT ALSO FINDING THE
17 PRESUMPTION HAS BEEN REBUTTED.

18 THE COURT: OF COURSE. I FOLLOW WHAT YOU'RE SAYING.
19 OF COURSE THAT HAPPENED IN THE FIRST HEARING AND WITHOUT
20 HAVING THE TRANSCRIPT IN FRONT OF ME, I'M ASSUMING I WENT
21 THROUGH THE 3044 FACTOR. I'M NOT CERTAIN IF I DID, QUITE
22 FRANKLY. I'M NOT SURE IF I DID.

23 MR. MEYER: AT THE RENEWAL? I DON'T BELIEVE YOU DID.

24 THE COURT: I DON'T THINK I DID.

25 MR. MEYER: THERE WAS NO CUSTODY BEFORE THE COURT.

26 THE COURT: RIGHT. I DON'T THINK I DID.

27 MR. MEYER: IT WASN'T REALLY RELEVANT WHETHER OR NOT
28 THERE WAS GOING TO BE A RENEWAL.

1 THE COURT: THERE WOULDN'T HAVE BEEN A REASON FOR ME
2 TO, NOW THAT I THINK OF IT. I'M SURE I DIDN'T.

3 MR. MEYER: YOU DID NOT, AS FAR AS I RECALL.

4 THE COURT: NOW I'M THINKING ABOUT IT, I KNOW I DIDN'T
5 BECAUSE THERE WOULDN'T HAVE BEEN A REASON.

6 I DON'T KNOW IF THIS WAS THE REASON BUT PERHAPS
7 THAT SHOULD HAVE BEEN DONE, BUT I DIDN'T DO IT. SO IT
8 APPLIES TODAY.

9 MS. MACKAY: AND SO WOULD THIS APPLY -- THEN IT WOULD
10 APPLY POST MAY 1ST, 2019, WHICH I THINK IT WOULD BE JUST
11 EFFICIENT BECAUSE --

12 THE COURT: IT'S NOT GOING TO GO BACK TO BEFORE JUDGE
13 SALTMAN. IT'S NOT GOING TO GO BEFORE THEM -- THE 3044
14 BALANCE AFTER THE FIRST RESTRAINING ORDER. WHEN THE RENEWAL
15 CAME ABOUT -- AND IF YOU LOOK AT THE TRANSCRIPT IN THE
16 RENEWAL, I MENTIONED A LOT ABOUT IF YOU'RE SEEKING A CHANGE
17 IN CUSTODY, THEN THAT'S SOMETHING ELSE BEFORE THE COURT, NOT
18 A RENEWAL. AND THE CUSTODY WAS JUST -- OR THE VISITATION
19 WAS JUST BASICALLY STAYING THE SAME. I THINK IT STAYED THE
20 SAME.

21 DID IT STAY THE SAME?

22 MR. MEYER: THE CUSTODY?

23 THE COURT: YES.

24 MR. MEYER: IT WASN'T TRIED. THERE WAS NO EVIDENCE
25 PRESENTED; NO ONE WAS SEEKING ANY MODIFICATION AFTER
26 RENEWAL.

27 THE COURT: OKAY.

28 MS. MACKAY: AND YEAH, SINCE THE STANDARD IS DIFFERENT

1 FOR RENEWAL THAN IT IS TO ORDER A RESTRAINING ORDER IN THE
2 FIRST PLACE, THE COURT HAD NOT FOUND THAT HE HAD PERPETRATED
3 OR DIDN'T NEED TO FIND THAT HE HAD PERPETRATED ADDITIONAL
4 ACTS OF DOMESTIC VIOLENCE BECAUSE IT'S PARTICULARLY NOT
5 REQUIRED IN THE CODE.

6 MR. MEYER: I AGREE IT'S NOT REQUIRED TO ORDER
7 RENEWAL. I BELIEVE THE FINDINGS OF THE COURT IN THE
8 TRANSCRIPT DID FIND FURTHER ACTS OF ABUSE.

9 THE COURT: I DID.

10 MR. MEYER: AND WE LODGED THE TRANSCRIPT.

11 THE COURT: I KNOW THAT YOU LODGED THE FIRST
12 TRANSCRIPT. DID YOU LODGE MINE AS WELL?

13 MR. MEYER: YES. AND WE INTENDED -- IT'S ON OUR
14 EXHIBIT LIST WE INTRODUCED.

15 THE COURT: THEN WE COULD LOOK AND SEE IF I BALANCED
16 ANY 3044, BUT I DON'T EVEN NEED TO LOOK BECAUSE I KNOW I
17 DIDN'T. IT WOULD CLEARLY APPLY HERE BECAUSE IT'S A CHANGE.

18 WHAT I'M THINKING I'M HEARING, MS. MACKAY, IS
19 THAT YOU'RE WORRIED ABOUT SOME TIMELINE. ARE YOU WORRIED
20 THAT NEW ALLEGATIONS OF DOMESTIC VIOLENCE ARE GOING TO BE
21 PRESENTED TODAY?

22 MS. MACKAY: NO. I'M JUST WORRIED ABOUT RE-LITIGATING
23 THINGS THAT HAVE ALREADY BEEN LITIGATED IN THE PAST.

24 THE COURT: I'LL MAKE SURE THAT DOESN'T HAPPEN.

25 MS. MACKAY: AND I READ THE TRANSCRIPT AND I KNOW THAT
26 THE COURT WAS ALSO CONCERNED ABOUT MOVING FORWARD, AND TO
27 NOTE BEING STUCK IN THE PAST, AND I THINK THAT WE'RE READY
28 TO DO THAT HERE.

1 SO I JUST WANTED TO -- AND I JUST THINK THAT IT
2 WILL REDUCE THE TIME NEEDED IF WE DON'T HAVE TO GO BACK SO
3 FAR.

4 SECONDLY, WHEN WE ARE DISCUSSING 3044, AND
5 WHETHER OR NOT --

6 THE COURT: WE'RE NOT THERE YET, THOUGH. THAT WILL BE
7 AT THE END; SO WHY DON'T WE JUST WORRY ABOUT IT WHEN WE GET
8 TO THE END.

9 MS. MACKAY: WORRY ABOUT WHETHER OR NOT 3044 APPLIES?

10 THE COURT: NO. 3044 IS GOING TO APPLY.

11 MS. MACKAY: YES.

12 THE COURT: RIGHT. I'M GOING TO HAVE TO BALANCE THE
13 FACTORS BECAUSE IT'S A REQUEST FOR A CHANGE IN CUSTODY. I
14 JUST READ THAT FIRST PARAGRAPH.

15 MS. MACKAY: YES.

16 THE COURT: AND I NEVER DID IT IN THE RENEWAL.

17 MS. MACKAY: SO IN 3044, I WOULD JUST LIKE TO POINT
18 OUT A SMALL NUANCE IN THE STANDARD FOR DETERMINING WHETHER
19 SOMEBODY HAS PERPETRATED DOMESTIC VIOLENCE FOR 3044 TO APPLY
20 WHICH IT DOES -- BUT -- SINCE YOUR HONOR IS ORDERING THAT.
21 BUT I WOULD LIKE TO NOTE THAT FOR PURPOSES OF 3044, DOMESTIC
22 VIOLENCE OR -- YEAH, PERPETRATED DOMESTIC VIOLENCE IS
23 DEFINED IN 3044, SUBDIVISION -- I BELIEVE IT'S G OR F. AND
24 IN THAT SUBDIVISION -- AND THERE'S A CASE THAT DISCUSSES IT
25 TOO THAT WE BRIEFED IN THE MEMORANDUM OF POINTS AND
26 AUTHORITIES THAT I'D BE HAPPY TO RE-ITERATE, IF NECESSARY,
27 BUT THE STANDARD IS LOWER FOR DETERMINING WHETHER OR NOT
28 SOMEBODY HAS PERPETRATED DOMESTIC VIOLENCE UNDER 3044, WHICH

1 I THINK IS RELEVANT TO THIS CASE BECAUSE IT IS WHETHER OR
2 NOT SOMEBODY HAS PERPETRATED ABUSE THAT WOULD WARRANT AN
3 ORIGINAL TRO, AND I THINK WITH THIS CASE A LOT OF WHAT WAS
4 DEFINED AS ABUSE IN 63 -- WE'RE LOOKING AT 6320 AND 5302.

5 SO IN 6320 DEFINES WHAT ABUSE IS.

6 THE COURT: I KNOW. YOU'RE TALKING ABOUT ABUSE VERSUS
7 DOMESTIC VIOLENCE.

8 MS. MACKAY: AND IN 6203, A TECHNICAL VIOLATION OF A
9 RESTRAINING ORDER CAN QUALIFY AS ABUSE TO REINSTATE A
10 RESTRAINING ORDER. AND I THINK THAT WHEN WE'RE DETERMINING
11 WHETHER OR NOT THE ABUSE IS EGREGIOUS ENOUGH TO DETERMINE
12 THAT HE COULD NOT POSSIBLY BE GRANTED THE CHANGE IN CUSTODY,
13 I THINK THAT WE NEED TO KEEP AN EYE OUT FOR THE FACT THAT
14 THE UNDERLYING BEHAVIOR NEEDS TO BE ABUSIVE IN ITSELF RATHER
15 THAN A TECHNICAL VIOLATION OF THE TRO.

16 THE COURT: SO WHERE ARE WE GOING WITH ALL THIS?

17 MS. MACKAY: I JUST WANT TO KEEP THAT IN MIND BECAUSE
18 I KNOW THAT A LOT OF THE ABUSE THAT HE HAS BEEN ACCUSED OF
19 WOULD NOT NECESSARILY QUALIFY AS ABUSE IF SOMEBODY WERE
20 COMING TO GET A TRO AND WEREN'T ALREADY ENJOINED.

21 THE COURT: SO YOUR ANTICIPATING I'M GOING TO BE
22 HEARING FACTS IN RELATIONSHIP TO ABUSE THAT HASN'T BEEN --
23 IS THAT WHAT YOU'RE TELLING THE COURT? YOU THINK TESTIMONY
24 IS GOING TO COME FORWARD THAT THERE HAS BEEN CONTINUED
25 ABUSE. LET'S USE THAT WORD.

26 MS. MACKAY: CONTINUED ABUSE IN THAT THE ARGUMENTS OR
27 THAT HE HAS VIOLATED THE TERMS OF THE RESTRAINING ORDER BY
28 HAVING DISCUSSION OUTSIDE OF THE EXCEPTION, RIGHT. HOWEVER,

1 IN ORDER TO GET A TRO, WE WOULD LOOK AT THAT UNDERLYING
2 BEHAVIOR AND WHETHER THE PETITIONING PARTY WOULD BE ABLE TO
3 PETITION THE COURT A REQUEST.

4 THE COURT: I'M AWARE OF THAT. I'M AWARE OF THAT.

5 MS. MACKAY: OKAY. I JUST WANTED TO MAKE SURE.

6 THE COURT: YES. AND I KIND OF GATHERED THAT FROM
7 THINGS THAT HAVE BEEN SUBMITTED TO THE COURT SUCH AS THE
8 TALKING PARENTS.

9 MR. MEYER: MAY I RESPOND BRIEFLY, YOUR HONOR?

10 THE COURT: DO YOU NEED TO?

11 MR. MEYER: I THINK SO, JUST FOR THE RECORD.

12 THE COURT: OKAY.

13 MR. MEYER: VERY BRIEFLY.

14 BASED ON THE TRANSCRIPTS IN YOUR HONOR'S
15 FINDINGS AND ORDERS AT THE RENEWAL HEARING, THERE WERE NO
16 FINDINGS AND ORDERS THAT THE RENEWAL WAS BASED ON A MERE
17 TECHNICAL VIOLATION, AND IT'S OUR POSITION THAT THE BASIS
18 FOR THE RENEWAL, AS LEAST IN PART, OF FURTHER ACTS OF ABUSE
19 WERE AND WOULD QUALIFY FOR ACTS OF ABUSE IF SOUGHT IN THE
20 ORIGINAL DVRO. SO I DON'T ACCEPT THAT.

21 THE COURT: THAT'S YOUR POSITION.

22 MR. MEYER: EXACTLY. WE COULD ARGUE THAT AT CLOSING.

23 THE COURT: RIGHT. THAT'S WHY WE'RE HERE. SO LET'S
24 GET STARTED.

25 MR. MEYER: A COUPLE PROCEDURAL THINGS, YOUR HONOR.

26 FIRST, DOES YOUR HONOR WANT OPENING STATEMENTS?

27 THE COURT: NO. I'M FAMILIAR WITH THIS CASE.

28 MR. MEYER: I'M JUST ASKING. MOVING ON FROM THAT, I

1 WAS WONDERING IF, AS FAR AS TAILORING OUR EXAMINATIONS TO
2 REDUCE TRIAL TIME, IF COUNSEL WOULD AGREE AND THE COURT
3 WOULD ACCEPT THAT THE PARTIES STIPULATE TO THE ADMISSIBILITY
4 OF THE PARTY DECLARATIONS, RESPONSES, INITIAL REPLIES IN
5 CONNECTION WITH BOTH RFO'S.

6 THE COURT: THAT'S WHY I ASKED, BECAUSE THEY WERE
7 MARKED AS YOUR EXHIBITS.

8 MR. MEYER: THE DECLARATIONS HAVE.

9 THE COURT: THE DECLARATIONS HAVE.

10 MR. MEYER: CORRECT.

11 THE COURT: YES, OF COURSE. YOU DON'T HAVE TO
12 REITERATE WHAT'S IN THE REQUEST -- THE DECLARATION AND
13 REQUEST FOR THE ORDER. YOUR CLIENT'S REPLY IN HER
14 DECLARATION, SHE DOESN'T HAVE TO REITERATE THAT AT ALL.

15 MR. MEYER: DO YOU WANT ME TO GO THROUGH THE NUMBERS
16 OF THOSE SO IT'S CLEAR.

17 THE COURT: I THINK IT WOULD BE HELPFUL, YES.

18 MR. MEYER: I HAVE IT SET UP HERE.

19 THE COURT: JUST SO THAT WE CAN GET THOSE MARKED IN
20 ALREADY.

21 MS. MACKAY: COUNSEL AND I STIPULATED TO THE
22 ADMISSIBILITY OF THE MARITAL SETTLEMENT AGREEMENT SIGNED IN
23 NEW YORK AND JUDGMENT SIGNED IN NEW YORK FOR BOTH OF THOSE
24 AS EXHIBITS.

25 MR. MEYER: THOSE ARE THREE AND FOUR IN MY EXHIBIT
26 NOTEBOOK, IF YOU WANT TO USE THOSE NUMBERS.

27 THE COURT: OKAY. EXHIBIT 3 IS WHAT?

28 MR. MEYER: EXHIBIT 3 IS THE NEW YORK POST-NUPTIAL

1 AGREEMENT AND DIVORCE. AND JUST FOR THE RECORD, IN NEW YORK
2 THEY CALL, FOR WHATEVER REASON, THE DIVORCE AGREEMENTS
3 POST-NUPTIAL AGREEMENTS.

4 THE COURT: OKAY. ANY OBJECTION TO THAT COMING INTO
5 EVIDENCE?

6 MS. MACKAY: NO.

7 THE COURT: OKAY. IT'S MOVED INTO EVIDENCE.

8
9 (MARKED AND RECEIVED IN EVIDENCE,
10 PETITIONER'S EXHIBIT 3.)

11
12 THE COURT: NEXT.

13 MR. MEYER: NUMBER 4 IS THE NEW YORK JUDGMENT OF
14 DIVORCE.

15 THE COURT: OKAY. ANY OBJECTION?

16 MS. MACKAY: NO.

17 THE COURT: THAT'S MOVED INTO EVIDENCE.

18
19 (MARKED AND RECEIVED IN EVIDENCE,
20 PETITIONER'S EXHIBIT 4.)

21
22 MR. MEYER: I'LL NOTE FOR THE DECLARATIONS NUMBER 2 OF
23 MINE I'LL AGREE FOR IT TO BE ADMITTED RESPONDENT'S NOVEMBER
24 3RD, 2021, DECLARATION, WHICH IS THE MOVING DECLARATION OF
25 CUSTODY, CHILD SUPPORT RFO.

26 THE COURT: HANG ON ONE SECOND. NOT NOVEMBER THIRD,
27 HIS RFO.

28 MR. MEYER: I SAID NOVEMBER 30TH.

1 THE COURT: NOT EVEN NOVEMBER 30TH. I HAVE
2 DECEMBER 16TH.

3 MR. MEYER: THAT MIGHT BE WHEN IT WAS FILED. I WENT
4 OFF SIGNATURE DATES.

5 THE COURT: YOU'RE GOING BY THE DECLARATION DATE.

6 MR. MEYER: YES.

7 THE COURT: SO IT'S HIS DECLARATION OF NOVEMBER 30TH,
8 2021, WHICH IS CONTAINED IN HIS RFO OF DECEMBER 16TH, 2021.

9 MR. MEYER: CORRECT.

10 THE COURT: THAT IS MARKED AS EXHIBIT 2.

11 MR. MEYER: YES.

12 THE COURT: ANY OBJECTION?

13 MS. MACKAY: THIS IS --

14 THE COURT: HIS DECLARATION IN HIS RFO.

15 MS. MACKAY: YES, THAT'S FINE.

16 THE COURT: IT'S MOVED INTO EVIDENCE.

17

18 (MARKED AND RECEIVED IN EVIDENCE,
19 PETITIONER'S EXHIBIT 2.)

20

21 MR. MEYER: AND WE WANT TO DO THE INCOME AND EXPENSE
22 DECLARATIONS AS WELL.

23 THE COURT: MIGHT AS WELL.

24 MR. MEYER: NUMBER 6 IS RESPONDENT'S DECEMBER 13,
25 2021, INCOME AND EXPENSE DECLARATION.

26 THE COURT: OKAY. ANY OBJECTION?

27 MS. MACKAY: WELL, THAT'S NOT THE MOST RECENT INCOME
28 AND EXPENSE DECLARATION.

1 MR. MEYER: I THINK IT'S THE ERRATA WAS THE MOST
2 RECENT ONE.

3 MS. MACKAY: NO. IT WAS ON THE ONE PRIOR TO MOST
4 RECENT ONE.

5 MR. MEYER: I'M OKAY IF YOU WANT TO MARK THE ERRATA AS
6 WELL FOR COMPLETENESS.

7 THE COURT: ANY OBJECTION TO NUMBER 6 WHICH IS THE
8 DECEMBER 13TH ONE?

9 MS. MACKAY: NO. SO LONG AS WE'RE ALSO ALLOWING THE
10 ERRATA IN AS WELL.

11 MR. MEYER: THAT'S FINE.

12 THE COURT: WHAT'S THE DATE OF THAT ONE?

13 SIX IS MOVED INTO EVIDENCE.

14

15 (MARKED AND RECEIVED IN EVIDENCE,

16 PETITIONER'S EXHIBIT 6.)

17

18 THE COURT: THIS IS RESPONDENT'S 511. EXHIBIT 511.

19 ANY OBJECTION TO EXHIBIT 511 --

20 MR. MEYER: NO OBJECTION.

21 THE COURT: -- BY RESPONDENT?

22 MR. MEYER: NO OBJECTION.

23 THE COURT: JUST FOR PURPOSES OF CLARIFICATION, 2, 3,
24 4, AND 6 ARE PETITIONER'S.

25 MR. MEYER: EXHIBITS, YES.

26 THE COURT: 511 OF RESPONDENT'S MOVED INTO EVIDENCE.

27

28

1 (MARKED AND RECEIVED IN EVIDENCE,
2 RESPONDENT'S EXHIBIT 511.)

3

4 MR. MEYER: SEVEN IS RESPONDENT'S APRIL 8, 2022,
5 INCOME AND EXPENSE DECLARATION.

6 THE COURT: ANY OBJECTION?

7 MS. MACKAY: NO.

8 THE COURT: THAT'S MOVED INTO EVIDENCE.

9

10 (MARKED AND RECEIVED IN EVIDENCE,
11 PETITIONER'S EXHIBIT 7.)

12

13 MR. MEYER: NUMBER 8 IS PETITIONER'S JANUARY 18, 2022
14 DECLARATION.

15 THE COURT: PETITIONER'S, RIGHT?

16 MR. MEYER: YES. AND THIS IS THE RESPONSE.

17 THE COURT: IS THAT THE RESPONSE?

18 MR. MEYER: THAT'S THE RESPONSE.

19 THE COURT: ANY OBJECTION?

20 MS. MACKAY: NO.

21

22 (MARKED AND RECEIVED IN EVIDENCE,
23 PETITIONER'S EXHIBIT 8.)

24

25 MR. MEYER: AND THEN 48 IS PETITIONER'S DECLARATION IN
26 SUPPORT OF PREVAILING PARTY RFO. I KNOW WE'RE WAITING ON
27 THAT, BUT IF THE COURT WANTS ME TO RESERVE, I WILL.

28 THE COURT: ANY OBJECTION TO MOVE THAT INTO EVIDENCE?

1 MS. MACKAY: NO.

2 THE COURT: ALL RIGHT. IT'S MOVED INTO EVIDENCE.

3

4 (MARKED AND RECEIVED IN EVIDENCE,

5 PETITIONER'S EXHIBIT 48.)

6

7 MR. MEYER: AND THEN I DON'T HAVE PREMARKED SO I COULD
8 DO MY NEXT IN ORDER IS 55, WHICH WOULD BE PETITIONER'S
9 INCOME AND EXPENSE DECLARATION THAT WAS JUST FILED LAST
10 WEEK. I DON'T HAVE THE DATE ON THAT.

11 MS. MACKAY: I HAVE IT AS OUR EXHIBIT 509; SO WE COULD
12 USE --

13 MR. MEYER: THAT'S FINE. 509. I TRUST THAT.

14 THE COURT: SO 509 IS MOVED INTO EVIDENCE. THAT'S
15 RESPONDENT'S?

16 MR. MEYER: YES.

17 THE COURT: OKAY.

18

19 (MARKED AND RECEIVED IN EVIDENCE,

20 RESPONDENT'S EXHIBIT 509.)

21

22 MR. MEYER: THAT'S ALL THE I AND E'S THAT I HAVE.

23 THE COURT: THAT'S PETITIONER'S?

24 MR. MEYER: YES.

25 THE COURT: I DON'T HAVE IT INTO MY SYSTEM YET. I
26 HAVE RESPONDENT'S THAT'S APRIL 8TH, BUT IF YOU FILED IT LAST
27 WEEK --

28 MR. MEYER: YUP.

1 THE COURT: OH, NO. I'M SO SORRY. IT'S APRIL 14TH.
2 SO APRIL 14TH IS 509.

3 MR. MEYER: YES.

4 LAUREN, DO YOU HAVE THE INCOME AND EXPENSE
5 DECLARATION THAT PETITIONER FILED IN JANUARY BECAUSE I DON'T
6 SEE THAT ON MY LIST?

7 MS. MACKAY: PETITIONER'S JANUARY 18TH, 2021 IS
8 RESPONDENT'S 508.

9 MR. MEYER: SO I WOULD ASK THAT --

10 THE COURT: BUT WE HAVE IT AS PETITIONER'S 8.

11 MR. MEYER: NO. THAT WAS DECLARATION, NOT INCOME AND
12 EXPENSE DECLARATION.

13 THE COURT: OKAY. SO 508?

14 MS. MACKAY: YES.

15 MR. MEYER: YES. 508.

16 THE COURT: RESPONDENT 508 IS THE INCOME AND EXPENSE
17 DECLARATION THAT WAS FILED ON JANUARY 18TH?

18 MR. MEYER: YES.

19 THE COURT: IT'S MOVED INTO EVIDENCE.

20

21 (MARKED AND RECEIVED IN EVIDENCE,
22 RESPONDENT'S EXHIBIT 508.)

23

24 MR. MEYER: THAT'S ALL THE I AND E'S AND DECLARATIONS
25 I HAVE AS FAR AS MY EXHIBITS.

26 THE COURT: ALL RIGHT. THANK YOU.

27 MS. MACKAY: WHAT ABOUT RESPONDENT 2021 FEDERAL INCOME
28 TAX RETURN? STIPULATE TO THAT?

1 MR. MEYER: I'M HAPPY TO STIPULATE TO ALL TAX RETURNS.
2 I HAVE MORE THAN ONE. SO I HAVE MR. AUSTIN'S 2019 THROUGH
3 2021 -- OR SORRY. I DON'T HAVE HIS 2021 BECAUSE THAT WAS
4 JUST SENT WITH YOUR EXHIBITS THAT I'VE SEEN BEFORE, BUT I
5 HAVE NO OBJECTION TO THAT.

6 I ALSO ASK THAT HIS 2019 AND '20 RETURNS WOULD
7 BE ADMITTED, AND THAT'S 29 AND 30 IN MY BOOK.

8 THE COURT: YOU DON'T NEED TO, IF YOU BOTH ARE
9 AGREEING TO MOVE 29 AND 30 WHICH DEAL WITH TAX RETURNS INTO
10 EVIDENCE.

11 MR. MEYER: SO 29 IS MR. AUSTIN'S 2019 TAX RETURN; 30
12 IS HIS 2020.

13 MS. MACKAY: 2021 WOULD BE RESPONDENTS' EXHIBIT 507.

14 THE COURT: OKAY. SO TO RECAP, PETITIONER'S 29 AND
15 30, ANY OBJECTION TO IT BE MOVED INTO EVIDENCE?

16 MR. MEYER: NO.

17 THE COURT: THAT'S 2019 AND 2020 TAX RETURNS BY
18 RESPONDENT.

19

20 (MARKED AND RECEIVED IN EVIDENCE,
21 PETITIONER'S EXHIBITS 29 AND 30.)

22

23 THE COURT: RETURNS BY RESPONDENT. ANY OBJECTION TO
24 507 WHICH IS 2021 RESPONDENT'S TAX RETURNS?

25 MR. MEYER: NONE FROM ME.

26 THE COURT: SO THAT'S MOVED INTO EVIDENCE.

27

28

1 (MARKED AND RECEIVED IN EVIDENCE,
2 RESPONDENT'S EXHIBIT 507.)

3
4 MR. MEYER: AND THEN I NOTE THAT PETITIONER'S TAX
5 RETURNS AREN'T SEPARATELY MARKED ON MY EXHIBIT LIST. THEY
6 ARE ATTACHED TO THE INCOME AND EXPENSE DECLARATIONS; SO IT'S
7 ACCEPTABLE THAT WOULD JUST BE INCORPORATED; THAT WOULD
8 INCLUDE HER 2020 AND 2021 RETURNS.

9 THE COURT: THE TAX RETURNS THAT ARE ATTACHED TO
10 PETITIONER'S INCOME AND EXPENSE DECLARATION THAT HAVE
11 ALREADY BEEN MARKED AND IDENTIFIED AND MOVED INTO EVIDENCE,
12 ANY OBJECTION TO THOSE TAX RETURNS COMING IN?

13 MS. MACKAY: NO OBJECTION.

14 THE COURT: OKAY.

15 MS. MACKAY: AND WE BOTH TURNED IN A GIRTH OF TALKING
16 PARENTS MESSAGES BETWEEN THE PARTIES.

17 WOULD YOU STIPULATE TO HAVING OUR 513 COME IN,
18 BECAUSE I THINK THAT MY CLIENT GENERATED THEM A LITTLE LATER
19 AND THEY ARE CLEAN COPIES WITHOUT ANY HIGHLIGHTS OR NOTES.

20 MR. MEYER: NO OBJECTION TO THAT, BUT I WILL JUST SAY
21 FOR PURPOSES OF MY EVIDENCE PRESENTATION, I HAVE NOTES TO
22 MYSELF WHAT PAGES TO LOOK FOR SO I DON'T HAVE THE PAGINATION
23 CHANGES WHEN MESSAGES FOLLOW CHAINS. SO I MIGHT REQUEST TO
24 SUBMIT THEM BOTH AND THEN I DON'T HAVE ANY OBJECTION TO YOUR
25 HONOR JUST USING ONE OF THEM, WHICHEVER YOU PREFER FOR
26 REFERENCE, BUT IT MIGHT BE COMPLICATED JUST USING
27 MR. AUSTIN'S VERSION AS FAR AS EXAMINATION.

28 THE COURT: I THINK THE QUESTION IS ARE WE GOING TO

1 MOVE TALKING PARENTS INTO EVIDENCE AND I'M SURE WE ARE.

2 WHICH ONE IS THE RESPONDENT'S TALKING PARENTS
3 ONE?

4 MS. MACKAY: RESPONDENT'S IS 513.

5 THE COURT: OKAY. AND IS THERE A TIME FRAME FOR THESE
6 TALKING PARENTS?

7 MS. MACKAY: THERE IS. WE CAN LIMIT THIS IF WE NEED
8 TO, BUT IT'S FROM MAY 2019 TO APRIL 2022.

9 THE COURT: ANY OBJECTION TO THAT BEING MOVED INTO
10 EVIDENCE?

11 MR. MEYER: NO OBJECTION.

12 THE COURT: AND WHAT'S PETITIONER'S TALKING PARENTS?

13 MR. MEYER: PETITIONER'S 1.

14 THE COURT: EXHIBIT 1?

15 MR. MEYER: EXHIBIT 1.

16 THE COURT: ANY OBJECTION TO THAT COMING INTO
17 EVIDENCE?

18 MS. MACKAY: NO OBJECTION.

19 THE COURT: OKAY. IT'S MOVE INTO EVIDENCE.

20

21 (MARKED AND RECEIVED IN EVIDENCE,

22 PETITIONER'S EXHIBIT 1.)

23

24 MR. MEYER: AS FAR AS -- I WOULD LIKE TO MOVE IN SOME
25 PRIOR ORDERS AND THEN I ALSO FILED A REQUEST FOR JUDICIAL
26 NOTICE.

27 THE COURT: I SAW THAT.

28 MR. MEYER: SO I GUESS I COULD SKIP THE EXHIBITS IF

1 THE COURT TAKES JUDICIAL NOTICE OF THE MAY 16, 2019,
2 DOMESTIC VIOLENCE RESTRAINING ORDER AND THEN THE RENEWAL
3 FROM AUGUST 2021.

4 THE COURT: ANY OBJECTION TO THE COURT TAKING JUDICIAL
5 NOTICE OF THOSE TWO DOCUMENTS, THE RENEWAL AND THE INITIAL
6 RESTRAINING ORDER?

7 MS. MACKAY: NO.

8 THE COURT: YOU HAD SOME HESITATION.

9 MS. MACKAY: I THOUGHT THAT WE ALREADY HAD THEM ON
10 OURS ANYWAY, BUT IT DOESN'T LOOK LIKE WE DID. ANOTHER THING
11 THAT I THINK THAT WE COULD STIPULATE TO NOW IS --

12 THE COURT: HOLD ON A SECOND.

13 I'M LOOKING AT THE JUDICIAL NOTICE. JUST GIVE
14 ME A SECOND. SO THE RESTRAINING ORDER -- INITIAL
15 RESTRAINING ORDER WAS MAY 16TH, 2019, THAT THE COURT WILL
16 TAKE JUDICIAL NOTICE OF THAT DOCUMENT AND ITS ATTACHMENTS.
17 THERE'S A LOT OF ATTACHMENTS TO IT, AS WELL AS THIS COURT'S
18 RENEWAL OF THAT DOMESTIC VIOLENCE RESTRAINING ORDER ON
19 AUGUST 25TH, 2021.

20 MR. MEYER: THANK YOU, YOUR HONOR.

21 AND THEN SEPARATELY I DON'T HAVE A REQUEST FOR
22 JUDICIAL NOTICE. I JUST HAVE THEM AS EXHIBITS. OUR EXHIBIT
23 9 IS THE MARCH 1, 2018, NEW YORK ORDER OF PROTECTION.

24 WE WOULD LIKE TO MOVE THAT IN.

25 THE COURT: ANY OBJECTION?

26 MS. MACKAY: I HAVE TO SEE WHETHER OR NOT IT CONTAINS
27 A DECLARATION.

28 THE COURT: I WASN'T SURE IF SHE WAS TALKING TO HER

1 CLIENT OR TO THE COURT.

2 ARE YOU AGREEING TO MOVE IT INTO EVIDENCE?

3 MS. MACKAY: YES.

4 THE COURT: NUMBER 9 IS MOVED INTO EVIDENCE. THAT'S
5 NEW YORK ORDER FOR PROTECTION.

6

7 (MARKED AND RECEIVED IN EVIDENCE,

8 PETITIONER'S EXHIBIT 9.)

9

10 THE COURT: AND THE NEXT ONE?

11 MR. MEYER: NUMBER 10 IS THE JUNE 6, 2018, NEW YORK
12 ORDER OF PROTECTION.

13 THE COURT: ANY OBJECTION?

14 MS. MACKAY: THERE MAY BE.

15 THE COURT: OKAY.

16 MS. MACKAY: NO OBJECTION.

17 THE COURT: THAT'S MOVED INTO EVIDENCE.

18

19 (MARKED AND RECEIVED IN EVIDENCE,

20 PETITIONER'S EXHIBIT 10.)

21

22 MR. MEYER: THAT'S ALL I HAVE FOR REQUEST FOR
23 PREMARKED. THE OTHERS WE CAN HANDLE THROUGH EXAMINATION,
24 UNLESS MS. MACKAY HAS OTHERS SHE WANTS TO PRODUCE.

25 MS. MACKAY: I THINK THERE ARE A COUPLE THAT WE COULD
26 AGREE TO SPEED THINGS ALONG.

27 MR. MEYER: SURE.

28 MS. MACKAY: PETITIONER EXHIBIT 16, THE PHOTOGRAPHS OF

1 THE FACE-TIME SESSIONS.

2 THE COURT: WHAT IS 16 AGAIN?

3 MS. MACKAY: IT'S PETITIONER'S 16, PHOTOGRAPHS OF
4 FACE-TIME SESSIONS BETWEEN RESPONDENT AND THE CHILD.

5 MR. MEYER: NO OBJECTION.

6 THE COURT: IT'S MOVED INTO EVIDENCE.

7

8 (MARKED AND RECEIVED IN EVIDENCE,
9 PETITIONER'S EXHIBIT 16.)

10

11 MS. MACKAY: PETITIONER'S EXHIBIT 17 WHICH IS A
12 TRANSCRIPT OF A RECORDING IN DALLAS' VEHICLE ON
13 NOVEMBER 20TH, 2020.

14 MR. MEYER: NO OBJECTION.

15

16 (MARKED AND RECEIVED IN EVIDENCE,
17 PETITIONER'S EXHIBIT 17.)

18

19 THE COURT: PETITIONER'S 18 WHICH IS DALLAS AUSTIN'S
20 COPARENTING CERTIFICATE OF COMPLETION.

21 MR. MEYER: NO OBJECTION.

22 THE COURT: ALL RIGHT. THAT'S MOVED INTO EVIDENCE.

23

24 (MARKED AND RECEIVED IN EVIDENCE,
25 PETITIONER'S EXHIBIT 18.)

26

27 THE COURT: SIXTEEN AND 17 ARE YOURS, RIGHT?

28 MR. MEYER: THOSE ARE PETITIONERS.

1 THE COURT: SO 16, 17 AND 18 ARE PETITIONER'S. RIGHT?

2 MS. MACKAY: YES.

3 THE COURT: BECAUSE YOU STARED WITH 500?

4 MS. MACKAY: YES. PETITIONER'S EXHIBIT 22.

5 THE COURT: OKAY. WHAT IS IT?

6 MS. MACKAY: IT'S A CHART REGARDING CHILDCARE COST
7 ARREARAGES.

8 MR. MEYER: NO OBJECTION.

9 THE COURT: ALL RIGHT. THAT'S MOVED INTO EVIDENCE.

10

11 (MARKED AND RECEIVED IN EVIDENCE,

12 PETITIONER'S EXHIBIT 22.)

13

14 MS. MACKAY: AND WOULD PETITIONER STIPULATE TO
15 ADMITTING RESPONDENT EXHIBIT 501 WHICH IS A PARENTING CLASS
16 CERTIFICATE OF COMPLETION ON NOVEMBER 12TH 2019?

17 MR. MEYER: NO OBJECTION.

18 MS. MACKAY: I'M SORRY. YOU ALREADY ADMITTED THAT
19 ONE. IT WOULD BE RESPONDENT'S EXHIBIT 503.

20 MR. MEYER: NO OBJECTION.

21 MS. MACKAY: WHICH IS A PARENTING CLASS CERTIFICATE OF
22 COMPLETION FROM NOVEMBER 23RD, 2021.

23 MR. MEYER: NO OBJECTION, YOUR HONOR.

24 THE COURT: WHICH IS 503.

25 MS. MACKAY: YES.

26

27 (MARKED AND RECEIVED IN EVIDENCE,

28 RESPONDENT'S EXHIBIT 503.)

1 THE COURT: I DIDN'T HAVE A 501. YOU SAID IT WAS
2 ALREADY ADMITTED.

3 MR. MEYER: ON OUR LIST IT WAS ADMITTED. WE EACH HAVE
4 IT ON OUR EXHIBIT LIST. SO RESPONDENT'S 501 WOULD BE
5 PETITIONER'S 18.

6 THE COURT: OH, OKAY. THAT'S RESPONDENT.

7 MS. MACKAY: WHAT ABOUT RESPONDENT'S 506, OUR CHILDREN
8 FIRST CERTIFICATE OF COMPLETION.

9 MR. MEYER: THAT'S FINE.

10 THE COURT: 506 IS MY CHILDREN FIRST COMPLETION BY
11 RESPONDENT.

12 MS. MACKAY: DATED SEPTEMBER 26TH, 2021.

13 THE COURT: ANY OBJECTION TO THAT BEING MOVED INTO
14 EVIDENCE?

15 MR. MEYER: NO, YOUR HONOR.

16 THE COURT: ALL RIGHT. IT'S MOVED INTO EVIDENCE.
17 THAT'S 506 OF RESPONDENT.

18

19 (MARKED AND RECEIVED IN EVIDENCE,
20 RESPONDENT'S EXHIBIT 506.)

21

22 MS. MACKAY: I THINK THAT SHOULD DO IT.

23 THE COURT: OKAY. SO WITH THAT BEING MOVED IN, HOW
24 ARE WE PROCEEDING? HOW ARE WE GOING FIRST, SINCE IT'S YOUR
25 RFO?

26 MS. MACKAY: YES. WE'LL CALL RESPONDENT DALLAS AUSTIN
27 FIRST.

28 THE COURT: OKAY. SO WE DON'T FORGET, LET'S HAVE BOTH

1 PARTIES RAISE THEIR RIGHT HAND AND BE SWORN IN.

2 THE CLERK: PLEASE STAND AND RAISE YOUR RIGHT HAND.

3 DO YOU EACH OF YOU SOLEMNLY STATE UNDER PENALTY
4 OF PERJURY THE TESTIMONY YOU MAY GIVE IN THE CAUSE NOW
5 PENDING BEFORE THIS COURT SHALL BE THE TRUTH, THE WHOLE
6 TRUTH, AND NOTHING BUT THE TRUTH?

7 THE PETITIONER: YES.

8 THE RESPONDENT: I DO.

9 THE COURT: GO AHEAD AND TAKE THE STAND.

10 MR. MEYER: YOUR HONOR, JUST A COUPLE OTHER PROCEDURAL
11 ISSUES I JUST NOTE THAT THE COURT ORDER WAS TO EXCHANGE
12 EXHIBIT LISTS AND EXHIBITS ONE WEEK PRIOR TO TODAY, LAST
13 THURSDAY. I RECEIVED RESPONDENT'S EXHIBITS AND EXHIBIT LIST
14 AFTER HOURS ON MONDAY NIGHT. OF COURSE I'M NOT OBJECTING TO
15 THEM ADMITTING EXHIBITS. I JUST WENT THROUGH MANY THAT WE
16 AGREED TO, BUT AS THOSE COME UP, I MAY RAISE THAT OBJECTION
17 AS THEY COME UP. I JUST WANT TO INFORM THE COURT AND ALSO
18 WE HAVE EXHIBIT BOOKS TO DISTRIBUTE TO THE COURT AND
19 WITNESS. I DON'T KNOW IF YOU WANT ME TO DO THAT NOW OR WAIT
20 UNTIL CROSS-EXAMINATION.

21 THE COURT: WHENEVER THEY'RE GOING TO COME UP BECAUSE
22 I'VE GOT A LOT OF BOOKS UP HERE ALREADY.

23 MR. MEYER: IF WE ADMITTED THEM, MAYBE IT WOULD BE
24 HELPFUL TO THE COURT TO HAVE THEM.

25 THE COURT: I WILL, BUT WE DON'T NEED TO WORRY ABOUT
26 THAT RIGHT NOW. IF IT BECOMES AN ISSUE, I WILL LET YOU
27 KNOW.

28 MS. MACKAY: FOR THE RECORD, THE MINUTE ORDER THAT WE

1 HAVE FROM THE LAST MINUTE ORDER WHERE THIS FOUR-DAY LONG
2 CAUSE HEARING WAS SCHEDULED -- I DON'T SEE THAT IT SAYS THAT
3 WE ARE SUPPOSED TO -- IT JUST SAYS THAT WE ARE JUST SUPPOSED
4 TO COMPLY WITH CALIFORNIA RULES.

5 THE COURT: WELL, DO WE NEED TO WORRY ABOUT THAT RIGHT
6 NOW? I WOULD LIKE TO GET SOME TESTIMONY GOING.

7 MS. MACKAY: SURE.

8 THE COURT: AND YOU HAVE MY TRANSCRIPT IF I SAID THAT.
9 SO LET'S LET THE RESPONDENT TAKE THE STAND.

10
11 DALLAS AUSTIN,

12 THE RESPONDENT HEREIN, HAVING BEEN FIRST
13 DULY SWORN, WAS EXAMINED AND TESTIFIED
14 AS FOLLOWS:

15
16 DIRECT EXAMINATION

17 BY MS. MACKAY:

18 Q HELLO, MR. AUSTIN. DO YOU MIND IF I CALL YOU
19 DALLAS?

20 A YES. OR NO, I DON'T MIND.

21 THE COURT: YOU DON'T MIND. RIGHT?

22 THE RESPONDENT: I DON'T MIND.

23 BY MS. MACKAY:

24 Q CAN YOU STATE YOUR NAME FOR THE RECORD?

25 A IT'S DALLAS KENNETH AUSTIN.

26 MS. MACKAY: I THINK WE COULD SKIP OVER SOME OF THE
27 FOUNDATION. WE KNOW THAT THESE PARTIES USED TO BE MARRIED
28 AND THEY HAVE SINCE BEEN DIVORCED. THEY HAVE A SMALL CHILD,

1 MADELYN, WHO'S FIVE YEARS OLD. AND JUDGMENT WAS ENTERED IN
2 NEW YORK.

3 THE COURT: AND WE HAVE THAT ALL IN DECLARATIONS THAT
4 HAVE ALREADY BEEN ADMITTED. SO ALL THE FOUNDATIONAL ASPECTS
5 OF THIS CASE IS KNOWN TO THE COURT AND THEY HAVE ALREADY
6 BEEN ADMITTED.

7 MS. MACKAY: OKAY. GREAT.

8 Q SO WHAT IS YOUR CURRENT CHILD CUSTODY AND
9 VISITATION SCHEDULE WITH MADELYN NOW?

10 A I HAVE THE FIRST, THIRD AND FIFTH WEEKENDS ON
11 ODD MONTHS AND THEN WEDNESDAY AFTERNOONS.

12 Q AND WHEN WAS THAT SCHEDULE ORDERED?

13 A MAY 1ST, 2019.

14 Q AND PRIOR TO THAT SCHEDULE, WAS THERE ANOTHER
15 SCHEDULE IN PLACE?

16 A WHILE I WAS IN ROCHESTER AND MADELYN WAS IN LOS
17 ANGELES, IT WAS ONCE A MONTH. SO I WOULD HAVE ONE WEEKEND
18 UP TWO SIX DAYS OR SIX NIGHTS, SEVEN DAYS FOR VISITATION IN
19 LOS ANGELES OR ROCHESTER.

20 Q AND WHEN DID YOU AND PETITIONER SEPARATE?

21 A THE JULY, AUGUST 2017 TIME FRAME.

22 Q AND WHEN DID -- YOU AGREED TO ALLOW PETITIONER
23 TO MOVE TO CALIFORNIA WITH MADELYN?

24 A INITIALLY -- OR YES.

25 Q AND THIS WAS PART OF YOUR MARITAL SETTLEMENT
26 AGREEMENT?

27 A CORRECT.

28 Q AND BETWEEN THE TIME THAT YOU WERE STILL LIVING

1 IN NEW YORK, PRIOR TO PETITIONER MOVING TO CALIFORNIA, WAS
2 THERE A CUSTODY SCHEDULE IN PLACE AT THAT TIME?

3 A WE HAD A THREE DAYS ON, THREE DAYS OFF SCHEDULE.
4 PRIOR TO THAT IT WAS EVERY OTHER WEEKEND, PRIOR TO US
5 GETTING THAT ORDER.

6 Q AND WHEN -- WAS THAT ORDER MADE UPON AGREEMENT?

7 A IT WAS MADE BY THE COURT. SO --

8 Q AND THEN IT WAS ULTIMATELY PART OF YOUR MARITAL
9 SETTLEMENT AGREEMENT?

10 A CORRECT.

11 Q AND DURING THAT TIME WHEN YOU AND PETITIONER
12 SIGNED THE MARITAL SETTLEMENT AGREEMENT, WAS THAT IN
13 JULY 2018?

14 A CORRECT.

15 Q WHEN YOU SIGNED THE MARITAL SETTLEMENT AGREEMENT
16 AND AGREED TO THOSE ORDERS, WAS THERE A PROTECTIVE ORDER IN
17 PLACE IN NEW YORK?

18 A YES.

19 Q WAS THAT A TEMPORARY ORDER? MEANING WAS IT MADE
20 AFTER AN EVIDENTIARY TRIAL, OR WERE YOU SERVED WITH IT PRIOR
21 TO HAVING EVIDENTIARY TRIAL?

22 A THERE WAS NO EVIDENTIARY TRIAL. I WAS SERVED
23 WITH IT.

24 Q AND SO WHILE THAT ORDER WAS IN PLACE, YOU EITHER
25 RECEIVED COURT ORDERS AND/OR AGREED TO THIS JOINT LEGAL
26 CUSTODY AND TO THE VISITATION SCHEDULE THAT YOU JUST
27 DESCRIBED?

28 A YES.

1 Q OKAY. THE JOINT LEGAL CUSTODY THAT YOU AND
2 PETITIONER SHARE WITH MADELYN, WE'VE HEARD -- DOES
3 PETITIONER HAVE TIEBREAKING AUTHORITY.

4 A SHE HAS FOR NON-MEDICAL ASPECTS AND THEN AS WELL
5 AS SEPARATE ON R.M.S.A. SHE HAS TIEBREAKING AUTHORITY FOR
6 MEDICAL AS WELL.

7 Q AND IS SHE ABLE TO EXERCISE TIEBREAKING
8 AUTHORITY ANY TIME YOU HAVE A DISAGREEMENT, OR IS THERE SOME
9 KIND OF PROCESS YOU'RE SUPPOSED TO ADHERE TO FIRST?

10 A WE'RE SUPPOSED TO TALK TO A SPECIALIST, AND IF
11 THERE IS NO AGREEMENT TO THAT, THEN SHE HAS TIEBREAKING
12 AUTHORITY, BESIDES THE COURT ORDER.

13 Q HAVE YOU HAD ANY DISAGREEMENTS REGARDING JOINT
14 LEGAL CUSTODY ISSUES WITH MADELYN -- FIRST, DO YOU
15 UNDERSTAND WHAT THE DIFFERENCE BETWEEN LEGAL CUSTODY AND
16 PHYSICAL CUSTODY IS?

17 A YES.

18 Q SO HAVE THERE BEEN DISAGREEMENTS?

19 A THERE HAVE BEEN DISAGREEMENTS.

20 Q AT ANY POINT IN TIME HAS SHE EXERCISED THE
21 TIEBREAKING AUTHORITY UPON THOSE DISAGREEMENTS?

22 A YES.

23 Q AT ANY POINT IN TIME DID YOU GO THROUGH THE
24 PROCESS OF FIRST OBTAINING OR CONSULTING WITH A PROFESSIONAL
25 IN THE FIELD, PRIOR TO HER BEING ABLE TO EXERCISE
26 TIEBREAKING AUTHORITY?

27 A NO. SHE JUST EXERCISED THE TIEBREAKING
28 AUTHORITY.

1 Q I WANT TO TALK A LITTLE BIT ABOUT SOME OF THE
2 RESTRAINING ORDERS THAT WERE ORDERED IN THIS CASE. SO THE
3 FIRST RESTRAINING ORDER WAS GRANTED ON MAY 1ST, 2019; IS
4 THAT RIGHT?

5 MR. MEYER: OBJECTION. VAGUE AND AMBIGUOUS.
6 MISSTATES THE EVIDENCE.

7 THE COURT: YOU SAID THE FIRST ONE; RIGHT?

8 MS. MACKAY: YES.

9 THE COURT: WAS THAT REALLY THE FIRST ONE? WASN'T
10 THERE ONE IN NEW YORK?

11 MS. MACKAY: I CAN REPHRASE.

12 THE COURT: OKAY.

13 BY MS. MACKAY:

14 Q THE FIRST RESTRAINING ORDER, THE FIRST
15 RESTRAINING ORDER THAT WAS GRANTED AFTER AN EVIDENTIARY
16 HEARING OR TRIAL, WAS THAT HERE IN CALIFORNIA?

17 A YES.

18 Q SO IN NEW YORK THERE WERE NOT ANY EVIDENTIARY
19 TRIALS FOR THOSE RESTRAINING ORDERS?

20 A NO.

21 Q OKAY. SO THAT RESTRAINING ORDER IN CALIFORNIA,
22 THE FIRST ONE THAT WAS MAY 1ST, 2019?

23 A CORRECT.

24 Q AND THEN AFTER MAY 1ST, 2019 -- I'M SORRY. I'M
25 GOING TO REPHRASE THE QUESTION.

26 WHEN THAT RESTRAINING ORDER WAS IN PLACE, WHEN
27 DID IT EXPIRE, THE MAY 1ST, 2019?

28 A IT SHOULD HAVE BEEN AROUND MAY 1ST, 2021, OR I

1 THINK, FROM WHAT I RECALL, IT WAS MAY 16TH BECAUSE THAT'S
2 WHEN IT WAS FILED 2019.

3 Q SO IT WAS GRANTED FOR TWO YEARS?

4 A CORRECT.

5 Q AND --

6 THE COURT: I HAVE IT RIGHT UP AND I TAKE JUDICIAL
7 NOTICE OF IT. IT EXPIRED ON MAY 1ST, 2021. JUST SO THE
8 RECORD IS CLEAR.

9 BY MS. MACKAY:

10 Q AND DURING THAT TIME, WERE THERE ORDERS FOR YOU
11 TO NOT COME WITHIN A HUNDRED YARDS OF PETITIONER; SO CALLED
12 STAY-AWAY ORDERS?

13 A NOT THAT I RECALL. JUST DURING EXCHANGES. I'M
14 ALLOWED TO BE NEAR HER DURING EXCHANGES.

15 Q WERE THERE NO CONTACT ORDERS THAT WERE ORDERED
16 AS PART OF THAT RESTRAINING ORDER?

17 A THE RESTRAINING ORDER LIMITED OUR CONTACT
18 THROUGH TALKING PARENTS.

19 Q SO WAS THERE AN EXCEPTION FOR CONTACT SOLELY AS
20 LONG AS IT HAD TO DO WITH COURT-ORDERED CHILD CUSTODY
21 VISITATION?

22 A YES. SO NO CONTACT EXCEPT FOR THAT PERTAINING
23 TO MADELYN'S CARE.

24 Q AND WE ADMITTED INTO EVIDENCE THE TALKING
25 PARENTS MESSAGES BETWEEN YOU AND PETITIONER SINCE MAY 2019.
26 HAVE YOU HAD A CHANCE TO REVIEW THOSE RECENTLY?

27 A YES.

28 Q SO AFTER THE MAY 1ST, 2019 ORDERS -- WHEN YOU

1 REVIEWED THOSE MESSAGES, DID YOU FEEL LIKE YOU MAY HAVE SENT
2 SOME MESSAGES TO PETITIONER THAT WENT BEYOND THE SCOPE OF
3 COURT-ORDERED CHILD CUSTODY AND VISITATION?

4 A YES.

5 Q YOU DO?

6 A I DO.

7 Q WHAT ABOUT SINCE -- SO THAT WAS AFTER MAY 1,
8 2019, AND THEN THERE WAS ANOTHER -- WAS THERE ANOTHER
9 HEARING?

10 A THE DECISION FINAL HEARING WAS IN AUGUST 2021.

11 Q AND THAT WAS HEARD IN THIS COURT; RIGHT?

12 A YES.

13 Q BY THE SAME JUDGE WHO'S HERE TODAY?

14 A YES.

15 Q AFTER THAT HEARING, HAVE YOU -- IN YOUR OPINION,
16 HAVE YOU SENT ANY MESSAGES OVER TALKING PARENTS TO
17 PETITIONER THAT ARE ALSO BEYOND THE SCOPE OF COURT-ORDERED
18 CHILD CUSTODY AND VISITATION?

19 A NO.

20 Q OKAY. WHEN YOU READ THESE MESSAGES THAT YOU HAD
21 SENT PRIOR, IS IT YOUR BELIEF THAT THEY WERE LONGER THAN
22 THEY SHOULD HAVE BEEN MAYBE?

23 A YES. THERE WAS A LOT OF THINGS I WAS TRYING TO
24 POINT OUT THAT I SHOULD NOT HAVE BEEN POINTING OUT.

25 Q AND DO YOU THINK THAT YOU'RE EMOTIONALLY -- WHY
26 DO YOU THINK THAT IS?

27 A I WAS VERY HURT WITH PETITIONER'S CONTINUED --
28 HOW WE WERE INTERACTING, THE COPARENTING THAT WAS GOING ON.

1 AND THEN JUST THE LACK OF ACCESS TO MADELYN, THE
2 COPARENTING, IT WAS HURTFUL.

3 Q SO WHAT'S DIFFERENT NOW THEN? SINCE YOU BELIEVE
4 THAT YOU HAVE NOT BEEN SENDING THE SAME TYPES OF MESSAGES,
5 AFTER THE HEARING IN 2021, WHY DO YOU THINK THAT IS?

6 A WELL, I THINK IT'S STILL HURTFUL, BUT I'M
7 UNDERSTANDING THAT I WENT ABOVE AND BEYOND WHAT I SHOULD
8 HAVE AND THE UNDERSTANDING OF WHAT I NEED TO -- HOW I NEED
9 TO LIMIT, HOW I NEED TO REACT TO PETITIONER'S -- SOME OF HER
10 DECISION MAKING -- YEAH.

11 Q ARE YOU DATING ANYONE NEW?

12 A I AM.

13 THE COURT: IS THAT A YES OR A NO?

14 THE RESPONDENT: YES, I AM.

15 BY MS. MACKAY:

16 Q WHAT IS YOUR GIRLFRIEND'S NAME?

17 A FULL NAME OR CAN I --

18 Q JUST FIRST NAME.

19 A LINDSAY.

20 Q HAS MADELYN MET LINDSAY?

21 A YES.

22 Q WHAT DOES LINDSAY DO FOR A LIVING?

23 A SHE'S ATTENDING PHYSICIAN AT HOSPITAL DOWNTOWN
24 LOS ANGELES AND SHE'S IN ONCOLOGY.

25 Q I'M GOING TO TALK A LITTLE BIT ABOUT YOUR
26 RELATIONSHIP WITH MADELYN AND MOVE FORWARD FROM THAT. SO
27 WITH THE CUSTODY THAT YOU HAVE ON EVERY OTHER WEEKENDS, WHAT
28 DO YOU AND MADELYN TYPICALLY LIKE TO DO?

1 A SHE LIKES TO GO ON LONG BIKE RIDES. I HAVE A
2 MOUNTAIN BIKE THAT HAS A CHILD SEAT, A PLACE WHERE SHE CAN
3 SIT IN FRONT OF ME, AND WE RIDE AROUND THE PASADENA AND SAN
4 MARINO AREA AND LIKE TO GO TO HUNTINGTON LIBRARY, LOOK AT
5 ALL THE PLANTS THERE; SHE LIKES TO RUN AROUND.

6 THERE'S -- WE GO TO DISNEY THEME PARKS. WE GO
7 SWIMMING AT THE GREAT WOLF LODGE. WE HIT ALL THE ZOOS IN
8 THE AREA. WE HAVE GONE TO THE BEACH MULTIPLE TIMES,
9 ESPECIALLY WHEN I LIVED OUT IN HERMOSA BEACH. LIKE TO SET
10 UP PLAY DATES WITH SOME OF HER FRIENDS, SOME OF HER DAYCARE
11 FRIENDS. ONE OF HER BEST FRIEND UP IN DAYCARE, HER PARENTS
12 ARE REALLY GOOD FRIENDS, AND RUBY, AND SO WE SET UP MULTIPLE
13 PLAY DAYS. A LITTLE DIFFICULT WITH THE DISTANCE IN SANTA
14 CLARITA, BUT WE MAKE IT HAPPEN.

15 SHE HAS A GREAT FRIEND NEXT DOOR, JACOBE AROUND
16 HER AGE AND THEY COME OVER EVERY WEDNESDAY FOR DINNER AND
17 PRETTY MUCH EVERY FRIDAY AND SATURDAY NIGHT THEY WOULD BE
18 OVER. AND ALL THE OUTDOOR ACTIVITIES, INDOOR ACTIVITIES.
19 SHOW LOVES TO -- SHE'S VERY ARTISTIC IN TERMS OF CREATIVITY,
20 PLAY-DOH.

21 Q SO I KNOW THAT YOU HAVE HER ON WEEKENDS. DO YOU
22 EVER ENGAGE IN ANY SORT OF PARENTING SUCH AS HELPING HER
23 WITH HOMEWORK OR HELPING HER WITH LEARNING, THINGS THAT YOU
24 WOULD DO IF YOU HAD HER -- THINGS I WOULD IMAGINE A PARENT
25 WOULD DO IF THEY HAD A CHILD OVER WEEKDAYS?

26 A YES. SO WE SPEND A LOT OF TIME WORKING ON MATH,
27 SPELLING. I READ TO HER BETWEEN 30 MINUTES TO AN HOUR EVERY
28 NIGHT WHEN SHE'S OVER. SHE LOVES MAKING UP STORIES. WE

1 WILL MAKE UP STORIES WHICH IS PROBABLY THE MOST CHALLENGING
2 PART BECAUSE SOMETIMES SHE DOESN'T WANT TO READ A STORY; SHE
3 WANTS ME TO MAKE UP A STORY, AND SHE WILL GIVE ME THE
4 CRITERIA FOR THAT STORY BEFORE I GO INTO A TEN-, 20-MINUTE
5 STORY FOR HER.

6 Q IS SHE SMART?

7 A I BELIEVE SHE IS VERY SMART. SO WE DO -- I LIKE
8 TO DO THE RANDOM QUESTIONS. SO DURING OUR 45-MINUTE DRIVE
9 HOME, A LOT OF TIMES I'LL JUST ASK HER RANDOM QUESTIONS WHAT
10 PI IS? AND SHE KNOWS PI TO 17TH AND WE HAVE GO INTO ALL THE
11 FAMILY ANIMAL GROUPS. SO I COULD ASK ANY GROUP OF ANIMAL.
12 WHAT A GROUP OF GIRAFFES ARE CALLED AND SHE'LL KNOW IT'S
13 CALLED A TOWER AND WHAT A GROUP OF HIPPOS ARE; IT'S CALLED
14 CRASH. OR, I'M SORRY. RHINOS ARE CALLED CRASH. SHE KNOWS
15 ALL THE ANIMAL GROUPS. SOMETIMES I'LL STUMP ON A PI AND SHE
16 WILL CORRECT ME. SHE HAS AN INCREDIBLE MEMORY. SPELLING
17 WISE FOR FIVE AND A HALF YEAR OLD, SHE'S REALLY TAKEN OFF
18 WITH SPELLING. IT'S HARDER FOR HER FOR WORDS OVER FIVE
19 LETTERS, BUT SHE UNDERSTANDS HOW TO SPELL WORDS OUT AND --

20 THE COURT: CAN YOU SHE SPELL HER NAME?

21 THE RESPONDENT: YES. HER ENTIRE NAME SHE CAN SPELL.

22 BY MS. MACKAY:

23 Q PI MEANING P-I?

24 A 3.1495.

25 Q NOT THE PIE THAT I LOVED AS A KID?

26 A YES.

27 Q WHAT ABOUT WHERE DID SHE GO TO PRESCHOOL?

28 A IT'S A MONTESSORI IN SANTA CLARITA.

1 Q IN SANTA CLARITA?

2 A YES.

3 Q WHERE DO YOU LIVE?

4 A PASADENA.

5 Q AND WHERE DOES MOM LIVE?

6 A FURTHER SOUTH IN SAN BERNARDINO.

7 Q HOW FAR IS YOUR HOUSE FROM MOM'S HOUSE?

8 A ABOUT TWO MILES NOW.

9 Q HOW FAR IS YOUR AND MOM'S HOUSE -- SINCE IT'S
10 CLOSE ENOUGH, TWO MILES, HOW FAR ARE YOUR RESIDENCES FROM
11 MADELYN'S PRESCHOOL IN SANTA CLARITA?

12 A 40 MILES.

13 Q 40 MILES. SO ON THE DRIVES HOME FROM PRESCHOOL,
14 DO YOU PICK HER UP FROM PRESCHOOL?

15 A I DO ON WEDNESDAYS AND FRIDAYS BEFORE THE
16 WEEKEND.

17 Q WEDNESDAYS AND FRIDAYS. AND THAT DRIVE HOME
18 ABOUT HOW LONG DOES IT TAKE?

19 A DEPENDING ON THE TIME, BUT IT WILL RANGE FROM NO
20 LESS THAN 40, 45 MINUTES TO STUCK IN TRAFFIC FOR AN HOUR AND
21 A HALF GETTING BACK.

22 Q AND WHAT DO YOU USUALLY DO ON DRIVES?

23 A WE ASK A LOT OF QUESTIONS. IT'S MY OPPORTUNITY
24 TO JUST QUIZ HER ON ALL DIFFERENT ANIMALS, NUMBERS, TRY TO
25 WORK ON ADDITION. SHE'S HAVING A LITTLE HARDER TIME ON
26 SUBTRACTION, BUT WORKING ON SPELLING. SHE'S REALLY GOOD AT
27 NUMBERS WITHOUT USING HER FINGERS. SHE TRIES TO DO IT IN
28 HER HEAD AND SHE'S REAL PROUD ABOUT THAT.

1 WE TALK ABOUT ALL KINDS OF -- JUST A LOT OF
2 RANDOM FACTS AND WE'LL DO A LOT OF JUST SPELLING TRYING TO
3 FIGURE OUT EASY WORDS FOR HER, THREE-LETTER WORDS, DOG, CAT,
4 AND THEN TRYING TO GO INTO THE FOUR LETTER WORDS.

5 AND EVERY ONCE IN WHILE I WILL USE THE IPAD AS A
6 TOOL FOR HER. SHE WILL HAVE TO ANSWER 50 QUESTIONS. IT
7 WILL GO UP TO 50, BUT A LOT OF TIME 25 QUESTIONS. I'LL LET
8 HER HAVE THE IPAD AND IT'S MOSTLY EDUCATIONAL STUFF. P.B.S.
9 IS A GOOD APP. IT'S A KIDS APP THAT SHE LIKES THAT'S REALLY
10 GOOD THAT SHE LIKES AND LEARNS A LOT OF THINGS FROM THAT.

11 Q AND WHAT ARE THE HOURS THAT YOU COULD HAVE
12 MADELYN ON WEDNESDAY?

13 A IT'S NO EARLIER THAN 2:30 AND I HAVE TO DO THE
14 DROP OFF AT 7:00 O'CLOCK. BUT I DON'T USUALLY PICK UP
15 MADELYN BEFORE 3:00 BECAUSE SHE'S DONE -- TYPICALLY GROGGY
16 AROUND 3:00; SO I WILL WAIT UNTIL AFTER 3:00 TO PICK HER UP.

17 Q AND IN YOUR INITIAL REQUEST FOR ORDER, YOU
18 REQUESTED THAT YOU BE ADDED AS AN ADDITIONAL USER TO A
19 KANGAROO APP. CAN YOU EXPLAIN WHAT THAT IS?

20 A THE KANGAROO APP CAME OUT DURING COVID AND IT'S
21 USED FOR MESSAGING, UPDATES, PHOTOS OF THE KIDS, AND THEN
22 THE BIG ONE IS CHECK IN AND OUT. THE DAYCARE REQUIRES YOU
23 USE THE APP TO CHECK IN AND OUT STUDENTS OR DAYCARE
24 STUDENTS.

25 Q AND WHY WOULD YOU NEED TO BE AN ADDITIONAL USER?
26 WHY COULDN'T YOU JUST DOWNLOAD THE APP AND USE YOUR OWN USER
27 NAME?

28 A SO THE APP IS ONLY DESIGNED TO BE FOR ONE

1 STUDENT AND YOU HAVE ONE USER ADMINISTRATOR FOR THE APP AND
2 THEN YOU HAVE ADDITIONAL USERS FOR THE APP, BUT I WAS NOT
3 ALLOWED TO BE ADDED ON AS AN ADDITIONAL USER AND THE
4 DAYCARE -- I TALKED TO THE REGIONAL DIRECTOR AARON JOHNSON
5 AND HAD A THREE-WAY CALL WITH THE DIRECTOR, AND THEY WERE
6 TRYING TO FIGURE OUT HOW THEY CAN WORK AROUND THIS PROBLEM
7 BECAUSE WE WERE THE ONLY PARENTS IN THIS WHOLE REGION OF
8 PARENTS NOT ALLOWING THE OTHER PARENT TO HAVE ACCESS. SO
9 THEY HAD TO CREATE A GHOST ACCOUNT AND THAT'S LIMITED. I
10 WAS STILL ABLE TO GET MESSAGES, BUT THE CHECK-IN-AND-OUT
11 PROCEDURE, IT DIDN'T -- PETITIONER -- SHE'LL CHECK HER IN
12 AND OUT AND WHEN I GOT THERE AT DAYCARE, I HAVE TO KNOCK ON
13 THE DOOR, TELL THEM I'M HERE AND THEY RUSH TO THAT GATE.

14 NORMALLY WHEN PARENTS CHECK IN OR OUT A STUDENT,
15 THEY DO THAT ABOUT FIVE TO TEN MINUTES BEFORE ARRIVING AND
16 THEN THE DAYCARE, MS. SUSAN, ONE OF THEM WILL GET MADELYN
17 TOGETHER AND GET ALL HER THINGS AND HAVE HER READY SO WHEN
18 THE PARENT SHOWS UP, THE KID IS RIGHT THERE.

19 SO WHEN I SHOW UP, THEY UNDERSTAND WHAT'S GOING
20 ON. WE HAD ONE EXPERIENCE WHERE THE LADY IS LIKE YOU NEED
21 TO CHECK HER OUT, AND I TOLD HER WE DON'T HAVE IT, AND SHE
22 HAD THAT AHA MOMENT, OH, YOU'RE THE ONE.

23 MR. MEYER: I'M GOING TO INTERJECT AND MOTION TO
24 STRIKE AS HEARSAY THAT ANY THIRD PARTY SAID, AND MOTION TO
25 STRIKE WITH RESPECT TO THE ONLY PARENT WHO IS RESTRICTED BY
26 THE OTHER PARENT AS ASSUMES FACTS NOT IN EVIDENCE.

27 THE COURT: OKAY. SO THE RESTRICTION IS ASSUMING
28 FACTS NOT IN EVIDENCE. SO THAT PART IS STRICKEN. AND AS TO

1 THE AHA MOMENT, THAT'S HEARSAY. THAT'S STRICKEN.

2 WE HAD THIS TESTIMONY BEFORE, BUT THAT'S FINE.
3 IT WOULDN'T BE IN THIS TRANSCRIPT.

4 BY MS. MACKAY:

5 Q LET'S TALK A LIT BIT ABOUT WHETHER OR NOT YOU
6 PARTICIPATE IN MADELYN'S MEDICAL CARE. SO DOES MADELYN
7 HAVE ANY MEDICAL PROBLEMS OR ALLERGIES OR ANYTHING LIKE
8 THAT.

9 A YES.

10 Q WHAT DOES SHE HAVE?

11 A SO SHE'S ALLERGIC TO QUITE A FEW THINGS. SOME
12 ALLERGIES. SHE HAS ECZEMA. IN TERMS OF THE ALLERGIES,
13 SHE'S HAS A PEANUT ALLERGY. SO WE CONSIDER A MODERATE
14 PEANUT ALLERGY. I THINK IT'S A CLASS TWO AND WITH THAT SHE
15 BEEN ON A DESENSITIZER. SO IT'S PALFORZIA,
16 P-A-L-F-O-R-Z-I-A, AND SHE'S AT THE MAXIMUM DOSE WHICH IS
17 300 MILLIGRAMS PER DAY, AND SHE REQUIRES THAT EVERY DAY AND
18 IT'S SUPPOSED TO BE IN THE MORNING; SO WHEN SHE IS WITH ME,
19 I TYPICALLY GIVE IT TO HER BETWEEN 7:00 AND 8:00 IN THE
20 MORNING WITH SOME EITHER YOGURT OR APPLESAUCE.

21 I'VE BEEN TO HER ALLERGIST APPOINTMENTS AND
22 THERE'S BEEN SOME ISSUES WITH THAT. AND FOR HER ALLERGIES
23 MADELYN IS ALLERGIC TO MOLD NUMBER THREE. SHE'S ALLERGIC TO
24 CATS. I JUST FOUND OUT TODAY -- WELL, I KNEW THAT MADELYN
25 WAS ALLERGIC TO DOGS, BUT I FOUND OUT THROUGH THE ALLERGIST
26 TODAY, FROM A TEST THAT WAS DOWN BACK IN DECEMBER 2020,
27 SHE'S ALLERGIC TO DOGS. SO TWO OF FIVE FOR SENSITIVITY OF
28 DOGS.

1 MR. MEYER: MOTION TO STRIKE AS HEARSAY WITH RESPECT
2 TO WHAT WAS TOLD BY THE PHYSICIAN WITH RESPECT TO THE DOG
3 ALLERGY?

4 THE COURT: WHY IS THAT ONE DIFFERENT FROM ALL THE
5 REST?

6 MR. MEYER: BECAUSE THAT'S WHAT I SPECIFICALLY HEARD
7 AS FAR AS THIS DOCTOR SAID SHE WAS ALLERGIC TO DOGS.

8 THE COURT: TWO TO FIVE AND PEANUT WAS A TWO. SO
9 OVERRULED.

10 THE RESPONDENT: I WAS GIVEN A MEDICAL NOTE TODAY THAT
11 MADELYN IS ALLERGIC TO DOGS AND I CAN CONFIRM BY THE PERSON
12 WHO SENT ME THE EMAIL.

13 BY MS. MACKAY:

14 Q ANY ILLNESS THAT MADELYN HAS BEEN DIAGNOSED
15 WITH -- WHEN SHE'S UNDER YOUR CARE, DO YOU TAKE CARE OF HER
16 WHEN SHE'S SICK?

17 A YES. SO IF SHE'S SICK WITH THE COMMON COLD, I
18 TAKE CARE OF AS NECESSARY. SHE DOES HAVE OSTEOCHONDROMA
19 WHICH IS A LEFT HIP -- IT'S A TUMOR. SO IT'S ABNORMAL
20 GROWTH. HER BUTT IS ASYMMETRIC. SO LEFT SIDE IS A LITTLE
21 BIGGER THAN HER RIGHT SIDE. IT DOESN'T AFFECT HER IN ANY
22 WAY IN TERM OF RUNNING AND SHE'S GOT KNOCK KNEES. SO IT'S A
23 KID ISSUE, BUT SHE CAN RUN JUST FINE. SHE'S FAST AND
24 BICYCLE AND SHE'S GOT FULL MOTION ESSENTIALLY.

25 Q DO YOU GIVE HER ANY MEDICATION FOR THE ECZEMA?

26 A I GIVE HER A RAY OF LOTIONS THAT I USE AND SINCE
27 WE'RE -- GRACE PROVIDED ME WITH A LIST AND I HAVE ALL
28 THESE -- I GIVE HER SPECIAL BATHS. IT'S OATMEAL BASED AND

1 THROW A PACKET IN THE TUB. SO WE WILL DO LIKE A COOLER/WARM
2 BATH. SHE WILL HAVE THAT IN THERE AND HELPS OUT WITH THE
3 ECZEMA.

4 IT'S GOTTEN A LOT BETTER AND I FOUND OUT SHE HAS
5 SHE A SHIBA INU DOG AT HER HOUSE AND I FIND OUT LAST YEAR
6 THE DOG DIED. I WAS ALLERGIC TO THAT DOG. AND WHEN THE DOG
7 LEFT, THE ECZEMA HAS BEEN A LOT BETTER.

8 SO SHE'LL STILL HAVE SOME FLAREUPS, BUT IT'S NOT
9 AS BAD AS IT WAS. IT WAS REALLY BAD IN NOVEMBER OF 2021,
10 CAME BACK FROM EGYPT. THERE WAS SIGNIFICANT SCARRING. IT
11 WAS REALLY BAD, AND THAT WAS A CONCERN THAT I HAD,
12 SIGNIFICANT CONCERN THAT I HAD.

13 THE COURT: THIS MIGHT BE A GOOD SPOT TO TAKE A BREAK.
14 I NEED TO GIVE THE COURT REPORTER A BREAK.

15 LET'S TAKE A 15-MINUTE RECESS.

16

17 (RECESS TAKEN.)

18

19 THE COURT: WE'RE BACK ON THE RECORD. WE HAVE
20 MR. AUSTIN BACK ON THE STAND.

21 WHENEVER YOU'RE READY, MS. MACKAY.

22 BY MS. MACKAY:

23 Q SO BEFORE THE BREAK WE WERE TALKING A LITTLE BIT
24 ABOUT MADELYN'S HEALTH ISSUES, SPECIFICALLY SOME ALLERGIES.
25 AND DID YOU SAY THAT YOU FOUND OUT THAT SHE WAS -- OR DO YOU
26 BELIEVE THAT SHE'S ALLERGIC TO DOGS.

27 A I BELIEVE SHE'S BEEN ALLERGIC TO DOGS FOR A
28 WHILE.

1 Q DID YOU HAVE HER LAST WEEKEND FOR EASTER?

2 A YES.

3 Q HOW WAS HER HEALTH LAST WEEKEND?

4 A THINGS WERE GREAT. WE WENT TO AN EASTER EGG
5 HUNT AT LACY PARK; SO MADELYN AND HER LITTLE FRIEND AND I
6 WERE THERE. THERE WAS A DOG THERE, A GOLDEN RETRIEVER THAT
7 CAME UP AND WE WERE TALKING TO THE OWNER AND MADELYN WENT
8 AND TOUCHED THE DOG, PETTED THE DOG, AND I BELIEVE WHAT WAS
9 SALIVA GOT ON HER RIGHT WRIST AND SHE EVENTUALLY RUBBED HER
10 EYE AND SHE HAD A VERY BAD ALLERGIC REACTION. SO I
11 ADMINISTER CHILDREN'S BENADRYL AND THEN LATER ON HER EYE --
12 THE SWELLING IN HER EYE WOULDN'T GO DOWN SO WE WENT AND GOT
13 SOME ANTIHISTAMINE DROPS. AND THEN THAT SPARKED -- I JUST
14 WANTED TO CONFIRM WITH THE ALLERGIST HOW BAD HER ALLERGY WAS
15 TO DOGS, BECAUSE THERE WAS AS DISCUSSION BETWEEN GRACE AND I
16 WHY GRACE DIDN'T LET ME KNOW THAT MADELYN WAS ALLERGIC TO
17 DOGS WHEN SHE LISTED OUT 15 OTHER ALLERGENS AND SHE LEFT OUT
18 DOGS.

19 AND I QUESTIONED GRACE ABOUT IT AND SHE
20 RESPONDED IN TALKING PARENTS THAT THE DOCTOR SAID THAT THERE
21 MIGHT HAVE BEEN SOMETHING BUT IT WAS NEGLIGIBLE SO SHE
22 DIDN'T MENTION IT.

23 SO I WANTED TO KNOW HOW BAD SHE WAS ALLERGIC
24 BECAUSE THAT WAS A REALLY BAD ALLERGIC REACTION. AND MY
25 GIRLFRIEND, SHE RECOMMENDED ANTIHISTAMINE EYE DROPS AND IT
26 WENT AWAY OVER NIGHT. BUT IT WAS A VERY MISERABLE TIME FOR
27 MADELYN THAT EVENING; AND THEN I CONFIRMED WITH THE
28 ALLERGIST THIS WEEK IF THE ANTIHISTAMINE DROP WAS THE RIGHT

1 THING, AND THEY SAID, YES, THAT WAS THE RIGHT THING TO DO.

2 Q WHEN YOU DROPPED MADELYN OFF BACK WITH GRACE, DO
3 YOU GIVE GRACE ANY SORT OF UPDATE ABOUT THE WEEKEND OR ABOUT
4 MADELYN'S HEALTH?

5 A YES. SO I ALWAYS PROVIDED SOME TYPE OF RESPONSE
6 WHETHER MADELYN -- WHAT SHE DID AND HOW SHE WAS FEELING. A
7 LOT OF TIMES -- ESPECIALLY WITH PALFORZIA, I LET GRACE KNOW
8 SHE TOOK HER PALFORZIA, NO ISSUES, NO REACTION. AND I LET
9 GRACE KNOW EVERYTHING WAS FINE THROUGH THE WEEKEND IN CASE
10 SHE HAD ANY QUESTIONS.

11 Q AND YOU DO THIS OVER TALKING PARENTS?

12 A CORRECT.

13 Q AND DO YOU GIVE GRACE ANY SORT OF UPDATES ABOUT
14 THE ACTIVITIES THAT YOU AND MADELYN ENGAGED IN OVER THE
15 WEEKEND?

16 A YES, I'LL LET HER KNOW AND THERE'S CERTAIN FUN
17 THING THAT WE DID, WE WENT AND TRAVELED. THERE'S BEEN
18 ISSUES IF I GO OUT OF TOWN, BUT IT'S TO ORANGE COUNTY,
19 THERE'S BEEN SOME ISSUES OR CONFLICT WITH THAT, BUT I LET
20 GRACE KNOW WHAT'S GOING ON.

21 Q AND WHEN YOU SEND THESE TALKING PARENTS MESSAGES
22 SUMMARIZING THE WEEKEND THAT YOU HAD WITH MADELYN, HAS GRACE
23 EVER ACCUSED YOU OF VIOLATING THE RESTRAINING ORDER?

24 A NOT FOR THESE -- I BELIEVE MAYBE A HANDFUL OF
25 TIMES SHE MIGHT HAVE SAID SOMETHING BECAUSE I BRING UP AN
26 ISSUE WITH THE FACE-TIME OR SOMETIMES SHE JUST SAYS THAT.

27 Q LET'S TALK ABOUT THE FACE-TIME. IT SEEMS LIKE
28 THAT IN REVIEWING THE TALKING PARENTS MESSAGES -- I'LL

1 REPHRASE THIS. HAS GRACE ACCUSED YOU OF VIOLATING THE
2 RESTRAINING ORDER SINCE THE AUGUST 2021 RENEWAL?

3 A YES, QUITE A FEW TIMES.

4 Q OKAY. DO YOU REMEMBER WHAT THE SITUATION WAS?

5 A IT WAS WITH OUR FACE-TIME -- WITH THE MAJORITY
6 FACE-TIME SESSIONS ARE GREAT, ESPECIALLY IF GRACE LEAVES
7 MADELYN ALONE AND I'M JUST TALKING TO MADELYN THINGS ARE
8 GREAT. BUT THERE'S A LOT OF CONNECTIVITY ISSUES AND EVERY
9 TIME IF GRACE WOULD CALL -- AND THIS IS BETWEEN THE SPAN OF
10 4:30 IN THE AFTERNOON TO 9:30, I COULD GET CALL AT ANY TIME
11 AND GRACE HAS MADE IT VERY CLEAR IF I DON'T ANSWER THAT
12 CALL, I MIST THAT TIME AND IT WILL BE THE NEXT DAY. SO
13 SHE'S TOLD ME THAT MANY TIMES AND I DO EVERYTHING I CAN TO
14 MAKE SURE I DROP EVERYTHING AT THESE FACE-TIME CALLS. THESE
15 ARE MY ABILITY TO JUST INTERACT WITH MADELYN AND MAINTAIN
16 THAT RELATIONSHIP WITH HER, ESPECIALLY JUST WHEN IT'S LONG
17 PERIODS BETWEEN VISITATION.

18 AND WHEN I MISS A CALL, I IMMEDIATELY TRY TO
19 CALL GRACE BACK AND SAY I'M HERE, THE PHONE ONLY RANG ONCE
20 OR TWICE AND THEN HUNG UP AND THEN I IMMEDIATELY CALL. I
21 KNOW GRACE IS NOT GOING TO PICK UP BUT IT'S MY ATTEMPT TO
22 SAY, HEY, I'M HERE. PLEASE CALL BACK.

23 Q WHEN YOU SAY THAT YOU CALL GRACE, DO YOU
24 FACE-TIME HER CELL PHONE?

25 A YES. I JUST HIT -- IF IT'S A MISSED CALL, I
26 WILL HIT RECONNECT AND I TRY TO REESTABLISH THAT CONNECTION;
27 SO I'M NOT INITIATING THE CALL, BUT THE COURT ORDER SAYS
28 WHICHEVER PARENT HAS MADELYN WILL INITIATE THE CALL. SO ALL

1 I'M TRYING TO DO IS REESTABLISH THAT CONNECTION, BUT
2 ACCORDING TO GRACE, IT'S A VIOLATION OF THE ORDER.

3 Q ASIDE FROM TRYING TO RECONNECT A FACE-TIME CALL
4 WHICH IS OUTSIDE THE BALANCE OF THE RESTRAINING ORDER, SINCE
5 YOU'RE SUPPOSED TO BE TALKING ON TALKING PARENTS, HAVE YOU
6 EVER CALLED GRACE'S CELL PHONE OR SENT A TEXT MESSAGE
7 RECENTLY THAT WOULD HAVE TECHNICALLY BEEN A VIOLATION OF
8 RESTRAINING ORDER?

9 MR. MEYER: VAGUE AND AMBIGUOUS AS TO RECENTLY.

10 MS. MACKAY: I CAN REPHRASE.

11 THE COURT: YES, PLEASE.

12 BY MS. MACKAY:

13 Q IN THE PASS 12 MONTHS, HAVE YOU TRIED TO CONTACT
14 GRACE OUTSIDE OF THE TALKING PARENTS BY A TEXT MESSAGE OR
15 PHONE CALL?

16 A DURING OUR PRESIDENT'S DAY WEEKEND, GRACE ONLY
17 INCLUDED TWO PALFORZIA PACKETS, TWO DOSES, TWO MORE DOSES,
18 AND I MESSAGED GRACE ON FRIDAY EVENING ON TALKING PARENTS TO
19 LET HER KNOW SHE ONLY -- IT'S A THREE-DAY WEEKEND AND SHE
20 SHOULD HAVE PROVIDED THREE PACKETS. GRACE ONLY PROVIDED
21 TWO. AND I MESSAGED HER FRIDAY AFTERNOON AFTER I REALIZED
22 IT WAS ONLY TWO PACKETS. GRACE DID ANSWER -- OR DID NOT
23 READ HER TALKING PARENTS FRIDAY EVENING; THEN SATURDAY AND
24 THEN I ENDED UP HAVING TO TEXT GRACE. I FELT THAT WAS AN
25 EMERGENCY BECAUSE SHE'S NOT CHECKED HER TALKING PARENTS, AND
26 I ASKED HE TO CHECK HER TALKING PARENTS AND I NEED THAT
27 EXTRA DOSE AND I ASKED HER WHY.

28 Q DID YOU GET THE EXTRA DOSE?

1 A I EVENTUALLY DID. AND HER REASONING DURING THAT
2 WEEKEND WAS SHE JUST -- SHE RAN OUT OF DOSES AND DIDN'T --
3 SHE JUST GOT THEM IN THE MAIL THAT DAY BUT JUST SOMEHOW
4 DIDN'T TELL ME AND SHE ASSUMED -- SINCE I DIDN'T LET HER
5 KNOW I WAS NOT GOING TO BE AROUND, SHE WAS ASSUMING I WAS
6 GOING TO BE AT MY HOUSE; SHE COULD DROP IT OFF LATER.

7 Q SO WHEN YOU TEXT HER ON HER CELL PHONE, NOT
8 THROUGH TALKING PARENTS, IS THAT ONE OF THE TIMES THAT SHE
9 ACCUSED YOU OF VIOLATING THE NO CONTACT ORDER OF THE
10 RESTRAINING ORDER?

11 A SHE DIDN'T ACCUSE ME OF VIOLATING THAT TIME.
12 SHE JUST SAID IT WAS UNNECESSARY, BUT OTHER TIMES SHE
13 ACCUSED ME OF VIOLATING IT. FOR EXAMPLE, THERE WAS ONE
14 MORNING WHERE I WAS --

15 MR. MEYER: MOTION TO STRIKE AFTER NO AS NONRESPONSIVE
16 TO THE QUESTION.

17 THE COURT: AFTER NO, IT'S STRICKEN AS NONRESPONSIVE.

18 YOU CAN ASK A FOLLOW-UP QUESTION.

19 BY MS. MACKAY:

20 Q IS THERE ANY OTHER TIME THAT SHE HAS ACCUSED YOU
21 OF VIOLATING THE RESTRAINING ORDER IN THE PAST YEAR?

22 A YES. ONE THAT COMES TO MIND I ACCIDENTALLY --
23 6:00 IN THE MORNING I WAS CHECKING TALKING PARENTS MESSAGE
24 AND THERE WAS A DISCUSSION ABOUT THE PHONE QUALITY AND TIME
25 ON MISSED CALLS; SO I WENT TO MY CALL LOG ON MY IPHONE AND I
26 WAS ATTEMPTING TO HIT THE INFORMATION BUTTON "I" ON THE
27 RIGHT SIDE AND ACCIDENTALLY I MUST HAVE JUST FACE-TIMED HER
28 OR HIT FACE-TIME, AND THEN AS SOON AS I SAW THAT IT

1 CONNECTED, I IMMEDIATELY HUNG UP. IT STILL MADE A
2 CONNECTION. THEN I WENT TO TALKING PARENTS AND TEXT OR
3 MESSAGED HER SAYING THAT, HEY, IF YOU GOT A FACE-TIME CALL,
4 THAT WAS AN ACCIDENT. I'M SORRY. AND HER RESPONSE WAS I
5 WAS VIOLATING THE ORDER.

6 Q HAVE YOU TAKEN MADELYN TO THEME PARKS WITHIN THE
7 STATE OF CALIFORNIA?

8 A YES. SO DISNEY WORLD -- I'M SORRY. DISNEYLAND.

9 Q WHEN WAS THAT?

10 A THAT PRE-COVID, BEFORE I DEPLOYED WE WENT TO
11 DISNEYLAND MULTIPLE TIMES. MULTI-DAY PARK HOPPER. SO WENT
12 THERE; CALIFORNIA ADVENTURE. WE DID THAT. WE WENT TO THE
13 GREAT WOLF LODGE KIND OF A THEME PARK, WATER THEME PARK,
14 WENT TO SAN DIEGO. TOOK A TRIP TO SAN DIEGO AND WENT TO SAN
15 DIEGO SAFARI, WENT TO LEGOLAND DOWN IN SAN DIEGO. WENT TO
16 LIKE A HOTEL RESORT WITH A BIG POOL, WATER SLIDE; KNOTTS
17 BERRY FARM IS ANOTHER THEME PARK. SO ALL THE THEME PARKS IN
18 THE AREA.

19 Q I'M LOOKING AT EXHIBIT -- RESPONDENT'S EXHIBIT
20 513 WHICH HAS BEEN ENTERED INTO EVIDENCE AT PAGE 34.

21 THE COURT: RESPONDENT 513. PAGE 34.

22 BY MS. MACKAY:

23 Q DO YOU REMEMBER THE WEEKEND OF -- SO ON PAGE 34
24 THIS MESSAGE IS FROM YOU. ON JANUARY 9TH, 2022. AND IT
25 LOOKED LIKE YOU GAVE AN UPDATE ABOUT THE WEEKEND AND TOLD
26 GRACE THAT THE PALFORZIA WENT WELL WITHOUT ANY ISSUES AND
27 THEN YOU CONTINUED TO SAY THAT YOU AND MADELYN HAD A GREAT
28 TIME. THERE WAS A PLAY DATE. YOU WENT TO THE MOUNTAINS TO

1 PLAY IN THE SNOW.

2 DO YOU REMEMBER HOW -- DO YOU REMEMBER HOW GRACE
3 RESPONDED TO THAT?

4 A FROM WHAT I REMEMBER, SHE WAS UPSET SHE DIDN'T
5 PROVIDE ME CONSENT FOR HER TO GO TUBING, AND IT WAS MULTIPLE
6 INCIDENTS LIKE THAT. WE HAD BEEN GOING TUBING QUITE A BIT,
7 AND GRACE HAS SAID THAT SHE HAD NEVER PROVIDED CONSENT FOR
8 THAT.

9 Q WHERE DID YOU GO SNOW TUBING WITH MADELYN?

10 A THE YEAR PRIOR IT WAS BIG BEAR, AND THEN SAN
11 ANTONIO MOUNTAIN, AND THEN THERE WAS ANOTHER ONE CLOSER,
12 YETIS TO YETIS PARK. THAT WAS THIS YEAR.

13 Q IS SAN ANTONIO MOUNTAIN IN CALIFORNIA?

14 A YES. ALL THESE WERE IN CALIFORNIA.

15 Q IS IT YOUR UNDERSTANDING THAT YOU HAVE TO OBTAIN
16 GRACE'S PERMISSION IN ORDER TO ALLOW MADELYN TO ENGAGE IN
17 AGE APPROPRIATE EVENTS?

18 A NO.

19 Q THERE WAS ANOTHER TIME -- DO YOU RECALL ANOTHER
20 TIME WHEN YOU TOOK MADELYN TO PLAY ON A WATER SLIDE?

21 A YES. THAT WAS IN SAN DIEGO. ONE OF THESE HOTEL
22 RESORTS HAD A BIG POOL, WATER PARK -- NOT A WATER PARK, BUT
23 A NICE WATER SLIDE, AND THAT WAS ALSO IN CONJUNCTION WITH
24 THE SAN DIEGO SAFARI TRIP WHERE WE WENT AND DID THE SAFARI.
25 WE ALSO TOOK A BALLOON RIDE WHICH IS NOT A HOT AIR BALLOON,
26 BUT A HELIUM-FILLED BALLOON THAT'S TETHERED TO THE GROUND
27 WITH SEALED GRATES AND KIDS ZERO TO THREE ARE FREE. WE WENT
28 TO THAT. WATER SLIDE.

1 MADELYN HAD A GREAT TIME THAT WEEKEND AND THE
2 RESPONSE WAS MADELYN INFORMED ME THAT SHE WENT ON A SLIDE
3 AND SHE WENT ON A BALLOON AND GRACE DIDN'T GIVE ME CONSENT
4 FOR THAT.

5 Q TO YOUR KNOWLEDGE HAS GRACE EVER -- HAS
6 MS. AUSTIN EVER TAKEN MADELYN TO A THEME PARK OR TO A
7 SIMILAR EVENT FOR CHILDREN?

8 A YES.

9 Q AND HAVE YOU ASKED HER FOR YOUR CONSENT?

10 A NO.

11 Q HAS SHE EVER ASKED YOU TO GET HER WRITTEN
12 CONSENT BY WAIVER TO ENGAGE IN ACTIVITIES SUCH AS SLIDING
13 DOWN A WATER SLIDE?

14 A SHE NEVER -- I'M SORRY -- CAN YOU REPEAT THAT?

15 Q DO YOU REMEMBER A TIME WHERE GRACE HAS ASKED YOU
16 TO GET HER WRITTEN CONSENT TO AS WAVER TO ALLOW MADELYN TO
17 SLIDE DOWN A WATER SLIDE?

18 A A WRITTEN WAIVER? THE ONLY THING I CAN REMEMBER
19 FOR A WRITTEN WAIVER WAS FOR WHEN I TOOK MADELYN FLYING, BUT
20 FOR A WATER SLIDE, NO. SHE JUST SAID SHE DIDN'T PERMIT THAT
21 OR I NEVER ASKED FOR HER CONSENT. AND I THINK SHE SAID SHE
22 WAS DISAPPOINTED BECAUSE I DIDN'T ASK HER FOR CONSENT.

23 Q OKAY. I'M LOOKING AT EXHIBIT RESPONDENT'S 513
24 WHICH HAS BEEN ENTERED INTO EVIDENCE AT PAGE 21. ABOUT
25 HALFWAY DOWN THE PAGE OR THE LAST MESSAGE IS FROM -- SECOND
26 TO THE LAST MESSAGE IS FROM YOU TO GRACE AND THIS IS ON
27 OCTOBER 3RD, 2021.

28 YOU TELL GRACE THAT MADELYN HAD A GREAT WEEKEND.

1 YOU WENT TO THE PARK AND TO THE SHERATON RESORT. YOU WENT
2 INTO THE HOTEL POOL. SHE DID GET A RUNNY NOSE, MADELYN.
3 SHE TOOK A NAP ON THE CAR RIDE BACK. AND ALSO EXPLAINED
4 ABOUT PALFORZIA MEDICATION. DO YOU RECALL HOW MS. AUSTIN
5 REPLIED TO THAT MESSAGE?

6 A I THINK SHE RESPONDED DISAPPOINTED, DIDN'T ASK
7 FOR CONSENT TO GO OUT OF TOWN. DIDN'T ASK FOR CONSENT OUT
8 OF TOWN, DIDN'T ASK FOR CONSENT FOR THE BALLOON RIDE, DIDN'T
9 ASK FOR CONSENT FOR THE WATER SLIDE.

10 Q DO YOU REMEMBER HER SAYING IN RESPONSE -- THIS
11 IS ALREADY IN EVIDENCE ALSO -- DID NOT SIGN HEALTH/SAFETY
12 WAIVER WITHOUT DISCUSSING WITH ME PRIOR TO SIGNING MADELYN
13 UP FOR ACTIVITIES SUCH AS HOT AIR BALLOON RIDES AND WATER
14 SLIDES. DO YOU REMEMBER THAT?

15 A YES, I REMEMBER THAT.

16 Q SO THAT HOT AIR BALLOON RIDE, CAN YOU TELL ME A
17 LITTLE BIT ABOUT THE HOT AIR BALLOON RIDE?

18 A THAT ONE WAS THE HELIUM BALLOON. IT'S TETHERED
19 TO THE GROUND WITH METAL CABLES. IT DOESN'T GO MORE THAN A
20 HUNDRED FEET. IT'S JUST FOR YOU TO SEE OVER THE SAFARI, TO
21 SEE ALL THE ANIMALS. IT'S NOT A HOT AIR BALLOON. THERE'S
22 NO FIRE. IT'S JUST A HELIUM-FILLED BALLOON AND EXTREMELY
23 SAFE. IT'S INSIDE A METAL CAGE SO NO ONE CAN EVEN TRY TO
24 JUMP OFF IF THEY WANTED TO.

25 Q DID YOU HAVE TO SIGN A WAIVER TO PUT MADELYN ON
26 THAT?

27 A I THINK FOR THE TICKETS. I HAD TO SIGN FOR THE
28 TICKETS TO GET. I THINK WITHIN THE TICKETS IT'S PARENTAL

1 CONSENT.

2 Q DID YOU HAVE TO GIVE PARENTAL CONSENT FOR HER TO
3 SLIDE DOWN THE WATER SLIDE AT THE SHERATON HOTEL AND RESORT?

4 A NO, THERE WAS NO CONSENT FOR THAT.

5 Q OKAY. LET'S DISCUSS -- LET'S MOVE SHIFTS HERE
6 AND I WANT TO DISCUSS WHAT YOU DO FOR A LIVING. WHAT DO YOU
7 DO FOR A LIVING?

8 A SO FULL TIME I'M A CONTRACTOR FOR BOOZ ALLEN
9 HAMILTON, AND THAT'S AN AEROSPACE COMPANY, ENGINEERING
10 COMPANY FOR -- IT WORKS FOR SPACE FORCE AT LOS ANGELES AIR
11 FORCE BASE IN EL SEGUNDO. WE WORK G.P.S., ALL INS AND OUTS
12 OF G.P.S. SATELLITES AND RECEIVERS ON THE GROUND AND NEW
13 TECHNOLOGY. AND RIGHT NOW I A HUNDRED PERCENT TELEWORK.
14 I'LL GO INTO THE OFFICE EVERY ONCE IN A WHILE, BUT WE ARE
15 TELEWORKING AND FORESEE TELEWORKING IN THE FORESEEABLE
16 FUTURE.

17 AND THEN I HAVE A JOB WITH ARMY RESERVES. AND
18 I'M A MAJOR AND ALSO -- MY RANK IS A MAJOR AND I'M A PILOT
19 SO IT'S A KING AIR BEEHCRAFT, KING AIR, THE PILOT, PILOT IN
20 COMMAND, INTERMISSION COMMANDER, A LOT OF TITLES. BUT I FLY
21 A TWIN ENGINE TURBOPROP. ESSENTIALLY FLY GENERALS,
22 DIGNITARIES, ANY GOVERNMENT OFFICIAL AND FLY THEM ALL AROUND
23 PRETTY MUCH WEST COAST. AND WHERE OUR MISSION IS WE ARE
24 BASED OUT OF LOS ALAMITOS AND I DO THAT ON A PART-TIME BASIS
25 AS AN ARMY RESERVIST.

26 Q WHAT IS YOUR -- IF ANY, WHAT ARE YOUR
27 CREDENTIALS FOR BEING ABLE TO FLY A PLANE FOR THE MILITARY?

28 A FOR THE MILITARY, I HAVE THE HIGHEST RANK IN

1 TERMS OF -- OR HIGHEST BADGE OR HIGHEST AWARD THE ARMY GIVES
2 FOR MILITAR AVIATORS. SO IT'S THE MASTER AVIATOR BADGE.
3 AND THE REQUIREMENT FOR THAT IS 2000 HOURS, AND YOU HAVE TO
4 BE A PILOT IN COMMAND AND ESSENTIALLY NO ISSUES OF FLYING.
5 SO I WAS AWARDED THAT, I BELIEVE, LAST YEAR. AND YOU ALSO
6 NEED TO HAVE 15 YEARS OF FLIGHT EXPERIENCE IN THE ARMY. SO
7 I OBTAINED THAT LAST YEAR AND I HAD THE HOURS AND PILOT IN
8 COMMAND STATUS.

9 SO THAT'S ESSENTIALLY I COULD FLY WITH A BRAND
10 NEW PILOT RIGHT OUT OF FLIGHT SCHOOL. SOMEONE THAT'S
11 ESSENTIALLY NOT COMPETENT TO FLY BY HIMSELF.

12 I'M KIND OF A TEACHER. I'M NOT AN INSTRUCTOR
13 PILOT; SO THERE ARE CERTAIN RESTRICTIONS AS NOT AS AN
14 INSTRUCTOR PILOT, BUT AS A PILOT IN COMMAND, THAT AIRCRAFT
15 IS MINE. SO I'M TAKING EIGHT PASSENGERS. THIS COULD BE
16 FOUR STAR GENERALS, FOREIGN DIGNITARIES THAT VISIT, STATE
17 DEPARTMENT FOLKS. I'M RESPONSIBLE FOR THE AIRCRAFT.

18 Q WITH THESE PILOT AND CREDENTIALS DO YOU KNOW IF
19 YOU WOULD BE ABLE TO FLY, SAY, LIKE A COMMERCIAL PLANE FOR A
20 REGULAR DELTA AIRLINE, AMERICAN AIRLINES, THAT TYPE OF
21 THING, COMMERCIAL AIRLINE?

22 A SO I ALSO HAVE MY COMMERCIAL CERTIFICATE WITH
23 THE F.A.A. ON TOP OF MY INSTRUMENTS, MULTI-ENGINE. I'VE GOT
24 EVERYTHING EXCEPT CERTIFIED FLIGHT INSTRUCTOR. THAT
25 REQUIRES A LITTLE BIT EXTRA AND I'M THINKING ABOUT THAT,
26 BUT I COULD. ESSENTIALLY, IF I WANT, TO NOW GO FLY FOR A
27 MAJOR AIRLINE, I WOULD HAVE TO GET MY A.T.P. LICENSE AND --
28 WELL, I HAVE TO APPLY FOR AN A.T.P. LICENSE AND THEN RIGHT

1 NOW A HIRING FREEZE.

2 Q HAVE YOU EVER PILOTED A PLANE WITH MADELYN AS A
3 PASSENGER?

4 A I FLOWN HER ONLY ONCE. AS A PASSENGER SHE HAD
5 BEEN DYING TO GO UP, AND I KNOW SHE WANTED TO BE AN
6 ASTRONAUT AT ONE POINT; SO I REALLY ENJOYED THAT EXPERIENCE.

7 I WAS ABLE TO TAKE HER UP IN A CESSNA 172 AND
8 THIS IS A PLANE I'VE FLOWN A COUPLE HUNDRED HOURS AND I'M
9 VERY KNOWLEDGABLE OF THIS AIRCRAFT. I TOOK HER AND HER
10 GIRLFRIEND UP AND HAD A BLAST. SO MADELYN -- SHE ENJOYED
11 EVERYTHING. SMILES. SHE CRIED A LITTLE BIT WHEN I WOULD
12 NOT FLIP THE PLANE OVER. SO SHE HAD SEEN ME FLY BECAUSE I
13 DID SOME AEROBATICS TRAINING, SAFETY TRAINING IN ARIZONA,
14 AND I SHOWED HER A VIDEO OF ME GOING INTO A SPIN AND GETTING
15 RECOVERING FROM THAT SPIN AND SHE WANTED TO DO THAT.

16 SHE LOVES ME PICKING HER, FLYING, PRETENDING
17 LIKE SHE'S FLYING AN AIRPLANE, FLYING AROUND THE HOUSE. AND
18 THEN I JUST WHILE WAS IN THE AIR, VERY GENTLE BECAUSE MY
19 GIRLFRIEND IS A LITTLE BIT SENSITIVE IN FLYING THE UPS AND
20 DOWNS, BUT IT WAS ENOUGH TO MAKE MADELYN HAPPY. BUT SHE
21 WANTED ME TO FLIP THE PLANE OVER; SHE CRIED A LITTLE BIT
22 WHEN I DIDN'T FLIP THE PLANE OVER.

23 Q AND DOES MADELYN STILL WANT TO BE AN ASTRONAUT
24 AFTER THE FLIGHT?

25 A SO SHE -- EVERY OTHER WEEK IT'S SOMETHING
26 DIFFERENT. RIGHT NOW SHE WANTS TO BE A SINGER. INITIALLY
27 IT WAS AN ASTRONAUT. SHE WANTED TO BE A MOM WHICH IS REALLY
28 SWEET. A DOCTOR AT ONE POINT. RIGHT NOW SHE WANTS TO BE A

1 SINGER. SO I ENCOURAGE HER. ALL THE DIFFERENT DISNEY
2 MOVIES. THE BIG ONE SHE'S INTO IS ENCANTO RIGHT NOW. SO
3 SEEING THAT QUITE A BIT.

4 Q IS SHE ANY GOOD?

5 A SHE'S REALLY GOOD. WE HAVE A LITTLE A KARAOKE
6 MACHINE FOR HER, JUST DANCING. SHE'S AN EXTROVERT AND SHE
7 JUST LOVES TO GET OUT, LOVES TO DANCE. SO WE WILL PLAY SOME
8 MUSIC AND SHE AND HER AND JACOBE LOVE -- THEY LOVE JUST
9 DANCING.

10 Q CAN YOU REMIND US WHO JACOBE IS?

11 A HE'S THE FOUR-YEAR-OLD BOY NEXT DOOR. SO HIS
12 PARENTS POLLY AND EASON (PHONETIC) LIVE RIGHT NEXT DOOR AND
13 HE GOES TO A LOCAL DAYCARE. POLLY IS A STAY AT HOME MOM
14 NOW, BUT SHE'S A TEACHER AT ONE OF THE SAN BERNARDINO
15 ELEMENTARY SCHOOLS, AND THEN THE FATHER IS AN ENGINEER FOR
16 RAYTHEON.

17 Q OKAY. SO BACK TO YOUR MILITARY EXPERIENCE. ARE
18 YOU STILL AN ACTIVE MEMBER OF THE MILITARY?

19 A I AM CONSIDERED NOT ACTIVE BUT I'M A RESERVIST.
20 SO ESSENTIALLY PART-TIME SOLDIER WITH THE REQUIREMENT OF ONE
21 WEEKEND A MONTH AND TWO WEEKS OUT OF THE YEAR, BUT THE
22 RESERVE UNIT, THE SPECIFIC UNIT I'M IN WHICH I WAS
23 TRANSFERRED IN NOVEMBER 2019 VERY FLEXIBLE. AND THERE HAS
24 BEEN A LOT OF WEEKENDS IF I HAVE MADELYN, IT'S NOT ONE OF
25 THE MANDATORY WEEKENDS, I WILL ASK THEM TO RESCHEDULE
26 TRAINING OR NOT SHOW UP TO DRILL AND THEY TYPICALLY SAY
27 THAT'S OKAY AND THEN I'LL DO THAT ANOTHER TIME.

28 Q SO IF YOUR CUSTODY WERE TO BE INCREASED WITH

1 MADELYN, WOULD YOUR MILITARY TRAININGS REMAINING FLEXIBLE?

2 A YES.

3 Q DO YOU KNOW WHETHER OR NOT MS. AUSTIN USES
4 NANNIES?

5 A YES. SHE'S GOT MULTIPLE. THERE'S TWO NANNIES.

6 Q DO YOU KNOW HOW MANY NANNIES SHE HAS NOW?

7 A TWO.

8 Q TWO NANNIES NOW?

9 A YES.

10 Q AND DOES MADELYN ALSO GO TO MONTESSORI CHILD
11 CARE?

12 A YES. FULL-TIME MONTESSORI FIVE DAYS A WEEK.

13 Q ABOUT WHAT HOURS DOES MADELYN STAY AT
14 MONTESSORI?

15 A THEY'RE TYPICALLY 8:30 TO 5:30, 6:00.

16 Q SO DO YOU THINK THAT YOUR MILITARY SCHEDULE
17 WOULD PREVENT YOU FROM SPENDING TIME WITH MADELYN IF YOU --
18 I'M SORRY. I'M GOING TO REPHRASE.

19 IF YOU HAD MORE CUSTODY WITH MADELYN AND YOU HAD
20 TO ENGAGE IN MILITARY DEPLOYMENTS THAT YOU SAID LAST A
21 WEEKEND -- DIDN'T YOU SAY ONE WEEKEND?

22 A NOT DEPLOYMENT. DEPLOYMENT IS DIFFERENT WHEN
23 YOU GO OVERSEAS. THIS IS JUST A WEEKEND TRAINING EVENT.

24 Q AND YOU HAVE TO DO THAT?

25 A THERE ARE CERTAIN WEEKENDS THAT I -- ONCE A
26 MONTH THEY TYPICALLY SCHEDULE. SOMETIMES THEY PUSH IT TO
27 MAKE IT A FOUR-DAY WEEKEND IN ONE MONTH, WHILE ANOTHER MONTH
28 YOU DON'T HAVE TO DO TWO DAYS.

1 Q SO YOU WOULD BE COMFORTABLE WITH BEING ABLE TO
2 USE CHILD CARE AND NANNIES IF YOU HAD TO GO AWAY FOR THE
3 WEEKEND?

4 A I'M NOT -- I WOULD RATHER STAY. MY PRIMARY
5 FOCUS WOULD BE TO NOT GO TO MILITARY TRAINING AND STAY HERE
6 AND SPEND THAT TIME WITH MADELYN.

7 Q IF YOU HAD TO?

8 A IF I HAD TO, FOR EXAMPLE, I HAD MY MOM AND STEP
9 DAD THROUGHOUT DURING MY LAST DRILL AND WE TIMED IT TO WHERE
10 THEY WERE HERE FOR THE DRILL. I STILL GOT OUT OF ONE OF THE
11 DAYS OF THE DRILL, BUT THEY WERE THERE TO CARE FOR HER. SO
12 IT WAS AN OPPORTUNITY FOR ME TO LET THEM SPEND SOME TIME
13 WITH HER.

14 Q WOULD YOU CONSIDER LETTING MS. AUSTIN HAVE A
15 WEEKEND -- IF YOU HAD TO BE IN THE MILITARY, WOULD YOU
16 CONSIDER GIVING HER THAT EXTRA TIME IF SHE WERE AVAILABLE?

17 A I HAVE NO OBJECTIONS TO THAT. I APPRECIATE WHEN
18 GRACE IS ABLE TO TAKE CARE OF MADELYN WHEN I'M GOING TO
19 MILITARY TRAINING. I ASKED FOR MAKEUP TIME AND THOSE WERE
20 ALL DENIED.

21 Q DO YOU EVER ASK FOR ADDITIONAL TIME ABOVE THE
22 TIME THAT YOU'RE ALLOTTED WHICH IS EVERY OTHER WEEKEND AND
23 WEDNESDAYS?

24 A YES. SO I OFFERED -- I WANT TO SPEND AS MUCH
25 TIME AS I POSSIBLY CAN WITH MADELYN AND I MADE NUMEROUS
26 ATTEMPTS TO OFFER GRACE TO KEEP HER AN EXTRA NIGHT. I
27 UNDERSTAND GRACE'S RESPONSE IS ALWAYS GOING TO BE STICK TO
28 THE ORDER. SHE MADE THAT VERY CLEAR, BUT I ALSO OFFERED IF

1 I COULD TAKE HER TO DAYCARE IF SHE'S GOT TO WORK.

2 WE HAD TWO INSTANCES WHERE SCHOOL HAD COVID; SO
3 THEY SHUT DOWN THE SCHOOL FOR TWO WEEK -- OR I'M SORRY, A
4 WEEK AT A TIME. AND I FOUND OUT THROUGH THE MESSAGING APP
5 THAT SCHOOL -- THEY FOUND A POSITIVE CASE; THEY SHUT THE
6 SCHOOL DOWN. THE FOLLOWING WEEK MADELYN WAS GOING TO BE IN
7 DAYCARE; SO I OFFERED OR SENT GRACE A TALKING PARENTS
8 MESSAGE THAT I'M AVAILABLE. I'M WORKING FROM HOME. I CAN
9 TAKE CARE OF MADELYN. LET'S WORK SOMETHING OUT.

10 AND GRACE -- HER RESPONSE THREE OR FOUR DAYS
11 LATER SHE TELLS ME THAT I ALREADY HAVE A NANNY. DON'T WORRY
12 ABOUT IT. THINGS ARE FINE. BUT THAT'S BEEN TWO WEEKS I'VE
13 OFFERED FOR THAT.

14 THERE WAS A DENTAL APPOINTMENT -- OR NOT A
15 DENTAL APPOINTMENT. IT WAS A -- MADELYN HAD A TOOTHACHE;
16 SHE NEEDED TO GO TO BEVERLY HILLS FOR AN APPOINTMENT AND I
17 OFFERED TO TAKE HER TO THAT APPOINTMENT AND GRACE SAYS --
18 HER RESPONSE WAS SHE DIDN'T NEED ME. OTHER TIMES I ALWAYS
19 PUT THE OFFER OUT THERE, IF THERE'S AN ISSUE WITH THE NANNY
20 TIME, I'M ALWAYS ABLE TO HELP OUT. I'M REALLY NOT DOING
21 ANYTHING ELSE.

22 OTHER THAN I HAVE A PRESCHEDULED FLIGHT, A
23 TRAINING FLIGHT AND THAT'S SOMETHING THAT I REALLY CAN'T
24 GIVE UP. BUT MY FULL-TIME JOB, THEY ARE VERY, VERY
25 FLEXIBLE, AND IF I NEED TO TAKE TIME OFF FOR MADELYN, A LOT
26 OF TIMES I DON'T EVEN NEED TO ASK. THEY JUST TRUST ME I'M
27 GOING TO DO THE RIGHT THING.

28 Q DO YOU EVER ATTEND MADELYN'S MEDICAL

1 APPOINTMENTS? ARE YOU ALLOWED?

2 A SO THE FIRST ALLERGY APPOINTMENT, THAT WAS KIND
3 OF A SHOCK. WE ALREADY TALKED ABOUT THAT, BUT THAT WAS --
4 YES, SO I ATTEND THE ALLERGY -- I'VE BEEN TO ALLERGY
5 APPOINTMENTS.

6 THE WAY I'M NOTIFIED ABOUT THESE APPOINTMENTS --
7 GRACE DOES NOT CONFER WITH ME. SHE DOESN'T ASK IF THIS DAY
8 OR TIME IS OKAY. SHE JUST PROVIDES IN HER MONTHLY UPDATE
9 AND THERE HAVE BEEN NUMEROUS TIMES WHEREIN THE UPDATE
10 WILL -- SHE'LL SEND IT AT THE BEGINNING OF THE MONTH. THE
11 APPOINTMENT MAY BE ONE OR TWO DAYS LATER AND THERE ARE
12 CERTAIN THINGS I CAN'T REALLY RESCHEDULE, BUT I'VE BEEN ABLE
13 TO MAKE ALL THE ALLERGY APPOINTMENTS AND WHICH WERE MORE
14 OFTEN. BUT IT WAS THE PEDIATRIC APPOINTMENTS I HAVEN'T BEEN
15 ABLE TO MAKE. I KNOW THOSE ARE KIND OF FEW AND FAR BETWEEN.
16 AND THEN THE DERMATOLOGY APPOINTMENT I HAVEN'T BEEN ABLE TO
17 MAKE ANY OF THOSE.

18 Q SO IF YOU HAD CUSTODY OF MADELYN DURING SOME
19 DAYS, DO YOU BELIEVE THAT YOU WOULD BE ABLE TO TAKE
20 RESPONSIBILITY FOR ALLOWING HER TO GET MEDICAL CARE AND
21 TAKING HER TO HER APPOINTMENTS AND THINGS LIKE THAT?

22 A YES.

23 Q OKAY. BACK TO YOUR MILITARY TRAINING, DID YOU
24 HAVE A FIREARM FOR THE MILITARY PRIOR TO MAY 2019 DVRO?

25 A NOT FOR THE MILITARY. I HAD TWO PERSONAL GUNS
26 THAT I ENDED UP TURNING IN.

27 Q AND YOU TURNED THEM IN?

28 A YES.

1 Q WERE YOU ORDERED TO COMPLETE ANY SORT OF
2 PARENTING CLASSES IN EITHER THE NEW YORK RESTRAINING ORDER
3 OR CALIFORNIA RESTRAINING ORDER?

4 A JUST CALIFORNIA RESTRAINING ORDER I WAS TOLD TO
5 GO TO A PARENTING CLASS. MY LAWYER HAD PROVIDED ME A LIST
6 OF COURSES THAT WERE COURT-APPROVED. HE SENT THAT TO ME IN
7 AN EMAIL. I FOUND ONE OF THE CLASSES THAT I THOUGHT APPLIED
8 OR JUST THE CLOSEST ONE. THEY WEREN'T REALLY -- THEY WERE
9 PRETTY VAGUE. I TOOK THE CLASS, SUBMITTED THAT CERTIFICATE
10 TO MR. MEYER IN THE EMAIL WHICH HE GOT, AND HE SAID HE
11 RECEIVED IT, SUBMITTED IT TO COURT. I TOOK THAT COURSE
12 BEFORE THE EXPIRATION OR THE REQUIRED DATE.

13 AND THEN JUST RECENTLY LOOKING OVER THE ORDER, I
14 MIGHT HAVE TAKEN THE WRONG CLASS, BUT I ALSO TOOK ANOTHER
15 PARENTING CLASS, THE CLOSEST THING I COULD FIND TO THE
16 ORIGINAL MAY 2019 ORDER. SO I TOOK THAT CLASS. IT'S A
17 THREE-WEEK PARENT -- SINGLE PARENT COURSE -- PARENTING FOR
18 SINGLES AND IT WAS A THREE-WEEK COURSE THROUGH -- I THINK IT
19 WAS THROUGH ZOOM. IT WAS A REALLY GOOD COURSE TALKING ABOUT
20 ALL THINGS -- ALL THE ISSUES YOU HAVE AS A SINGLE PARENT
21 WITH KIDS, YOUNG INFANTS ALL THE WAY UP TO TEENAGERS.

22 Q AND WERE YOU ORDERED TO COMPLETE A BATTERER'S
23 INTERVENTION PROGRAM?

24 A NO.

25 Q WHAT ABOUT DRUG OR ALCOHOL SUBSTANCE ABUSE?

26 A NO.

27 Q HAVE YOU EVER HAD ANY ISSUES WITH DRUG OR
28 ALCOHOL SUBSTANCE ABUSE?

1 A NO.

2 Q HAVE YOU EVER BEEN CONVICTED OF A CRIME?

3 A NO.

4 Q OTHER THAN TRAFFIC?

5 A NO.

6 Q HAVE YOU EVER BEEN -- HAS ANYONE EVER ACCUSED
7 YOU OF A CRIME OR CALLED THE POLICE ON YOU?

8 A GRACE HAS.

9 Q OTHER THAN GRACE?

10 A OH, YES. THERE IS A WITNESS OR SOMEONE CALLED
11 THE COPS ON GRACE FOR PUNCHING ME WHILE I WAS PULLING INTO A
12 PARKING LOT IN OCTOBER OF 2012 AT PUBLIX PARKING LOT, WHOLE
13 FOODS PARKING LOT IN CHAPEL HILL.

14 Q DID THEY COME TO YOUR HOUSE?

15 A I'M SORRY.

16 Q THE POLICE?

17 MR. MEYER: OBJECTION. RELEVANCE.

18 THE COURT: WHAT'S THE RELEVANCE? IT'S 2012.

19 MS. MACKAY: YEAH. I DIDN'T EVEN KNOW THAT WAS GOING
20 TO BE THE ANSWER, BUT I'M JUST -- I'M GETTING TO THE POINT.
21 THE POINT IS THAT HE DOESN'T HAVE A HISTORY WITH THE POLICE.

22 THE COURT: OKAY.

23 BY MS. MACKAY:

24 Q SO WHEN GRACE CALLED THE POLICE ON YOU, WHEN WAS
25 THE LAST TIME?

26 MR. MEYER: OBJECTION. RELEVANCE.

27 THE COURT: OVERRULED.

28 THE RESPONDENT: THAT WAS JULY FIFTH LAST YEAR. JULY

1 FIFTH.

2 BY MS. MACKAY:

3 Q JULY 5TH, 2021.

4 A YES. MONDAY MORNING, YES.

5 Q SO THAT WAS ABOUT A MONTH PRIOR TO THE RENEWAL?

6 A YES.

7 Q WHY? WHAT DID YOU DO?

8 A THERE WAS A DISAGREEMENT IN OUR INTERPRETATION
9 OF CUSTODY AND GRACE -- SHE -- I BELIEVE SHE WAS READING THE
10 ORDER OUT OF CONTEXT. I HAD ATTEMPTED TO CONFIRM TO AVOID
11 ANY ISSUES FOR PICKUP/DROP-OFF BECAUSE THERE WERE ISSUES
12 PRIOR, AND SHE TOLD ME SHE DID NOT AGREE WITH THAT AND THAT
13 I ONLY HAD MADELYN FROM FRIDAY 2:30 TO MONDAY AT
14 9:00 O'CLOCK. BUT THE ORDER I FEEL LIKE IT CLEARLY STATES
15 IT SHOULD BEING 4:00 P.M. BECAUSE THAT HOLIDAY IS TIED TO
16 THE WEEKEND. AND THAT WAS THE VERY SPECIFIC ORDER THAT IF
17 IT'S TIDE TO THE WEEKEND, IT'S AS NORMAL; SO IT'S GOING TO
18 BE MONDAY DROP-OFF. IF IT'S A THURSDAY OR FRIDAY HOLIDAY,
19 IT WOULD BE A THURSDAY PICKUP.

20 Q JUST SO WE UNDERSTAND -- WITHOUT REGARD TO WHAT
21 WE THINK THE ORDER IS, WHAT WAS THE DISCREPANCY BETWEEN WHAT
22 TIME YOU THOUGHT YOU WERE SUPPOSED TO DROP OFF AND WHAT TIME
23 GRACE THOUGHT YOU WERE SUPPOSED TO DROP OFF?

24 A GRACE THOUGHT I WAS SUPPOSED TO DROP MADELYN OFF
25 OR EXCHANGE AT 9:00 O'CLOCK IN THE MORNING. I WAS UNDER THE
26 IMPRESSION IT WAS 4:00 P.M. AND I HAD MESSAGED GRACE ON
27 FRIDAY -- I THINK FRIDAY ABOUT THIS. I DIDN'T GET A
28 RESPONSE BACK. AND MONDAY SHE TEXT ME, MESSAGES ME SAYING

1 WHERE AM I. SHE'S BEEN WAITING THERE AND THEN WE HAD A
2 LITTLE BACK AND FORTH ABOUT THE DATE.

3 I SENT HER A COPY OF THE COURT ORDER AND
4 HIGHLIGHTED WHICH SPECIFIC SPOT SHE SHOULD HAVE BEEN
5 REFERENCING, AND 11:00 O'CLOCK I GOT A KNOCK AT THE DOOR
6 FROM THE PASADENA POLICE. I SHOWED THEM THE ORDER AND I HAD
7 THE OPTION TO BRING -- TO EXCHANGE -- ONCE THEY READ THE
8 ORDER, THEY SAID, WELL, YOU CAN DO WHATEVER. YOU WANT TO DO
9 A 4:00 O'CLOCK EXCHANGE -- I KEPT ASKING. I HAVE NO IDEA.
10 I HAD PLANS LATER THAT EVENING AND I'VE BEEN ASKING GRACE
11 CAN SHE DO THE 4:00 O'CLOCK EXCHANGE; I NEVER GOT A
12 RESPONSE.

13 AND THEN THAT OFFICER JUST ASKED ME, SAID, SO WE
14 DON'T HAVE TO COME BACK HERE AGAIN OR MEET HERE AT 4:00
15 O'CLOCK, CAN YOU JUST EXCHANGE HER NOW? MOM IS ALREADY HERE
16 AND I SAID FINE. MADELYN IS CRYING. THAT WAS A VERY
17 STRESSFUL TIME.

18 Q SO AT BETWEEN 9:00 A.M. AND 4:00 P.M. IS IT YOUR
19 UNDERSTANDING THAT GRACE KNEW THAT MADELYN WAS WITH YOU?

20 A YES.

21 Q DID GRACE EXPRESS ANY CONCERN ABOUT WHETHER SHE
22 THOUGHT THAT MAYBE MADELYN'S HEALTH OR SAFETY WAS AT RISK?

23 A WE HAD AN ISSUE THAT WEEKEND WHERE MADELYN, WHEN
24 I PICKED HER UP ON FRIDAY, SHE HAD A RUNNY NOSE, SOME
25 CONGESTION; SO I LET GRACE KNOW THAT MADELYN HAS A RUNNING
26 NOSE. ANYTHING I SHOULD KNOW ABOUT. GRACE TOLD ME NO, BUT
27 SHE DEMANDED THAT I GET A COVID TEST FOR MADELYN. SO I SAID
28 OKAY.

1 I WENT AND SCHEDULED -- I HAD AN APPOINTMENT FOR
2 SUNDAY IN THE EVENING. I'M SORRY. MONDAY. THE EARLIEST
3 ONE I COULD GET WAS A MONDAY EVENING.

4 Q I THINK I KNOW -- I THINK THAT ANSWERS THE
5 QUESTION. SO I MEANT LIKE HEALTH AND SAFETY ALONG THE LINES
6 OF DID SHE THINK THAT MAYBE YOU WOULD HAVE GOTTEN IN A CAR
7 ACCIDENT OR KIDNAPPING THE CHILD, SOMETHING --

8 MR. MEYER: OBJECTION. LEADING.

9 MS. MACKAY: -- CONCERNING?

10 MR. MEYER: CALLS FOR SPECULATION. LACK OF
11 FOUNDATION.

12 THE COURT: OVERRULED.

13 THE RESPONDENT: THERE WAS NO CONCERN ABOUT THAT. SHE
14 JUST WANTED TO TAKE -- WITHOUT EVEN CHECKING MY TALKING
15 PARENTS MESSAGES ABOUT WHETHER I GOT MADELYN A COVID TEST OR
16 NOT. SHE JUST SAID MADELYN NEEDS TO BE IN DAYCARE AND IT'S
17 LIKE IT WAS AFFECTING HER WORK AND --

18 BY MS. MACKAY:

19 Q DROP OFF THAT YOU THOUGHT YOU WERE SUPPOSED TO
20 HAVE MADELYN UNTIL 4:00 P.M. AND GRACE THOUGHT IT WAS 9:00
21 A.M.?

22 A YES.

23 Q I DON'T NEED TO KNOW WHO WAS RIGHT ON THAT, BUT
24 DID GRACE TELL YOU THAT THE REASON WHY YOU NEEDED TO PROVIDE
25 MADELYN AT 9:00 A.M. IS SO THAT GRACE CAN TAKE MADELYN TO
26 DAYCARE?

27 A YES.

28 Q OKAY. SO LET'S TALK ABOUT DAYCARE A LITTLE BIT.

1 SO YOU ALREADY SAID THAT MADELYN ATTENDS MONTESSORI IN SANTA
2 CLARITA.

3 A YES.

4 Q WHEN YOU MOVED TO CALIFORNIA FROM NEW YORK, WAS
5 MADELYN ALREADY REGISTERED IN THE SANTA CLARITA MONTESSORI?

6 A CORRECT. YES, SHE WAS.

7 Q LOCATION ASIDE, DO YOU FEEL LIKE MONTESSORI IS A
8 GOOD PROGRAM FOR MADELYN?

9 A THE MONTESSORI PROGRAMS ARE GREAT. THE ONE WE
10 LOOKED AT IN ROCHESTER WAS A GREAT PROGRAM. WE JUST
11 COULDN'T GET HER IN THAT PROGRAM. THE PROGRAMS DOWN IN SAN
12 MARINO, PASADENA ARE EXCELLENT, VERY SIMILAR IN CURRICULUM.
13 BUT THERE THE ISSUE OF THE DISTANCE.

14 Q SO YOU'RE HAPPY WITH THE CURRICULUM?

15 A YES, VERY HAPPEN.

16 Q THE MONTESSORI IN GRACE'S NEIGHBORHOOD IN SAN
17 MARINO, DID YOU REGISTER MADELYN IN THAT MONTESSORI?

18 A NEVER. I ONLY PUT A DEPOSIT DOWN.

19 Q DID YOU PUT HER ON THE WAIT LIST?

20 A SHE WAS ON THE WAIT LIST.

21 Q DO YOU THINK THAT SHE WOULD BE ABLE TO START
22 MONTESSORI THE NEXT OPENING?

23 A SHE HAD AN OPENING LAST SUMMER. AND PARINA, THE
24 DIRECTOR, SHE HAD AN OPENING LAST SUMMER TO START JULY 6 FOR
25 THE SUMMER PROGRAM AND SHE WOULD HAVE BEEN ABLE TO STAY IN
26 THE PROGRAM. AND THEN RIGHT NOW SHE'S HOLDING ME -- SHE HAS
27 TECHNICALLY SIXTH PLACE IN LINE, BUT AS SOON AS I TELL HER I
28 HAVE THE ABILITY TO MOVE HER INTO MONTESSORI, SHE WILL GET

1 MADELYN IN THERE, AND THE NEXT FEASIBLE START DATE IS AROUND
2 JULY FIFTH, SIXTH TIME FRAME THIS YEAR, THIS SUMMER.

3 Q AND DO YOU KNOW WHEN MADELYN SHOULD REGISTER FOR
4 KINDERGARTEN? SHE'S FIVE YEARS OLD; RIGHT?

5 A SHE SHOULD BE REGISTERING, I WOULD ASSUME, SOME
6 TIME THIS SUMMER. I ASKED GRACE FOR SOME KIND OF, HEY,
7 LET'S TALK ABOUT KINDERGARTEN; WHAT'S THE PLAN? AND NO
8 RESPONSE.

9 Q HAVE YOU CONSIDERED SENDING MADELYN TO THE
10 PUBLIC SCHOOL IN GRACE'S NEIGHBORHOOD?

11 A I THINK THAT WOULD BE THE BEST OPTION FOR HER.
12 SAN MARINO HAS A VERY GOOD SCHOOL; FROM WHAT I'VE BEEN TOLD
13 SOME OF THE BEST IN THE STATE, IN THE L.A. AREA. MINUS
14 THERE ARE PROBABLY SOME PRIVATE SCHOOLS OUT THERE, BUT THE
15 TWO PUBLIC SCHOOLS SHE'S ABLE TO GO TO, THEY'RE EXCELLENT.

16 Q BUT YOU HAVE ASKED GRACE?

17 A YES.

18 Q AND NO RESPONSE AT ALL?

19 A IT DIVERTS INTO SOMETHING ELSE, BUT IT DOESN'T
20 ANSWER THE QUESTION OR DOESN'T WORK WITH ME TO LET'S TRY TO
21 FIGURE OUT A PLAN.

22 Q SO WE DON'T KNOW WHETHER OR NOT MADELYN IS GOING
23 TO GO TO KINDERGARTEN THIS UPCOMING AUGUST?

24 A I DON'T KNOW.

25 Q DO YOU KNOW WHETHER OR NOT MADELYN WENT TO THIS
26 MONTESSORI IN SAN MARINO, WHETHER SHE WOULD BE IN THE SAME
27 AREA AS WHERE YOU WOULD LIKE HER TO GO TO ELEMENTARY SCHOOL?

28 A WITHIN A COUPLE-MILE RADIUS. ALL THE SAME KIDS

1 WOULD BE GOING TO THE ELEMENTARY SCHOOL, YES.

2 Q AND YOU SAID THAT YOU NOW TAKE MADELYN ON PLAY
3 DATES WITH HER FRIENDS. WHERE ARE HER FRIENDS?

4 A SO A LOT OF THE FRIENDS -- OTHER THAN FAMILY
5 FRIENDS, I KNOW GRACE NOW HAS SOME FRIENDS IN THE
6 NEIGHBORHOOD, BUT THE DAYCARE FRIENDS, HER BEST FRIEND RUBY.
7 WE WENT TO TWO BIRTHDAY PARTIES IN A ROW. I TOOK MADELYN UP
8 THERE AND ARAYA (PHONETIC) AND MATTIAS AND WENT TO THEIR
9 PARTIES. I WAS TALKING TO SOME OF THE PARENTS AND I FOUND
10 OUT THAT RUBY THAT MADELYN ALWAYS TALKS ABOUT -- I MET HER
11 PARENTS AND WE EXCHANGED PHONE NUMBERS. EXCHANGED PHONE
12 NUMBERS WITH A COUPLE OTHER PARENTS AND ENDED UP DOING QUITE
13 A BIT PLAY DATES WITH THEM.

14 Q AND WHERE DOES RUBY LIVE?

15 A SANTA CLARITA.

16 Q HAS RUBY'S PARENTS EVER DRIVEN RUBY TO YOU IN
17 PASADENA?

18 A ONLY ONE, AND THAT WAS FOR MADELYN'S BIRTHDAY.
19 I HAD A LITTLE PARTY FOR HER AT MY PLACE LAST YEAR. I'M
20 SORRY. THIS JANUARY.

21 THE COURT: ARE YOU MOVING TO ANOTHER AREA OF
22 QUESTIONS.

23 MS. MACKAY: I THINK I HAVE ONE FINAL QUESTION. I'M
24 GOING TO CHECK.

25 THE COURT: OKAY.

26 BY MS. MACKAY:

27 Q WHY DO YOU WANT TO INCREASE CUSTODY?

28 A I WANT -- THERE'S A LOT. I WANT TO BE MORE THAN

1 JUST A WEEKEND DAD. I FEEL LIKE I HAVE A LOT TO OFFER
2 MADELYN. I WANT TO BE THERE TO JUST BOOST HER CONFIDENCE.
3 AND I JUST HAVE A LOT TO SHARE IN TERMS OF A LOT OF THINGS I
4 KNOW THAT I WOULD LIKE INFORMATION, JUST WISDOM, I COULD
5 PASS TO MADELYN.

6 SAME AS GRACE. I WOULD LIKE -- I REALLY
7 APPRECIATE -- GRACE IS AMAZING IN TERMS OF HOW SMART SHE IS.
8 I APPRECIATE THAT, BUT I ALSO FEEL LIKE I HAVE A LOT TO
9 OFFER AND I KNOW MADELYN WANTS TO BE WITH ME.

10 SHE MAKES THESE COMMENTS WHERE SOMETIMES I TELL
11 HER I LOVE HER. AND SHE'S SAYS, I DON'T LOVE YOU. SHE
12 KNOWS I'LL PRETEND I'M ALL HURT. AND SHE SAYS HA, HA. I
13 LOVE YOU, BUT I ONLY LOVE YOU A LITTLE BIT. SO OKAY.
14 THAT'S CUTE. WHAT CAN I DO TO MAKE YOU LOVE ME MORE? AND
15 SHE TELLS ME, I JUST WANT TO -- SHE WANTS TO SPEND MORE
16 TIME. IT'S BEEN SHE -- SAYS LITTLE THINGS LIKE THAT AND
17 THERE'S A LOT OF THINGS THAT SHE SAYS, BUT THAT KIND OF
18 TUGGED AT MY HEART WHEN I'M TRYING TO -- I COULD FEEL IT.

19 SHE'S OLD ENOUGH. SHE UNDERSTANDS THE DYNAMICS
20 BETWEEN US AND THERE'S THINGS THAT I HAVE ADDRESSED WITH
21 GRACE ABOUT LIKE WHAT'S BEING SAID TO MADELYN, AND I JUST
22 WANT THE BEST FOR MADELYN AND JUST TO BE THERE FOR HER AND
23 ALSO DEVELOP A RELATIONSHIP WITH MY GIRLFRIEND. SHE LOVES
24 HER TO DEATH AND THEY'RE VERY, VERY CLOSE AND WE JUST DON'T
25 HAVE ENOUGH TIME WITH MADELYN.

26 Q DO YOU SEE THIS RELATIONSHIP WITH YOUR
27 GIRLFRIEND GETTING SERIOUS?

28 A IT IS. IT IS ALREADY SERIOUS. WE'RE TALKING

1 NEXT STEP MOVING IN TOGETHER.

2 MS. MACKAY: OKAY. NO FURTHER QUESTIONS.

3 THE COURT: OKAY. THIS WOULD BE A GOOD STOPPING
4 PLACE.

5 SEE EVERYBODY TOMORROW AT 1:30.

6 MR. MEYER: THANK YOU, YOUR HONOR.

7 THE COURT: ALL RIGHT.

8

9 (WHEREUPON THE RECESS WAS TAKEN
10 UNTIL FRIDAY, APRIL 22, 2022, AT
11 1:30 P.M. FOR FURTHER PROCEEDINGS.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT VEK

HON. MARILYN MORDETZKY, JUDGE

AUSTIN, GRACE,

PETITIONER,

-VS-

AUSTIN, DALLAS,

RESPONDENT.

NO. 19VERO00438

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

I, LUCY I. MILIVOJEVIC, CSR #11496, OFFICIAL COURT REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES 1 THROUGH 72 COMPRISE A FULL, TRUE, AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD ON APRIL 21, 2022, IN THE ABOVE-ENTITLED CAUSE.

DATED THIS 31ST DAY OF OCTOBER, 2022.

LUCY I. MILIVOJEVIC

LUCY I. MILIVOJEVIC, CSR #11496
OFFICIAL COURT REPORTER