

IN THE COURT OF COMMON PLEAS
OF CENTRE COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

HEIDI BRUSH : NO. 2012-3103

VS :

LELAND FELDMAN :

TRANSCRIPT OF PROCEEDINGS
(Custody Hearing)

BEFORE: David C. Klementik, Senior Judge
56th Judicial District
Specially Presiding

DATE: July 22, 2020

PLACE: Centre County Courthouse
Courtroom No. 3
102 South Allegheny Street
Bellefonte, PA 16823

APPEARANCES:

FOR THE PLAINTIFF:
Abigail Jones, Esq.

FOR THE DEFENDANT:
Leland Feldman, Pro Se

ALSO PRESENT:
Douglas Hearn, Esq.

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1 P R O C E E D I N G S

2 THE COURT: So that being said, let's get
3 started with our considerations here today for this
4 motion to quash.

5 Sir.

6 MR. HEARN: I'm sorry, Your Honor,
7 Douglas Hearn. I represented Heidi Brush in the PFA a
8 number of years ago. If I could raise an ancillary
9 issue? In February of this year, the Court ordered
10 that letters being sent from Mr. Feldman to his
11 daughter be sent through his current custody counsel,
12 and Mr. Feldman has refused to do that.

13 THE COURT: All right. You're
14 testifying. I don't want to hear your testimony. You
15 have not been called. I do not know if you would be
16 called. If he maybe wanted you -- did he call you as
17 a witness?

18 MR. HEARN: No, Your Honor.

19 THE COURT: Okay. You're totally out of
20 order.

21 MR. HEARN: I'm sorry, Your Honor.

22 THE COURT: Okay. Thank you. This is
23 for the litigants to call their witnesses and their
24 evidence, so are you going to be called?

25 MR. HEARN: No, Your Honor.

1 THE COURT: Okay. You're dismissed.

2 MR. HEARN: Yes, Your Honor.

3 THE COURT: You're dismissed.

4 MR. HEARN: Yes, Your Honor.

5 THE COURT: If she's not going to call
6 you and he's not going to call you, I don't need to
7 hear anything further from you. Thank you.

8 MR. HEARN: Thank you, Your Honor.

9 THE COURT: Okay. Again, this is a
10 motion for protective order and I just want to clarify
11 that I'm operating from the proper understanding. We
12 have a custody order of December 27, 2013, and I
13 believe there was a modification to that in '14. Am I
14 correct? Is that what we're operating under?

15 MR. FELDMAN: That is correct, Your
16 Honor.

17 MS. JONES: And then one further
18 modification on June 1, 2017, from Judge Oliver, and
19 that is an exhibit that I can provide.

20 THE COURT: And I may have seen that.
21 Okay. Here is the order, May 20, 2014.

22 MS. JONES: Yes.

23 THE COURT: And here is a June 1,
24 '17, so actually maybe even the '13 was superseded by
25 -- yeah, it still is in place. It was modified. So

1 we have a 12/27/13 modified by May 20, '14, and
2 modified by June 1, '17. Those are the orders that we
3 are dealing with that we want to modify.

4 Okay. That being said, this is a
5 voluminous file. I have read a lot. I spent hours
6 reading this and I think I have a pretty good
7 understanding where we're going. Obviously, custody
8 matters come to the Court in many ways. They start as
9 initial matters. They go as modifications. They get
10 involved in PFA actions sometimes that cause them to
11 be modified, but today we are here for a modification
12 of a fairly-old order that may not be performing, and
13 that is what we are here to talk about. So, with that
14 being said, I'm going to ask the parties -- tell me,
15 what would you like to come out today? And I will
16 start with Mr. Feldman. What would you like to see --
17 you can even sit. That's fine. What would you like
18 to see in a custody order today? What would be, do
19 you think, reasonable?

20 MR. FELDMAN: Your Honor, I reflected
21 from what was stated by you at the previous -- what
22 was it? Conference. And you said, well, perhaps what
23 would be best is dividing it up; summer vacations
24 where [REDACTED] spends time with me; school year, spends
25 time with Dr. Brush. I think really -- I mean --

1 THE COURT: So you would like a shared
2 custody arrangement --

3 MR. FELDMAN: Yes.

4 THE COURT: -- with the underpinnings of
5 what we would typically refer to as a distant
6 relationship. You are in one city. She is in
7 another. It is not like you live on the same bus
8 route for high school, right? Okay. So you would
9 like a distant relationship type of an order where you
10 would have the ability to contact during the school
11 year and have the brunt of the summer out of school.
12 Okay.

13 MR. FELDMAN: I guess I would also like
14 the opportunity during the school year to be able to
15 pop in and visit, you know, to fly in.

16 THE COURT: Okay. Understood.
17 Understood. Okay.

18 And Ms. Brush, what would you like to see
19 come out of a modification of custody?

20 THE PLAINTIFF: Well, Your Honor, this is
21 actually working very well for [REDACTED] right now.
22 Like, she is thriving. I hope you will see, through
23 the different evidence that we present, she is doing
24 great in school. She is thriving at home. She is,
25 you know, blossoming into a happy, healthy,

1 intelligent, middle-school child. So I don't see any
2 change at this time as being beneficial.

3 THE COURT: So you would not agree that
4 the introduction of a father figure would be helpful
5 to your daughter.

6 THE PLAINTIFF: I'm not saying that. I'm
7 saying that she has never had a relationship with him
8 at all, so it would be extremely abrupt and traumatic
9 to have her taken away from everything she knows, her
10 home, and to go off with someone she doesn't have a
11 positive relation with.

12 THE COURT: I understand. I understand
13 your position. All right. All right. With that
14 being said, you are the petitioner, Mr. Feldman.

15 MR. FELDMAN: I am.

16 THE COURT: And you may begin your
17 testimony.

18 MR. FELDMAN: I would like to call Dr.
19 Brush to the stand.

20 THE COURT: As on cross?

21 MR. FELDMAN: As on direct.

22 THE COURT: Well, as on cross. She's not
23 your witness, but you may call --

24 MR. FELDMAN: Well --

25 THE COURT: She would theoretically be an

1 adverse witness. That's okay. Whatever you want to
2 call it.

3 MR. FELDMAN: Okay. Thank you, sir.
4 Whereupon,

5 HEIDI BRUSH
6 called as a witness and having
7 been duly sworn, was examined
8 and testified as follows:

9 THE COURT: Please be seated.
10 You may begin.

11 AS ON CROSS-EXAMINATION

12 BY MR. FELDMAN:

13 Q. Dr. Brush, please state your name, and would
14 you spell it for the Court?

15 A. Heidi Brush, H-E-I-D-I, B-R-U-S-H.

16 (A telephone rang in the courtroom.)

17 THE COURT: I apologize. I have nothing
18 to do with the phones.

19 THE WITNESS: Okay.

20 BY MR. FELDMAN:

21 Q. Were you born in the United States?

22 THE COURT: Your address, please.

23 THE WITNESS: Oh, I'm sorry. 761 --

24 MS. JONES: Can I object? Her address
25 has been -- I know there's not a PFA in place right

1 now, but her address has been kept confidential and it
2 remains under confidential --

3 THE COURT: And why is it confidential?

4 MS. JONES: Because she is afraid of Mr.
5 Feldman. There is a history of abuse. There have
6 been PFAs in place. She remains afraid of him even
7 though a PFA is not in place right now and it is
8 marked as confidential with the Court, although
9 there's not a -- because she has filed an abuse victim
10 addendum even though there's not a current PFA in
11 place.

12 THE COURT: All right. I'll honor it for
13 the time being, but I'm going to take it under
14 advisement.

15 MS. JONES: Thank you.

16 THE COURT: All right. Continue.

17 MR. FELDMAN: Thank you, sir.

18 BY MR. FELDMAN:

19 Q. Is English your first language?

20 A. Yes, it is.

21 Q. Were you granted a Ph.D. from University of
22 Illinois-Champagne?

23 A. Yes.

24 Q. You were granted a bachelor of arts in English
25 from Pennsylvania State University?

1 A. Yes.

2 Q. And you were granted a master's degree from?

3 A. Penn State.

4 Q. And you have had at least four papers
5 published of which you were either the author or the
6 co-author in academic journals?

7 A. I'm not sure if that is the correct number.
8 It may be more. It may be less. I'm not sure.

9 Q. You have been published in academic journals?

10 A. Yes.

11 Q. More than once?

12 A. Yes.

13 MR. FELDMAN: I don't know if the bailiff
14 can help me out.

15 THE COURT: I don't know if I have a
16 bailiff.

17 MR. FELDMAN: Can I approach the witness
18 or what would you like me to do?

19 THE COURT: You can approach the witness.

20 BY MR. FELDMAN:

21 Q. Here is a document. That is the petition for
22 protection from abuse order dated December 17, 2012.
23 Would you please take a look at page 5? Is that your
24 signature on the bottom of page 5 -- oh, I'm sorry.
25 Here is a copy for you if you would like it.

1 MR. FELDMAN: Your Honor, would you like
2 a copy?

3 THE COURT: I guess I should.

4 BY MR. FELDMAN:

5 Q. Signature page 5 of the document you were just
6 handed, is that your signature verifying the contents
7 of the petition being true and correct?

8 A. Yes.

9 Q. And on page 6, could you look at the
10 checklist, please? Is that your signature on the
11 bottom verifying that that is also true and correct?

12 A. Yes.

13 THE COURT: Are you going to go through a
14 comparison of this one and a later one? I read the
15 transcript. I got it. Okay. There are major
16 inconsistencies, so this is a one-day hearing. You
17 don't have a lot of time to tell me about yourself,
18 okay? So I will let you go wherever you want to go,
19 but I have already looked and compared. I know where
20 you're going. Okay.

21 MR. FELDMAN: Your Honor, I just -- thank
22 you. Give me a second, Your Honor.

23 THE COURT: Sure. I was in a 2019
24 transcript with Judge Oliver if I'm correct. I read
25 it all. Thank you.

1 MR. FELDMAN: That is correct, Your
2 Honor, and then I'm going to request that you take
3 judicial notice --

4 THE COURT: It's part of the record.
5 Done.

6 MR. FELDMAN: Okay. And take judicial
7 notice of the fact that, in one document, that I was
8 accused of using a weapon and then, during sworn
9 testimony, I was not accused of using a weapon, a
10 major inconsistency there. I mean, I can go on with
11 other examples, Judge. I guess then what I will ask
12 you to take judicial notice of is this witness.

13 I mean, this witness has made multiple
14 false allegations, multiple contradictory allegations
15 against me.

16 MS. JONES: Objection. He's testifying.

17 THE COURT: Sustained. You can put that
18 in your --

19 MR. FELDMAN: I -- I --

20 THE COURT: -- summary --

21 MR. FELDMAN: -- okay. I was just asking
22 for you to take judicial notice of that.

23 THE COURT: And I'm taking judicial
24 notice of the transcript, which I read item-by-item.

25 BY MR. FELDMAN:

1 Q. Dr. Brush, I'm going to ask you to read the
2 statement made by your former attorney, Vestonia
3 Viddy, during the hearing on September 7, 2018. Would
4 you please read lines 13 through 15, Dr. Brush?

5 A. Ms. Viddy, there have been numbers of
6 incidences where Mr. Leland -- Mr. Freeman, sic -- has
7 hit my client when she was pregnant. He hit her.

8 Q. Have I ever struck you while you were
9 pregnant?

10 A. I don't think so, not a strike.

11 Q. And you did not correct Ms. Viddy when she
12 made that statement in open court?

13 A. I don't know if I whispered to her. I have no
14 idea. I can't remember that.

15 THE COURT: But you didn't correct it on
16 the record.

17 THE WITNESS: I didn't know that I could.
18 I mean, I didn't know that was an option.

19 MR. FELDMAN: And just for the record,
20 Your Honor, on April 11, 2014, I have a copy of the
21 transcript here if you would like to see it.

22 BY MR. FELDMAN:

23 Q. Dr. Brush, did you state, I will say very
24 specifically he had not struck me and he had not
25 punched me before in regards to the 11-1-2008

1 incident?

2 A. I don't understand. Can you repeat that?

3 Q. This is your testimony from April. It was
4 page 123 from your sworn testimony on April 11, 2014,
5 lines 12 through 14.

6 A. Okay. I'm just trying to understand the
7 context.

8 Q. All right. If you would just read that for
9 the Court, Dr. Brush?

10 A. Okay. I will say very specifically he had not
11 struck me and punched -- and had not punched me
12 before.

13 Q. Okay.

14 THE COURT: And, of course, before would
15 be before when?

16 THE WITNESS: Yeah, I don't know what the
17 context is.

18 MR. FELDMAN: We would have to -- that is
19 in the record, before the incident of --

20 MS. JONES: Objection, testimony.

21 THE COURT: Well, I'm trying to clarify -

22 -

23 MS. JONES: -- as opposed to testifying.

24 THE COURT: Okay. Obviously, the
25 testimony is referring to an incident.

1 MR. FELDMAN: It is.

2 THE COURT: Do we know the date of the
3 incident, alleged incident?

4 MR. FELDMAN: Yes, November 1, 2014 --
5 I'm sorry, 2008.

6 THE COURT: Okay. Thank you.

7 BY MR. FELDMAN:

8 Q. Were you struck any time prior to that
9 incident?

10 A. Prior to November 1, 2008? Is that what
11 you're asking?

12 Q. Yes.

13 A. I think that the punching had not occurred.
14 That was the day that it occurred, so there had been
15 one other incident where you, like, took your arm out
16 to the side kind of like that (demonstrating) and hit
17 me. I don't know if that's considered a punch, so I
18 think I was talking about -- I think this was getting
19 really detailed about what kind of abuse there had
20 been and I was being specific. Like, it wasn't a
21 punch until that day. That day was the first punch.

22 Q. You stated, though, he had not struck me and
23 he had not punched me before. What you're describing
24 would certainly qualify as a strike, would it not?

25 A. I don't know what kind of vocabulary was used.

1 I really don't.

2 Q. I'm just using your vocabulary, Dr. Brush.

3 A. Okay, but I don't understand whether -- what
4 we had been -- whether we were detailing what had
5 happened before. I mean, you threw a coffee mug at me
6 when I was holding [REDACTED] That was not a strike or a
7 hit, but I considered that an abusive, aggressive
8 action by you, so --

9 MR. FELDMAN: Your Honor, have you
10 reviewed the statements made about the paying of child
11 support?

12 THE COURT: Yes.

13 MR. FELDMAN: Okay. So you would not --

14 MR. FELDMAN: Okay, and Dr. Brush's
15 statements in regard to my child support, disregard.

16 THE COURT: Maybe this would be an
17 appropriate time. It's a very simple item.

18 Are you receiving child support?

19 THE WITNESS: Yes.

20 THE COURT: And have you been receiving
21 child support for some time?

22 THE WITNESS: Yes.

23 THE COURT: Is it pursuant to a wage
24 attachment?

25 MR. FELDMAN: No, no, no, no. What it

1 is, is there were multiple statements made --

2 THE COURT: No, no, no. I just want to
3 know if she's getting child support.

4 MR. FELDMAN: No, she is getting child
5 support.

6 THE COURT: And is it pursuant to a wage
7 attachment?

8 MR. FELDMAN: I apologize, sir. It is
9 not pursuant to a wage attachment. I pay it every
10 month. My child support --

11 THE COURT: You write a check.

12 MR. FELDMAN: Affirmative, sir.

13 THE COURT: Very well. Thank you.

14 BY MR. FELDMAN:

15 Q. Dr. Brush, did you first receive child support
16 back in 2010?

17 A. I don't remember when it started. I have no
18 memory of exactly when.

19 Q. Do you think [REDACTED] should see her dad?

20 A. Well, that's a complex question, which I guess
21 I can't answer with a yes or no. I guess the answer -
22 - the best answer I would have is that, if it is
23 indeed in her best interest and that's something that
24 she would benefit from, I do believe any kind of
25 contact should be safe for her, both physically and

1 emotionally, and it should be something that probably
2 a therapist is involved in facilitating, so -- at this
3 time, she does -- she is thriving, she is happy. I
4 don't see it as a huge benefit to have anything that's
5 going to be stressful or upsetting for her, so that is
6 my long or -- long answer.

7 Q. Has, to your knowledge, Leland Feldman ever
8 hit or physically injured 

9 A. Well, in terms of injury, and I would say that
10 when she was -- when I was pregnant and you threatened
11 to --

12 THE COURT: Not threats. We're talking
13 physical injury.

14 THE WITNESS: Oh, okay. Well, he did
15 throw a coffee mug at us when --

16 THE COURT: Did he hit anybody?

17 THE WITNESS: Well, the coffee hit her.
18 I mean, it splattered everywhere, so he threw a mug in
19 anger at me when I was holding her as a baby, and so I
20 would consider that -- I mean, the mug easily could
21 have hit her, but the coffee did, and she was also
22 present when he punched me in November of 2008 when we
23 were still living in the same residence. She was
24 witness to that, as young as she was, so at least in
25 Colorado, which is where we lived at the time, that

1 was considered child abuse, but --

2 MR. FELDMAN: Objection, not responsive,
3 narrative, not responsive.

4 THE COURT: Sustained.

5 BY MR. FELDMAN:

6 Q. Has [REDACTED] ever sustained any kind of injury
7 as a result of actions by Leland Feldman?

8 A. No.

9 Q. Have you testified in the past that you
10 believe that it is not -- actually, scratch that. So
11 you now believe, Dr. Brush, just so I'm clear, that
12 you think, under the right circumstances, [REDACTED]
13 should see her father?

14 A. I wouldn't say should. I would just say, if
15 that is something that's in her best interest, under
16 supervised, safe, such as, like, a Zoom call or
17 something like that, that would, you know, ensure her
18 comfort and, you know, I would hope --

19 MR. FELDMAN: Nothing pending, Your
20 Honor.

21 THE WITNESS: I would hope --

22 THE COURT: I'm sorry?

23 MR. FELDMAN: Objection, nothing pending.

24 THE COURT: Overruled.

25 MR. FELDMAN: Okay.

1 THE COURT: But just move on.

2 BY MR. FELDMAN:

3 Q. Dr. Brush, who would know  better than
4 yourself in regards to making a decision if she should
5 have a relationship with her dad or not?

6 A. I know her best.

7 Q. And then again I'm going to ask you very
8 simply, in your view, as you are the one who knows her
9 best, far better, I think, than anyone in this
10 courtroom aside from yourself, is it, in your opinion,
11 in her best interest for her to have a relationship
12 with her dad, yes or no?

13 A. I honestly cannot answer that with just a yes
14 or no because she hasn't done it. When she did have a
15 visit when she was -- I don't know -- six years old or
16 something like that, it went extremely poorly.

17 MR. FELDMAN: Objection, not responsive.

18 THE WITNESS: Well, so I have to use the
19 past --

20 THE COURT: Well, she has to answer, but
21 let me put this in a simpler context.

22 THE WITNESS: Okay.

23 THE COURT: Hypothetically, just so I
24 understand, do you think that a young girl should have
25 a father-daughter relationship?

1 THE WITNESS: In general, absolutely. In
2 general, absolutely. I had --

3 THE COURT: Okay.

4 THE WITNESS: Yes, definitely.

5 THE COURT: But you're concerned about
6 this father and his relationship.

7 THE WITNESS: Yes, exactly. Nothing more
8 would be -- could be -- nothing would make me happier
9 than if she had a loving father who was, you know,
10 kind to her and kind to me and a positive influence.
11 Nothing would make me -- have made me happier.

12 THE COURT: Thank you.

13 Anything else?

14 MR. FELDMAN: Nothing further, Your
15 Honor.

16 THE COURT: Do you want to reserve for
17 your direct during your portion of the case?

18 MS. JONES: Yes, could I -- and I know
19 procedurally -- could I ask her one redirect question
20 even though I haven't done direct yet?

21 THE COURT: Sure. Sure.

22 CROSS-EXAMINATION

23 BY MS. JONES:

24 Q. Just one question: Do believe at this point
25  should have a say in the type of her

1 relationship and her type of contact with her father?

2 A. Definitely, because it's something totally new
3 for her. She has had limited contact with him. When
4 she did have contact, it was upsetting to her, so she
5 is a very intelligent child who is -- she is actually
6 considered a gifted child by the State of
7 Pennsylvania, so her intelligence -- you know, her
8 maturity is different than you might expect from just
9 any 12-year-old, so she has a lot of -- a lot of
10 valuable things that she would want to -- you know,
11 she would -- she and I have a relationship where we
12 definitely talk about her thoughts and feelings. It's
13 not like I ever just impose something on her
14 monolithically. We have a great relationship like
15 that where definitely I value her opinion. So, in
16 this case, which is so important, I would definitely
17 hope that she would get to express her opinion on it.

18 MS. JONES: Thank you.

19 Nothing further, Your Honor.

20 THE COURT: You may step down.

21 THE WITNESS: Thank you. Do I leave
22 these papers here or --

23 THE COURT: Here, hand them to me.

24 THE WITNESS: Okay.

25 THE COURT: Thank you.

1 THE WITNESS: You're welcome.

2 MR. FELDMAN: Well, I guess what I would
3 like to do then is -- is Attorney Raquel Ross here?

4 THE COURT: Is she here?

5 MR. FELDMAN: I don't see her. She was
6 subpoenaed.

7 THE COURT: Is this going back to the
8 phone call that dealt with Judge Ruest and the calling
9 of the police?

10 MR. FELDMAN: Well, no. This goes back
11 to a different one, which was in April of -- which was
12 in April of, as I recall, 20 -- no -- yeah, it was
13 April 2013 when false criminal allegations were
14 leveled against me.

15 THE COURT: You know, I have been trying
16 to tell you I'm not terribly interested in that
17 ancient history. Let's talk about you and what you're
18 doing and what kind of a parent you could be. I think
19 that's important stuff for me to know, but again, it's
20 your case.

21 MR. FELDMAN: I will call myself, Your
22 Honor.

23 THE COURT: Okay.

24 Whereupon,

25 LELAND FELDMAN

1 called as a witness and having
2 been duly sworn, was examined
3 and testified as follows:

4 DIRECT EXAMINATION

5 THE WITNESS: My name is Leland Feldman,
6 spelled L-E-L-A-N-D, F-E-L-D-M-A-N. Would you like to
7 know my address, Your Honor?

8 THE COURT: Please?

9 THE WITNESS: 11234 North Oro, spelled O-
10 R-O -- I'm sorry, correction -- North Platte, P-L-A-T-
11 T-E, Drive, and that's in Oro Valley, Arizona, 85737.

12 THE COURT: Can I also -- just to follow
13 up on that, there are a couple of different addresses
14 listed. Is this a mailing address? Did I read
15 somewhere this is your parents' address?

16 THE WITNESS: No, my parents' address is
17 616 Mulberry. Oftentimes, I would use --

18 THE COURT: In Arizona?

19 THE WITNESS: No, in Milwaukee,
20 Wisconsin, sir.

21 THE COURT: Where did you come from
22 today?

23 THE WITNESS: Oro Valley.

24 THE COURT: From Arizona.

25 THE WITNESS: Correct.

1 THE COURT: Fair enough. Okay. So just
2 so we all are on the same page, should there be an
3 opportunity for your daughter to come to your place,
4 it would be in Arizona, at least at the present time?
5 It's where you're working. It's where your home is?

6 THE WITNESS: Correct.

7 THE COURT: Okay. Very well. Thank you.

8 THE WITNESS: All right. I guess what
9 the judge wants to know is what kind of father would I
10 be? What kind of person am I? I think he wants to
11 know a little bit about me.

12 THE COURT: Well, yeah, I want to know
13 what your birthdate is, what your education is, what
14 you have been doing with your life since school,
15 things like that.

16 THE WITNESS: All right. My birthdate is
17 August 23, 1965. I graduated Nicollet High School in
18 1983. I graduated University of Wisconsin-Madison in
19 1988.

20 THE COURT: In?

21 THE WITNESS: Bachelor of Science in
22 economics. After that, I briefly went to law school
23 and then I decided to enlist in the United States
24 Marine Corps. I worked my way up to corporal. I was
25 with Second Battalion Fourth Marines. I was an 0341.

1 After the Marine Corps, I worked with the
2 family business for a short period of time. I worked
3 property management. I also did programmer analyst.
4 I have a little bit of computer skills. And after
5 that, I actually took a number of classes at a place
6 called Milwaukee School of Engineering and learned a
7 little bit of C++ programming, and I got a job at a
8 place called MNI Data Services (phonetic). After
9 that, I joined the Milwaukee Police Department. I was
10 a City of Milwaukee police officer for over nine
11 years. I was an FTO, Field Training Officer.

12 I had no instances where there were any -
13 - what's the word I'm looking for? It has been so
14 long, my vocabulary from that world has disappeared --
15 any kind of complaints or any kind of -- there were --
16 I'm sure there were citizen complaints, but not very
17 many, but none were found to be substantiated. I
18 never, as we called it, took any days. I never took a
19 rap. I never got in any trouble of any sort as an
20 officer.

21 I met Heidi on January 7, 2008, probably
22 the best day of my life. [REDACTED] was born and Heidi
23 was no longer a professor at UWM and we -- she wanted
24 to leave Milwaukee and I did what I could and I got a
25 job in Steamboat Springs, worked there for six, 12

1 months. I don't know. No, less than that, six. I
2 think less than -- about six months. I don't remember
3 the time frame.

4 THE COURT: Police officer?

5 THE WITNESS: I was a police officer,
6 sir, and then the incident between Heidi and I
7 occurred and I resigned. For the record, I would have
8 been terminated due to that incident. And, after
9 that, it was 2008, November of 2008. It was not easy
10 to find a job, but I managed to again work at the
11 family business for a short period of time while I
12 went to nursing school, and I got my associates from
13 Bryant and Stratton College. I believe that was
14 August 2011. I passed the NCLEXs. Then I went to
15 work at Kenosha Medical Center as a stepdown unit RN
16 and I have been working as either a stepdown unit,
17 telemetry, MedSurg, registered nurse since then. I
18 worked as a traveler for a while.

19 When the order was given that there was
20 to be visiting in July, in Maryland, I knew that was
21 too far to drive for me for one day there and back, so
22 I needed to get a different job. I took a job in
23 Delaware, at a hospital there, as a traveler, and the
24 only reason I did that was, well, to see 

25 I was very happy at Kenosha Medical

1 Center, but that came first and I needed to make every
2 effort humanly possible to do that. You know, we had
3 visitation once.

4 THE COURT: What year was that?

5 THE WITNESS: That was July -- I want to
6 say July of 2014. I believe that's correct. And
7 there was no, to my knowledge, complaint by anyone at
8 the facility. I was welcomed back. There was an
9 instance of which Dr. Brush and I have a very
10 different account.

11 THE COURT: Is that the following into
12 the parking lot --

13 THE WITNESS: That's the following into
14 the parking -- do I need to try to testify about that
15 or are you aware of that?

16 THE COURT: I've read the testimony from
17 both parties.

18 THE WITNESS: Okay, Your Honor, and, you
19 know, Dr. Brush did not return there. I continued
20 going every other weekend as was ordered for, I don't
21 know, four, six, eight weeks, something like that,
22 probably six, hoping that they would show up, and they
23 didn't. And then what I did is I was, obviously,
24 trying to move the case forward and --

25 THE COURT: Let me just make sure I

1 understand going forward from that July 14. What were
2 your ordered opportunities to see your daughter?

3 THE WITNESS: My ordered opportunities to
4 see my daughter were at the Centre -- as I recall,
5 it's the Centre County Children's Access Center.

6 THE COURT: That's this Centre County,
7 okay.

8 THE WITNESS: Correct. At some point, I
9 believe that happened.

10 THE COURT: And how frequently and how
11 was that supposed to work?

12 THE WITNESS: Every other week for two
13 hours on a Saturday, as I recall.

14 THE COURT: And how did that go? Did you
15 have any of those?

16 THE WITNESS: Not a one, Your Honor.

17 THE COURT: And why was that?

18 THE WITNESS: The Centre County
19 Children's Access Center refused myself and [REDACTED]
20 access to their access center.

21 THE COURT: And did you go back to the
22 Court and ask for some kind of a replacement mediator?

23 THE WITNESS: When I asked, I -- well,
24 the first thing I asked for was I was trying to figure
25 out why they rejected me, and that was my request, my

1 motion for special relief. Why did they reject me?
2 As a federally-funded institution and, you know, I'm a
3 person who has no criminal convictions, I'm a person
4 who has pretty much worked all my life, at least all
5 my adult life. Let me rephrase that. And there is
6 one person on the planet who has made complaints
7 against me, and that's Dr. Brush, and other than that
8 there is really no one who is -- that I'm aware of,
9 especially women, who have made complaints for me --
10 against me. Did that answer your question, Your
11 Honor?

12 THE COURT: So do I draw a line between
13 the dots to say that you think she is the one who
14 complained?

15 THE WITNESS: I don't know what happened.

16 THE COURT: Did you go back then to the
17 Court and say we need to modify this order? It's not
18 working with CCCAC and I need another location?

19 THE WITNESS: I tried with my lawyers and
20 I got nowhere. Was there a specific motion made for
21 that? I can't answer that. I don't recall, Your
22 Honor, but from every day -- I mean, at that time,
23 after my job in Delaware -- wait, not Delaware --
24 yeah, it was Delaware. Right. Now I'm all confused.
25 It was in Dover, yes, Dover, Delaware. You work as a

1 traveler too much, you can't remember anything.

2 After my job in Dover, Delaware, I moved
3 to Pennsylvania for a period of time, again thinking
4 that something is going to get worked out. I did have
5 attorneys at the time. I actually had Mark Weaver
6 from the Mazza law firm and I had Attorney Sluzis from
7 a law firm whose name I can't remember, but, I mean, I
8 certainly told them time and again, hey, the number
9 one thing here is my little girl needs a dad, I need
10 to be there. Did anything happen? The answer is no.

11 THE COURT: I'm trying to see what the -
12 you say this was in 2014. The order of May 20 says
13 supervised visitation at the Children's Rights
14 Organization for Prince Georges County, Maryland.
15 That is the only one that you actually did have?

16 THE WITNESS: Well, after that, if you
17 take a look at all the PFAs, it's stated in the PFAs
18 and that's not attached to that, there was no specific
19 order, but then they changed it back to the Centre
20 County Access Center. I can show you the PFAs for
21 that, Your Honor, if you would like to see them.

22 THE COURT: Well, so you are saying that
23 there was a custody reference in the PFA documents
24 that changed where you were to meet?

25 THE WITNESS: That is correct, sir.

1 THE COURT: The June 17 order from Judge
2 Oliver just said all prior provisions remain in full
3 force and effect, so okay. So what I'm not seeing
4 then would be locations that you were to try and gain
5 physical access to your daughter on a supervised basis
6 in the PFAs. How did that go? What happened with
7 those?

8 THE WITNESS: With the CC --

9 THE COURT: With anybody.

10 THE WITNESS: Nobody -- there were none.
11 I was unable to get any visitation with [REDACTED] at all.

12 THE COURT: So when was the last time
13 that you actually physically was in the presence of
14 your daughter, July of 2014?

15 THE WITNESS: That is correct, Your
16 Honor.

17 THE COURT: Okay. All right. Let's talk
18 about other kinds of contacts. What provision was
19 made early on for Skype or phone calls or things of
20 that nature?

21 THE WITNESS: There was Skype contact.
22 We had one conversation when I believe -- how old was
23 [REDACTED]? It was -- it must have been January 7, 2014.
24 That was her birthday. That's why I remember it. We
25 had one Skype call. I have it documented. I believe

1 you have probably seen it if you looked through the
2 documents. And it lasted, well, more than a minute,
3 which was good. [REDACTED], quite frankly, continued
4 saying, you know, I don't want to talk, I don't want
5 to talk. I managed to break her out of her shell and
6 we started to talk a little bit because it was her
7 birthday. Hey, did you do anything cool on your
8 birthday? I can't remember exactly what was stated,
9 and, you know, she started to feel it. She started to
10 open up and warm up to me, and then I heard her state,
11 in kind of a whisper, and I'm not going to whisper,
12 but she stated, Is he still mean? And then the line
13 went blank. I mean, then the line cut off, and that
14 was really the last time I had any conversation of any
15 sort with [REDACTED].

16 After that, every Skype conversation that
17 I had asked was, I'll say, exceptionally brief,
18 certainly less than 30 seconds, and it consisted of I
19 don't want to talk and it was a really sad and
20 distressed little girl, much different than the one
21 who I talked to on January 7, 2014. So really, I
22 mean, in terms of contact I have had with my daughter,
23 I have sent her letters. I have copies of many of the
24 letters that I sent. I have sent gifts.

25 I mean, I would like to present those to

1 you, Your Honor. I don't know if that's something
2 that she has ever gotten. I did send her many checks
3 with my 2017 letters. Not one of them was cashed.
4 Since then --

5 THE COURT: These would be like birthday
6 gifts, Christmas gifts.

7 THE WITNESS: No, those are weekly --
8 like, I would send pretty close to a weekly letter to
9 her and I would include a \$50 check with it.

10 THE COURT: Okay.

11 THE WITNESS: And right now, I mean, I
12 try to write her pretty close to weekly. I haven't
13 because of this right here, but I really write her
14 every week and what I do is I get her, you know, about
15 \$50 worth of silver coins that are in a secure
16 location. And for her birthday I got her a gold
17 double eagle, and again, secure location, you know.
18 So, I mean, in terms of any contact with us, very
19 limited or to none.

20 THE COURT: Do you have any understanding
21 of what has happened with any physical gifts? I think
22 you said the checks were never cashed.

23 THE WITNESS: I know the checks were
24 never cashed.

25 THE COURT: How many checks would we be

1 talking about?

2 THE WITNESS: I would have to count them
3 up.

4 THE COURT: Just roughly.

5 THE WITNESS: Oh, boy. This is a rough
6 guess and, I mean, I'm going to guess it must've been
7 -- there were more than 10. I'm going to say 15, 20 -
8 - 10 to 20, Your Honor.

9 THE COURT: Okay.

10 THE WITNESS: And I --

11 THE COURT: Ever any response from mother
12 about thank you for the money, we put it in a savings
13 accounts, or anything of that nature?

14 THE WITNESS: I have gotten no -- well,
15 it couldn't have been put in a savings account because
16 they weren't cashed, so I don't recall any banks or
17 anything like that. I don't recall any response in
18 regards to that.

19 THE COURT: Christmas time, anything --
20 any Christmas gifts?

21 THE WITNESS: The only Christmas gifts
22 were, you know, just with the letters. There was a
23 significant period of time where, quite frankly, I was
24 pretty much -- I mean, the reason I went to court back
25 in -- was it 2017, I think? The reason I went to

1 court then was just so I could get the opportunity to
2 send her letters, and I figured, okay, she's old
3 enough. She can read them. Maybe she will get them.
4 I don't know.

5 THE COURT: But you don't know if she
6 did.

7 THE WITNESS: No idea.

8 THE COURT: She's never written you?

9 THE WITNESS: Not once. It should be
10 noted that while I was sending the checks and the
11 letters in 2017, it was very strange. I would send
12 them certified mail to make sure that they got
13 through, and one of them came back with -- I mean, I
14 have never had a certified letter that came back
15 undelivered, and it was -- and, you know, so I was
16 very concerned. Has something changed?

17 Your Honor has read the history of this
18 case. I was concerned that something had changed
19 without my knowledge at this time. I was representing
20 myself and such. I stopped writing the letters, and
21 that was why.

22 THE COURT: When was this?

23 THE WITNESS: It was in -- I can't give
24 you a date, Your Honor. It was some time, I believe,
25 in 2017. Once the order was reestablished and I had a

1 hearing in front of Judge Oliver assuring me that no,
2 there's nothing going on, I started writing letters
3 again.

4 THE COURT: So when would the last letter
5 have been that you wrote?

6 THE WITNESS: Within the last two weeks,
7 I believe.

8 THE COURT: How many letters would you
9 say you wrote in 2020?

10 THE WITNESS: Well, I believe I have
11 written them -- I haven't written this last week,
12 possibly not the week before, but other than that, I
13 believe every week or almost every week of the year.

14 THE COURT: So --

15 THE WITNESS: It's a --

16 THE COURT: -- there's 26 weeks just
17 through half of the year.

18 THE WITNESS: I would think that's
19 probably correct, certainly --

20 THE COURT: How about in 2019?

21 THE WITNESS: Well, I have the letters
22 over there. I don't know -- I mean, we would have to
23 -- I believe that I wrote close to every week or
24 certainly every other week.

25 THE COURT: Okay, say 40-plus, maybe even

1 more, like maybe 50.

2 THE WITNESS: It's hard to say, Your
3 Honor.

4 THE COURT: Okay.

5 THE WITNESS: I think certainly more than
6 30 if we could -- and I don't remember exactly when I
7 started. That kind of matters because I can tell you,
8 once I started, it was pretty close to every week

9 THE COURT: Never got any response?

10 THE WITNESS: Not a one.

11 THE COURT: They did not come back
12 unclaimed or returned --

13 THE WITNESS: No, the --

14 THE COURT: -- or first class mail?

15 THE WITNESS: No. Actually, what I would
16 do is I would send them by -- I'd send them by FedEx
17 most recently. I changed over to FedEx and would have
18 somebody from Mr. Hearn's office sign for them.

19 THE COURT: Oh, so these were still going
20 through the attorney?

21 THE WITNESS: Yes, sir.

22 THE COURT: Okay. What do you do in your
23 spare time?

24 THE WITNESS: Well, I used to like to
25 lift weights. I used to do a little bit of running.

1 I like to play golf. I like to read. I have always
2 wanted -- you know, I like to write a little bit. You
3 know, I really have an interest in everything. You
4 know, I'm a nurse. I mean, what do I do in my spare
5 time? Quite frankly, Your Honor, it's right in front
6 of you, you know. I -- I -- I'm not a --

7 THE COURT: Are you on any, like, service
8 organizations, rotary or --

9 THE WITNESS: No organizations.

10 THE COURT: Not any --

11 THE WITNESS: No service organizations.

12 You know, I certainly --

13 THE COURT: Church?

14 THE WITNESS: No. I certainly do believe
15 in God, but I'm not a member of an organized religion.

16 THE COURT: How about your extended
17 family? Are your parents living?

18 THE WITNESS: My parents are both still
19 alive. My father, unfortunately, is -- he's getting a
20 little bit pleasantly confused. He's 84. My mother
21 is still -- she still does the work of a full-time
22 person, literally, in the family business.

23 THE COURT: How about siblings?

24 THE WITNESS: My sister you will
25 hopefully hear from later. She accompanied one of my

1 visits with [REDACTED] prior to the July 2014 one.

2 THE COURT: How about nieces and nephews?

3 THE WITNESS: One niece, her name is Mary
4 Jane. My brother --

5 THE COURT: How old would she be?

6 THE WITNESS: She's a year -- she's about
7 two years younger than [REDACTED]

8 THE COURT: So maybe 10, okay?

9 THE WITNESS: That sounds about right,
10 yeah, and I have my brother, obviously, and his wife
11 Jennifer; my sister Jillian, her husband John.

12 THE COURT: Do they live also in Arizona?

13 THE WITNESS: Well, they're in San
14 Francisco -- no. They're in the process of moving
15 right now. They are moving to Arizona. They're
16 moving to Prescott. They just bought a house there,
17 so they will be in Prescott, which I don't know.

18 THE COURT: How far is that?

19 THE WITNESS: I'm going to --

20 THE COURT: Five minutes?

21 THE WITNESS: I'm going to -- no,
22 definitely not five minutes. I wish. Probably closer
23 to three hours.

24 THE COURT: So if you were to have your
25 daughter for periods of physical custody, what would

1 be your support mechanism from the standpoint of
2 family or friends or other folks that have other
3 children that she could play with and things like
4 that? Do you live in an apartment or a house?

5 THE WITNESS: I live in a house. I live
6 with my friend, partner, Cheryl Evans, who is sitting
7 before you. Cheryl is a math tutor. She worked many
8 years in the computer industry. So she would be
9 there. I work only three days a week, so I would be
10 there four days a week.

11 I work with a lot of women who have
12 daughters about the same age with whom I'm friends. I
13 have worked and lived in the, for lack of a better
14 word, world of women of nursing for, well, since 2011
15 or thereabouts, I think.

16 THE COURT: What are your working hours?

17 THE WITNESS: I work day shift now, so I
18 work -- generally speaking, the shift starts at seven.
19 Technically, the shift ends about 7:30. In reality, I
20 can get off anytime between, say, 8 PM and 9:30 PM
21 depending on what happened.

22 THE COURT: So 7 AM to 8 PM?

23 THE WITNESS: Eight, 8:30 PM on average,
24 yes, sir.

25 THE COURT: How many days a week?

1 THE WITNESS: Just three days a week.

2 THE COURT: Okay, three days a week.

3 THE WITNESS: So then I get four days off
4 that I could spend with [REDACTED] and again, that's the
5 kind of nice thing about my job and, you know, the
6 people I work with, you know, just in terms of
7 basically off childcare in that respect, if it's
8 needed, or just someone to be around and look or take
9 them somewhere or things along those lines.

10 THE COURT: Is there somebody -- you
11 mentioned Cheryl. Is there somebody at the house who
12 could watch her during the days that you work?

13 THE WITNESS: Cheryl would likely be at
14 the house or I would make an arrangement or something
15 along those lines.

16 THE COURT: So there could be somebody?

17 THE WITNESS: Oh, absolutely.

18 THE COURT: All right.

19 THE WITNESS: I mean, additionally, my
20 sister is only going to be three hours away. That's
21 not difficult. Additionally, quite frankly, if there
22 was what Your Honor suggested at a previous
23 conference, I can take FMLA. I can -- you know, the
24 only thing I've used any of my off time for was, well,
25 this hearing and coming out here, hearings like this.

1 I have a great boss and, you know, arrangements would
2 be made, and if I had to work extra during the winter,
3 which, frankly, is when they need more people anyways,
4 it would be a win-win for everybody.

5 THE COURT: The period of time that you
6 have been away from [REDACTED] has been pretty long. She
7 doesn't know you. What would your thoughts be about
8 some kind of a phase-in process with a therapist of
9 some kind, somebody that you can meet with her and
10 [REDACTED]? I know that's difficult. You're in Arizona.
11 She's up here.

12 THE WITNESS: That's really not the
13 problem, Your Honor. The problem that I have is you
14 have reviewed the documents and I am -- I mean, I am
15 exceptionally distrustful of any other party. I have
16 been very reasonable, Your Honor. I didn't have to do
17 what I did. I thought I was acting with the -- acting
18 at the behest and the convenience of the Court. There
19 was an alleged incident at 12/12/12. I had nothing to
20 do with that and that has really been established, I
21 think, as you well know, and I was just trying to --
22 Hey, guys, here. I've got nothing to hide. All I
23 want to do is see my daughter, and what happened is
24 this: I'm sitting here right now, having seen my
25 daughter once over that range of time.

1 THE COURT: And I recognize that but I
2 also have to deal with the realities of life, and
3 regardless of why it happened, the issue is can you
4 trust a child in the physical presence 24/7 of a
5 person that she hasn't been around for a while? Not
6 saying anything negative one way or the other. I'm
7 just telling you that's the realities of the job and
8 we deal with this all the time and that's okay. You
9 have got to start somewhere. So you would do whatever
10 you had to do?

11 THE WITNESS: (No response)

12 THE COURT: I'm asking, I guess.

13 THE WITNESS: Well, I think, you know
14 from my record, Your Honor, that I follow court
15 orders. There has never been an instance of contempt
16 in which I have been found in contempt of court. I do
17 know there are multiple issues pending with Dr. Brush.
18 I think that it does put me in a difficult position
19 right now given the fact that that should be something
20 that, you know, I'm able to utilize in my arguments;
21 i.e., the instances of contempt dating all the way
22 back to 2014. No judgment was made in regards to
23 that, and I know what the thrust of this says and I
24 forgot about it, I guess, because I got a little
25 carried away with the other instances, but, you know,

1 I think it's fair to say that I will follow a court
2 order and what you order and I would -- I would likely
3 insist that any interaction I had with a therapist
4 would be recorded because I have had far too many
5 false allegations leveled against me and I'm not -- I
6 cannot -- for my own well-being, for the sake of my
7 nursing license, I can't take false allegations
8 leveled against me, Your Honor.

9 So I think -- I didn't expect that
10 question, but my answer is ultimately yes, however,
11 absolutely has to be recorded.

12 THE COURT: What else do you want me to
13 know about how you would deal with visits? How about
14 communication? Can you communicate with -- and let's
15 call her Heidi, okay? I mean, she's a person. You're
16 going to have to deal with her as a person, not Dr.
17 Brush. So could you talk to Heidi about things that
18 are going on with  if she would be in your
19 presence?

20 THE WITNESS: I absolutely could. I
21 would have no problem with it whatsoever. I would
22 probably insist that the conversation is recorded. I
23 would have no problem exchanging emails. I think that
24 would, you know -- I mean, my interest, Your Honor,
25 and the only reason why, quite frankly, I would agree

1 to your suggestion or your possible bringing up of a
2 therapist is because all that I want is for my little
3 girl, one, to do well.

4 I mean, you know what? I'd be thrilled
5 if I knew darn well that, when she was 18 to 98, she
6 would be fine, and, you know, I feel pain never seeing
7 her. However, I don't know, and, yeah, I do believe I
8 have something to offer, you know, that I have a
9 slightly different skill set than Heidi. I believe I
10 probably do. There's a ton of things I'd like to
11 teach [REDACTED] everything from reading EKG strips to,
12 you know, going out and looking at stars, to, you
13 know, playing catch, to helping her with her homework.
14 I mean --

15 THE COURT: Mr. Feldman, I have three
16 daughters and I would like to think that I had a
17 positive impact on their life and they had a positive
18 impact from their mother, too, so that's what we're
19 all working towards here, so it's about the best
20 interest of your daughter.

21 THE WITNESS: And that's -- and that's
22 the only reason I'm here today. I wouldn't -- you
23 know -- anything else -- there's really nothing to it.
24 I think I know, you know -- and I am more than happy
25 to answer any questions for you. I have my ex-wife,

1 Linda Bannier -- we have a good relationship. She is
2 going to testify for me. She can tell you what kind
3 of guy I am. I mean, you know, you know, I got my
4 friend, LBJ, and we went to nursing school together.
5 We worked on the floors together and (witness crying)
6 --

7 THE COURT: All right. Why don't we let
8 counsel for Heidi ask a few questions and if I think
9 of anything else, I'll catch you again?

10 THE WITNESS: Okay.

11 MS. JONES: Okay. I'm going to go back a
12 little bit and just kind of cover.

13 THE WITNESS: Actually, Your Honor, I did
14 have one thing I wanted to present. I have some
15 pictures for you and -- of  and I from our
16 various visits. I don't know if you want to take --

17 THE COURT: If you want to step down and
18 get them, that would be fine. Show them to --

19 MS. JONES: Thank you.

20 THE WITNESS: The pictures you're looking
21 at are -- you want me to narrate --

22 THE COURT: Yeah. Yes. Tell us where
23 these are and when they were taken --

24 THE WITNESS: All right.

25 THE COURT: -- and who took them.

1 THE WITNESS: I believe my sister,
2 Jillian Fraser, took the one of [REDACTED] where I'm
3 getting ready to pick her up. [REDACTED] has some glaze.
4 We're finishing up at the place called -- I believe
5 it's Fahrenheit 2,000. It's a place where you go and
6 you get pottery, you paint it, and that, lifting her
7 up to put the little glaze away because she was too
8 short.

9 There is a picture with [REDACTED] and I.
10 She has a racquetball, which she is running with. We
11 were kind of playing a game. That was during our 20 -
12 - that was the visit with Jill also. That was, I
13 believe, 2011. I also play racquetball, though I
14 haven't recently.

15 Here is a picture of [REDACTED] and I
16 painting a plane at the pottery place, and again
17 [REDACTED] and I, pottery, pottery picture.

18 The next one is of my sister Jillian and
19 [REDACTED] and then, you know, a couple pictures of Jill
20 and [REDACTED]. I believe I took those pictures. You
21 know, and these pictures are all from 2011, and then
22 there is a picture of [REDACTED] and I in front of, like,
23 a train thing at a -- a local library. It was near
24 the Panera. I don't remember what the address -- I
25 want to say, like, University Boulevard or something.

1 And Your Honor, I also have some pictures from our
2 visit in 2010, if that's okay. I didn't grab them.

3 THE COURT: Any objection to these
4 pictures?

5 MS. JONES: No, Your Honor.

6 THE COURT: All right. They will be
7 admitted as a group. It will be Defendant's Exhibit
8 1. Thank you. We'll call this No. 2, and if you
9 would again tell me what the picture depicts, who took
10 it, and when it was taken?

11 THE WITNESS: I believe -- oh, boy. Oh,
12 you know when this was? This was 2012. This was
13 August of 2012. I believe these two pictures of
14 [REDACTED] and I kind of filling up the little stuffed
15 animal and her catching it. That was my friend, LBJ,
16 but I'm not certain she took those.

17 The other two pictures are -- I think I
18 took the other two pictures. The one is she is
19 sitting in a -- yeah, some kind of playground and the
20 other one was at the Barnes & Noble bookstore. I
21 believe I took that one also, and those were, you
22 know, two visits that I thought went very well.

23 It should be noted that there was another
24 visit with my father. I wish my father could testify
25 in terms of what happened during that visit. We have

1 very different views of that one.

2 THE COURT: We?

3 THE WITNESS: I'm sorry. Heidi and I
4 have different views as to what happened. She thought
5 it was a negative situation. I thought it went really
6 very well especially given the fact that there hadn't
7 been much contact between [REDACTED] and I prior to that.

8 THE COURT: Any objection to Defendant's
9 Exhibit 2?

10 MS. JONES: No, Your Honor.

11 THE COURT: It will be admitted. Okay.
12 Can we subject you to cross-examination?

13 THE WITNESS: Absolutely, sir.

14 THE COURT: Okay.

15 CROSS-EXAMINATION

16 BY MS. JONES:

17 Q. Okay. I'm going to go backwards quickly. Is
18 it possible that Ms. Brush, or Heidi -- I don't know
19 if I'm allowed to say Heidi -- that Ms. Brush took
20 these first two photographs?

21 A. It's possible. I don't remember. I think LBJ
22 took those, but I'm not certain.

23 Q. So, going back to your earlier testimony, you
24 talked about Ms. Brush not wanting to continue at the
25 supervised visitation center. Do you recall what she

1 proposed in lieu of that?

2 A. I don't recall specifically what was proposed.
3 I mean, now that you're bringing it up, I mean, what I
4 do recall is this: I recall that there never was any
5 visitation, and I do recall very much wanting to have
6 visitation. Quite frankly, I have had -- I have tried
7 as best I could with multiple attorneys and I allowed
8 attorneys to handle the dealings in terms of the PFA
9 and the custody and everything, and that was a
10 horrible mistake, wasn't it? I certainly believe it
11 was because I didn't get to see my daughter and --

12 Q. Thank you. I think that's answered my
13 question.

14 A. Fair enough.

15 Q. And so is it possible what she proposed was a
16 switch to a different visitation center also in
17 Maryland?

18 A. I -- again, you'd probably have to ask my
19 attorneys about that. I don't know. And again, my
20 attorneys did not do -- well, I think the record shows
21 very clearly the kind of job that the attorneys did.

22 MS. JONES: I would ask the Court to take
23 judicial notice, and I'm looking for the date here, of
24 a motion to modify custody filed by Ms. Brush's
25 attorney following that visit, so it was in the late -

1 - probably August of 2014 -- in which it was proposed
2 to use a different visitation center in Maryland.

3 THE COURT: Was it ever heard?

4 MS. JONES: I don't believe so. I
5 honestly -- I went through the docket. It's quite
6 confusing. Subsequent to that, there were a number of
7 filings by Mr. Feldman's attorney that were heard and
8 I couldn't identify whether it was heard. I certainly
9 didn't find an order coming out of it, if that makes
10 sense.

11 BY MS. JONES:

12 Q. To the best of your knowledge, did Ms. Brush
13 complete the intake process at the child access center
14 here in Centre County?

15 A. I mean, I have -- I -- she did, but I have no
16 firsthand knowledge of that.

17 Q. Did you or your attorney ever try to hold her
18 in contempt for holding up that process or not
19 cooperating with the process to start at the CAC?

20 A. When was this? This was 2012.

21 Q. I believe it was --

22 A. Oh, no, two thousand -- 2013, 2014.

23 Q. Uh-huh.

24 A. Yeah, I'm very hesitant to testify in regards
25 to, you know, some legal matter with attorneys who

1 really, in my view, failed --

2 Q. Understood. Thank you. Thank you.

3 A. Okay.

4 Q. In terms of the check, can you just -- and I
5 just missed this in your testimony. I apologize.
6 Approximately what were the dates when you sent
7 checks?

8 A. Well, I can go and look and give you the
9 dates.

10 Q. Just approximately.

11 A. That's very difficult for me to say. I mean,
12 I have them sitting --

13 Q. Was --

14 A. -- six feet away, ma'am. If you would like me
15 to go take a look, I can go do that.

16 Q. That would be helpful.

17 MS. JONES: I'm sorry, Your Honor, for
18 the delay. I'm just looking for a year or an
19 approximate timeframe. I don't need the specific
20 dates of each check.

21 THE COURT: Well, he said 20-plus this
22 year and 40-plus last year.

23 MS. JONES: Letters, Your Honor. He
24 testified to sending letters last year.

25 THE COURT: Oh, letters. I'm sorry.

1 MS. JONES: Yeah, yeah.

2 THE COURT: I thought you wanted checks.

3 MS. JONES: Right. I'm just asking about
4 the checks.

5 Thank you, sir.

6 THE WITNESS: Exhibit -- 2017 letters.

7 MS. JONES: Thank you. So the record
8 will reflect that Mr. Feldman has provided me with a
9 packet of letters.

10 BY MS. JONES:

11 Q. Are there copies of the checks in here when
12 you sent them?

13 A. Yeah. If you take a look at the -- past the
14 blue marker -- I think there's blue marker in there --
15 then you'll see all the checks.

16 Q. Thank you.

17 A. So it looks like it's between June -- well, it
18 looks like from June 13 through November 13.

19 Q. Of 2017?

20 A. Yes.

21 Q. And your recollection is that not a single one
22 of these checks was cashed?

23 A. No, not that I recall.

24 Q. When you were saying that you got gifts of
25 coins for  in a secure location, can you just

1 explain what that means?

2 A. I can show you a picture of it.

3 Q. I don't need a picture. When you say a secure
4 location, what do you mean by that?

5 A. Well, it means somewhere where they're safe
6 where hopefully no one will steal them.

7 Q. So, to be clear, you let  know about
8 these gifts in a letter.

9 A. Yes.

10 Q. But she did not actually receive coins.

11 A. She did not. I told her that I would hold
12 onto them for her.

13 Q. The certified letter that you testified came
14 back to you that prompted one of your filings, do you
15 recall to whom that letter was addressed?

16 A. I believe it was addressed to Attorney Douglas
17 Hearn.

18 Q. So you weren't alleging that Ms. Brush somehow
19 returned that letter or declined that letter?

20 A. I don't know what happened with that letter.
21 That's all that I'm alleging. I know that it came
22 back to me over a certified letter.

23 Q. Did you reach out to Mr. Hearn after that
24 happened to see if there was an issue on their end?

25 A. I can't recall exactly what I did afterwards.

1 Yeah, I can't testify as to that. That is two years
2 ago and that's -- you know, that was -- was it two
3 years ago? I guess -- no, longer than that, two and a
4 half, three years ago. I'm not prepared to testify on
5 that. Certainly, the records exist --

6 Q. Okay. So --

7 A. -- and if they --

8 Q. -- you testified, though, that, as a result of
9 that being returned, you filed a motion to get in
10 front of a judge in order to figure it out. I'm just
11 asking do you recall prior to filing the motion with
12 the Court you --

13 A. Oh, again, I -- you know, it's kind of sad
14 given all the preparation I did, but that's something
15 I didn't prepare for.

16 Q. Okay.

17 A. So I don't -- I really am -- I'm hesitant to
18 answer that, but it's certainly in the record. I
19 believe I've seen emails in regards to what I send or
20 what I didn't send. If the judge is interested in
21 that, I'd get it to him as quick as I possibly could.

22 Q. Okay.

23 A. And you, too.

24 Q. So more recently, following our conference in
25 February -- I believe it was February or January of

1 this year -- did you understand from that conference
2 that your letters could be sent to me?

3 A. That's a tough one and I will tell you why. I
4 was -- there was no written order, and we had a
5 written order from Judge Oliver, and if you read the
6 order from Judge Oliver, it's pretty -- it's a pretty
7 serious letter. It's like thou shalt and thou shalt
8 not kind of stuff, and you know, where I come from,
9 which is Milwaukee, Wisconsin, you know, what a judge
10 says is pretty much Scripture, and believe me, I was
11 under the impression that there was going to be
12 another order written, and once I get the order, then
13 I'll do exactly what the judge orders. Until then, I
14 am not going to go against what Judge Oliver wrote.

15 Q. Was there a period of time where Mr. Hearn's
16 offices were closed in March and April and letters
17 were being returned to you?

18 A. I believe I have -- as I recall, and I'm not
19 certain of this -- as I recall, there was at least one
20 letter that was returned, and what I did then, think -
21 - I think I switched to a different carrier and then
22 they managed to get through. Now, I have no knowledge
23 or no idea as to what really got to [REDACTED] I don't -
24 -

25 Q. Did Mr. Hearn make it clear that I was

1 available to transfer the letters to Heidi and
2 therefore --

3 A. Objection, relevance.

4 THE COURT: Overruled.

5 THE WITNESS: Can you repeat the
6 question?

7 BY MS. JONES:

8 Q. Did Mr. Hearn make it clear that I was
9 available to take the letters and give them to Heidi
10 and therefore give them to [REDACTED]

11 A. We had an email exchange, and again, I was not
12 comfortable going against a written order from a judge
13 as opposed to a verbal order during a conference,
14 which there was not even a court reporter. There is
15 no way I could do that. That's pretty much asking me
16 to break the law, ma'am.

17 Q. Did I also send you an email confirming that I
18 would, promising that I would get those letters to
19 [REDACTED] to Ms. Brush to get to [REDACTED] if you were to
20 send them to me?

21 A. Had I understand that, but I'm not going to
22 break the law to get letters to [REDACTED] My
23 interpretation was very clear. Judge Oliver had a
24 written order, which had gone through all the stamps
25 and whatever else needs to be done, and there was

1 discussion about something else happening that I never
2 got a written order regarding, and I cannot act upon -
3 -

4 Q. Thank you.

5 A. -- a statement like that. That would be
6 irresponsible.

7 Q. When you say that it has been established that
8 you were not involved in the 12/12/12 incident, has
9 someone been arrested in that incident to the best of
10 your knowledge?

11 A. You would have to ask the police.

12 Q. So you are not aware whether anyone has been
13 charged in that?

14 A. I can tell you this much, no one -- no officer
15 has even interviewed me in regards to that matter that
16 I recall.

17 Q. Okay. Thank you.

18 A. Actually, let me correct that. On the day of
19 the incident, I was told about it and I was in
20 Milwaukee. I did talk to Greenfield police to say
21 Hey, guys, I'm here; I'm a long way away from whatever
22 went on over there. Further, I did call the police
23 in, who were investigating it, to the best of my
24 knowledge, just to let them know, Hey, I'm here in
25 Milwaukee. You're going to get reports that I'm here

1 in Milwaukee. I have nothing to do with this.

2 Q. You testified to being a police officer in
3 Milwaukee and in Steamboat Springs, correct?

4 A. I did.

5 Q. And what type of work did you do for those
6 departments?

7 A. Mostly patrol officer.

8 Q. On a former CV I have for you, so I don't --
9 and I can provide it to you -- there was --

10 A. I'm sorry. A former what?

11 Q. CV or resume.

12 A. Oh, okay. Sure.

13 Q. There was an indication that you worked as
14 part of the anti-prostitution unit and a gang crimes
15 squad; is that correct?

16 A. For a period of time, yes.

17 Q. What would the gang crime squad have involved?

18 A. Well, we were in uniform. We were in an
19 unmarked car, generally, and we would go out to try to
20 get guns and drugs off the street.

21 Q. And what kind of work did you do in the
22 military?

23 A. I was an 0341, which is a mortarman. I was a
24 corporal, the highest rank that I obtained. I was in
25 Second Battalion Fourth Marines.

1 Q. And I'm sorry. I don't have a military
2 background, so if you could just explain what a
3 mortarman does, I would appreciate it.

4 A. A mortarman is light artillery, is very light
5 artillery. It's a tube that's kind of at an angle,
6 either 81 or 60 millimeters. You drop it. It goes
7 two to five miles.

8 Q. Okay. Thank you.

9 A. Hopefully, on target.

10 Q. Can you explain what you did with the anti-
11 prostitution unit?

12 A. Yes. We went out and we tried to arrest
13 prostitutes who were causing a disturbance or problems
14 in neighborhoods.

15 Q. And how did you do that?

16 A. We were again -- this time, we were
17 undercover, in plainclothes, and we would go and
18 basically look for criminal activity.

19 Q. Thank you.

20 MS. JONES: Your Honor, may I approach?

21 THE COURT: You may.

22 MS. JONES: Your Honor, I apologize.

23 This is marked Plaintiff's Exhibit B because I didn't
24 have the orders, either. I think those have been
25 covered in the record.

1 BY MS. JONES:

2 Q. Looking at 2015, do you recall discontinuing
3 the weekly Skype calls in February of 2015?

4 A. Yes.

5 Q. And did you instruct your attorney to contact
6 Ms. Brush's attorney regarding discontinuing those
7 calls?

8 A. I don't recall doing that at all, no.

9 Q. Did you receive a copy of the correspondence
10 at the time?

11 A. I have no memory of that. I don't see my -- I
12 don't see myself listed on this. I get very few
13 communications from Mr. Sluzis.

14 Q. Do you recall that, in fact, you discontinued
15 it due to a change in your work schedule?

16 A. Well, that's not accurate. The reason I
17 discontinued it, in essence, was the conversation --
18 well, not conversations -- they would last five, 10,
19 maybe 20 seconds and they only consisted of [REDACTED]
20 stating, I don't want to talk to you, I don't want to
21 talk to you, I don't want to -- no, she never said
22 that. She said I don't want to talk, is what she
23 would say. She never said to you. But, you know, I
24 really, quite frankly, and there is -- you know, there
25 is testimony that certainly has been made by Dr. Brush

1 in regards to her not wanting me to participate in
2 [REDACTED] life. That testimony exists, and --

3 Q. I guess I'm --

4 A. -- in my view --

5 Q. I was just asking, sir, whether it was due to
6 a change in your work schedule or --

7 A. No, it wasn't due to a change in my work
8 schedule. It was due to basically those conversations
9 not lasting any period of time, and I believe it was
10 because Dr. Brush was putting pressure on [REDACTED] --

11 Q. Thank you.

12 A. -- not to talk to me.

13 Q. Have you requested to resume Skype calls since
14 then?

15 A. I have not.

16 Q. And do you believe that having a person like a
17 therapist to facilitate conversations between you and
18 [REDACTED] would be beneficial given your experience with
19 those Skype calls?

20 A. In all seriousness, I heard today that [REDACTED]
21 is a very intelligent little girl. She is in, what,
22 sixth, seventh grade? Is that correct? She's going
23 into seventh grade, so --

24 Q. I can't testify. I'm sorry.

25 A. Yeah, I'm sorry. She's in sixth grade. I

1 heard that she is very gifted, and I've sent letters
2 to her, letters and letters and letters and letters,
3 piles of them right over there. I haven't gotten a
4 single one back. I don't know -- in my opinion, if
5 you're not going to answer a letter with a gift and
6 you're not going to -- you know, you're probably not
7 going to talk very much on the phone.

8 I think that the real problem here is
9 what is called parental alienation, and that is due to
10 your client, and I think the record is pretty clear on
11 that in terms of the fact that that has happened.
12 Therefore, having a therapist intervene probably won't
13 do much. The only way, in my opinion, that I'm ever
14 going to have any even chance of a relationship with
15  is if we can get together a little bit and
16 spend a little time together and she can learn what
17 kind of person I really am as opposed to the monster
18 I've been painted to be.

19 Q. Do you believe -- let me just kind of read it.
20 So you're saying she wouldn't answer letters, she
21 wouldn't talk to you on the phone, but you believe in-
22 person contact with no one else there would be the
23 solution?

24 A. I believe there has been significant parental
25 alienation. This is not an unusual thing. This is

1 something that's within the five -- within the factors
2 of 5328, and I believe that your client has been doing
3 this time and time again.

4 Q. So --

5 A. I do recall on the phone call that I talked --
6 where I actually did get a minute-plus talking to
7 [REDACTED], she said, in a very quiet whisper, Is he still
8 mean? And then the call immediately ended.

9 Q. I understand. Thank you.

10 A. Okay.

11 Q. Do you believe that a therapist would, in some
12 way, promote parental alienation?

13 A. I believe that the only thing that a therapist
14 potentially could do that would be good is if a
15 therapist worked on Dr. Brush such that the parental
16 alienation, which has gone on and on and on, in
17 addition to the false statements that the judge is
18 very well aware of and the false testimony given by
19 your client, I think perhaps a therapist could help
20 her with that, and I think that is where a therapist
21 might be helpful and I think a therapist might be
22 helpful in terms of any issues [REDACTED] might be having
23 because of that, and I think a therapist might be
24 helpful with [REDACTED] dealing with any issues of
25 parental alienation from which she has suffered.

1 In terms of dealing with me, I deal with
2 people every day. I'm a registered nurse. I was a
3 police officer. I deal pretty well with kids and
4 people and I'm going to have my ex-wife -- I'm going
5 to have my ex-wife testify and you're going to be able
6 to cross-examine her. How often does that happen?

7 Q. I'm not going to answer that.

8 A. (Laughter)

9 Q. So let me just see.

10 A. I should say how often does that happen in a
11 positive way?

12 Q. So, Mr. Feldman, in your petition to modify
13 custody, you asked the Court for sole legal and
14 primary physical custody.

15 A. I did.

16 Q. Do I understand that that has been revised
17 somewhat?

18 A. What I've tried to do, which I have tried to
19 do all along, is try to come to a meeting of the minds
20 so we don't have to take up judicial resources so we
21 can deal with the issue as opposed to having the state
22 intervene and someone else who perhaps -- you know,
23 who has got to make a tough call and it's not a lot of
24 fun. I would much rather have a situation where we
25 just come to an agreement, so --

1 Q. And did you think that that was a potential
2 agreement, that you would have sole legal and primary
3 physical custody --

4 A. Well --

5 Q. -- of a child that you haven't seen in six
6 years?

7 A. What I think is, is I think that there's a
8 very, very detrimental thing being done to [REDACTED] on
9 multiple levels, and I think the Court knows this.
10 Clearly, there has been parental alienation. That's a
11 problem. I think additionally, the incredible false
12 statements that have been leveled against me by Dr.
13 Brush -- he pointed a gun at me. He didn't point a
14 gun at me. He locked me in a closet. He didn't lock
15 me in a closet. He slapped me. He didn't slap me.
16 He tried to evade arrest. He didn't -- you know, I
17 don't know if he tried to evade arrest. I mean, these
18 are statements that were either written --

19 Q. Okay.

20 A. -- but were separated by --

21 Q. Could I --

22 A. -- two weeks. I'm trying to answer your
23 question.

24 Q. I don't think it's quite responsive to my
25 question.

1 A. Okay.

2 Q. So you believe it's in your daughter's best
3 interest to live primarily with you after having lived
4 her entire life with Ms. Brush?

5 A. Yes.

6 Q. And can you explain why?

7 A. Well, if -- and I was just explaining why.
8 The reason why is there's something very wrong here.
9 There's something very wrong with a person as educated
10 as your client, Ph.D., from pretty darn good
11 institutions, who makes as many false statements as
12 she did against me.

13 Now, there is some serious parental
14 alienation there and that's not good for a little
15 girl. It also sets a very bad example in terms of,
16 oh, what is okay and what is not okay? It's not okay
17 to raise your hand and make an oath to God and say
18 something that's not true against someone else. For
19 Pete's sake, it's even written in the 10 Commandments.
20 Thou shalt not bear false witness. How many times did
21 your client bear false witness? That's a horrible
22 example to be --

23 Q. Okay.

24 A. -- okay --

25 Q. Thank you. I --

1 A. Well, I'm here and you're asking me a --

2 (Simultaneous conversation)

3 THE COURT: All right.

4 MS. JONES: -- your point.

5 THE COURT: Obviously, you two are oil
6 and water. I understand that. Let's continue.

7 MS. JONES: Yeah. Okay.

8 BY MS. JONES:

9 Q. And you believe it's in your daughter's best
10 interest to have you make all the medical,
11 educational, and other decisions without Ms. Brush?

12 A. Well, you know, I think it depends on the
13 decisions. Certainly, I believe that my knowledge of
14 just overall medicine and 21st-century healthcare is
15 vastly greater than Dr. Brush's, so again probably the
16 better one to make those kind of decisions. However,
17 again, you know, I think that one of the things about
18 these custody situations is they are always fluid. I
19 haven't talked to Dr. Brush in I don't know how long.
20 I don't know if her view has really legitimately
21 changed. I would like to think that it has where we
22 can go and have a reasonable conversation and that we
23 can interact reasonably.

24 Now, I will say this: Previously, I
25 haven't gotten information. I get informed by means

1 of my insurance company that my daughter got emergency
2 services. Now, wow, that's a little concerning, and,
3 you know, to this day I still haven't gotten doctor's
4 reports, and how many months have gone by since that
5 has happened? That hasn't been -- you know, to this
6 day -- I heard her testimony and I appreciate that
7 you're going to go and supply me with the document
8 now, but this happened how long ago?

9 Q. I believe I had already handed it to you, but
10 I can supply it now.

11 A. Okay.

12 MS. JONES: So, Your Honor, I meant to
13 ask at the beginning just in terms of logistics there
14 was a contempt petition as well and I wasn't sure
15 whether I should kind of deal with that separately or
16 just fold it into custody. It seems like now we might
17 just fold it in. Is that all right, Your Honor, or
18 how would you want to handle that?

19 THE COURT: I was not prepared to deal
20 with the contempt petition today, but we may get to
21 it, but let's separate the two for now.

22 MS. JONES: Okay. Okay. So I'm not
23 going to go down that line of questioning right now.

24 BY MS. JONES:

25 Q. Is it your understanding from the testimony

1 given by Ms. Brush at the PFA hearing in 2019 that
2 [REDACTED] had no serious illness or prescribed treatment
3 from either of the two events that you just mentioned?

4 A. I heard her testimony. Given the reliability
5 of her testimony, that really is completely
6 meaningless.

7 Q. So you believe she may have been lying to you
8 about --

9 A. No. I believe it's certainly possible. She
10 might have been telling the truth. I don't know.

11 Q. And I think we've kind of already answered
12 this question. I'm just going to ask to make it
13 clear. So, given your location in Arizona, would you
14 be interested or willing to have contact with [REDACTED]
15 via something like Zoom? I think Skype is a little
16 outdated now, but via something like Zoom or another
17 teleconference technology?

18 A. Well, I -- what I'm interested in doing is
19 what I've always done, is cooperate. Now, I will
20 cooperate so long as we have surveillance such that
21 more false allegations are not leveled against me.
22 There needs to be recordings such that I am not
23 falsely accused again.

24 Q. And I don't know if you have worked with Zoom
25 at all, but Zoom does have the ability to record every

1 visit.

2 A. Of course, but there's also state law to bear
3 in mind, and Pennsylvania -- well, we all know what --
4 Pennsylvania, I believe, put in a two-party -- must be
5 two parties notified here in Pennsylvania.

6 Q. Okay.

7 A. Okay.

8 Q. So if both parties were to give permission for
9 the recording, that's not something you would object
10 to, the recording of --

11 A. I mean, yeah, I think that overall, and again,
12 I haven't broken any court orders yet. I don't intend
13 to start. I haven't been convicted of any crime. I
14 don't intend to start. I have my nursing license to
15 protect. Whatever Judge Klementik decides, well, I'm
16 going to follow that unless it's something that puts
17 me and/or my license in grave danger. I don't think
18 he's going to do that.

19 Q. And just based on what you said there, if I
20 could do one more, something for you to look at, so,
21 Mr. Feldman, you just noted that you do not have a
22 criminal record and I just wanted to ask you --

23 A. I did not note that, ma'am. I said I had no
24 criminal convictions.

25 Q. No criminal convictions. I'm sorry -- that

1 asked you why you believe the criminal matter in
2 Colorado was dismissed.

3 A. In the interest of justice, as I recall.

4 Q. Are you able to read what is handwritten on
5 this sheet?

6 A. I cannot read that. I would have to go grab
7 my glasses.

8 Q. Okay.

9 A. I have a copy of this also, and I believe it
10 states in the interest of justice. Yeah, right there,
11 next to the check, the interests of justice would be
12 served by the dismissal as herein requested.

13 Q. Great. Can you also read the handwritten part
14 at the bottom where there's also a checkmark?

15 A. Ms. Feldman, alleged victim, no longer resides
16 in Colorado and has submitted a letter stating she
17 will be of no assistance in your investigation or
18 prosecution, end quote.

19 Q. Thank you. And the checkmark right above
20 that, what does that say?

21 A. Cannot prove beyond a reasonable doubt.

22 Q. And the checkmark at the top, what does that
23 say?

24 A. The complaining witness no longer wishes to
25 prosecute.

1 Q. Thank you. And just for the record, you said
2 you have a copy of this as well. Can you just state
3 for the record what this is, what it is titled as?

4 A. Motion and Order to Dismiss Without Prejudice.

5 Q. And this is from the criminal matter in
6 Colorado?

7 A. It is.

8 MS. JONES: I'd ask this be entered as
9 Exhibit C.

10 MR. FELDMAN: No objection.

11 THE COURT: Exhibit C is admitted, there
12 being no objection.

13 MS. JONES: I have no further questions,
14 Your Honor.

15 THE COURT: Anything else you want me to
16 know on -- in the nature of what would be redirect?
17 You can recall yourself if you want to have the other
18 witnesses testify. Tell you what, it's 10:30. Let's
19 take a 10-minute recess.

20 MS. JONES: Can I ask a quick logistical
21 question? Ms. Brush has arranged for [REDACTED] to come
22 at 12:15. Could we take a recess at that point so
23 that we can meet her outside and get her in here
24 because we had a time set at one o'clock for her?

25 THE COURT: 12:15, you would like --

1 MS. JONES: 12:50, I'm sorry, just --

2 THE COURT: 12:50.

3 MS. JONES: Fifty, yes.

4 THE COURT: I hope we'll have lunch, so -

5 -

6 MS. JONES: I hope so, too. I just
7 wanted to make sure so that she could arrange with the
8 person who is driving her --

9 THE COURT: Understood.

10 MS. JONES: Thank you.

11 THE COURT: Okay. 10-minute recess.

12 (Recess)

13 THE COURT: For Mr. Feldman's
14 information, Plaintiff was out in the hall and needed
15 to use the restroom. I said you can come in when
16 you're done, so we'll get started without her.

17 All right. You can call your next
18 witness.

19 MR. FELDMAN: Your Honor, I'd like to
20 call -- actually, before we do that, I think, since
21 you, Your Honor, no longer wish to hear about the past
22 -- is that correct still?

23 THE COURT: Pretty much so, yeah. I
24 think I understand where this case --

25 MR. FELDMAN: Okay.

1 THE COURT: -- exists.

2 MR. FELDMAN: All right. Then I think we
3 can let Detective Fishel off. All she would have to
4 testify about is the past.

5 THE COURT: Okay. Thank you very much.
6 You're excused.

7 DETECTIVE HOUCK: Thank you, Your Honor.

8 MR. FELDMAN: All right. The next person
9 I'll call is my ex-wife, Linda Bannier. We have to
10 reach her by phone.

11 THE COURT: Oh, okay. Well, I don't know
12 if I know this system very well.

13 DEPUTY SHERIFF KEEN: Do you want to call
14 Jen?

15 (Whereupon, a discussion was held
16 off the record.)

17 Whereupon,

18 LINDA BANNIER

19 called as a witness and having
20 been duly sworn, was examined
21 and testified via telephone as follows:

22 THE COURT: You're on speakerphone. It
23 worked pretty well for another matter this morning, so
24 keep your voice up so that they can hear you, and Mr.
25 Feldman, if she can't hear your questions, you may

1 need to come up toward the bench and get a little bit
2 closer. So let's try it from where you are seated and
3 we will get the testimony started. You may proceed.

4 DIRECT EXAMINATION

5 BY MR. FELDMAN:

6 Q. Hi, Linda.

7 A. Hello.

8 Q. Please state your name and spell your name for
9 the Court.

10 A. I'm Linda Bannier. It's L-I-N-D-A, B-A-N-N-I-
11 E-R.

12 Q. Have you ever been convicted of any criminal
13 offense?

14 A. No, I have not.

15 THE COURT: Let me ask her also what is
16 your address, ma'am?

17 THE WITNESS: 2911 Blue (inaudible)
18 Boulevard, No. 4405.

19 THE COURT: How do you spell that street?

20 THE WITNESS: Blue is blue. Aster, A-S-
21 T-E-R.

22 THE COURT: I didn't get it was two
23 words, Blue Aster. I got it now. Okay. And the town
24 and state, please?

25 THE WITNESS: (inaudible) Prairie.

1 THE COURT: I'm sorry. I missed that.
2 Say it again.

3 THE WITNESS: It's two words. It's Sun,
4 S-U-N, Prairie, P-R-A-I-R-I-E.

5 THE COURT: Arizona.

6 THE WITNESS: Wisconsin.

7 THE COURT: Wisconsin, okay, so you're in
8 dangerous territory talking to people from Penn State
9 here, but that's okay. We'll let you testify.

10 All right. You may continue. My
11 apologies for a little levity.

12 THE WITNESS: Could we give me a minute
13 so I can try to get the volume louder?

14 THE COURT: Sure. From your end or from
15 our end?

16 THE WITNESS: Okay.

17 THE COURT: All right. There we go.

18 THE WITNESS: Can you hear me?

19 THE COURT: We can hear you very well.
20 Can you hear us?

21 THE WITNESS: Yes.

22 THE COURT: Okay.

23 BY MR. FELDMAN:

24 Q. Have you ever been arrested for any criminal
25 offense?

1 A. No, I haven't.

2 Q. Did you earn an associate's degree in
3 electrical engineering or technology?

4 A. Yes.

5 Q. Did you earn a bachelor's in math from
6 Marquette University?

7 A. Yes.

8 Q. For the bulk of your professional career,
9 where were you employed?

10 A. At GE Medical Systems in Maderlin (phonetic).
11 It's now called GE Healthcare.

12 Q. In what capacity were you employed at GE
13 Healthcare?

14 A. I had many positions. I started at -- as a
15 technician and I was there for 21 years, so I went to
16 quality control clerk and then specialist for systems
17 engineering, and then I became a field service
18 development engineer.

19 Q. And you're now retired from General Electric?

20 A. Yes, I am.

21 Q. How long have you known Leland Feldman?

22 A. Since September of 1993.

23 Q. Were you married to Leland Feldman?

24 A. Yes, for 8 1/2 years.

25 Q. And you and Leland Feldman are now divorced,

1 correct?

2 A. Yes, we're divorced.

3 Q. Did he ever strike you with his fist or hand?

4 A. No, never.

5 Q. Did he ever kick you?

6 A. No.

7 Q. Did he ever use physical force or violence
8 against you in any way?

9 A. No, never.

10 Q. Did he in any way -- did he ever -- I think I
11 said did he ever use, and now did he ever threaten
12 physical force or violence against you?

13 A. No.

14 Q. Did you ever feel physically threatened in any
15 capacity by Leland Feldman?

16 A. Never. I always felt safe.

17 Q. Did he ever threaten you with any weapon
18 including, but not limited to, a firearm?

19 A. No, he never threatened me with a weapon or
20 anything.

21 Q. Did he ever behave in a manner that was in any
22 way cruel or unpleasant towards animals?

23 A. No, always kind to everyone and every animal.

24 Q. And you have seen the petitioner interact with
25 animals, right?

1 A. Right. When we first met, my cat (inaudible)
2 I don't remember, but you didn't get mad at him. You
3 were very nice and you talked me into giving him
4 insulin shots when I wanted to put him down.

5 Q. That was Cody the cat. He was a great cat.

6 A. Yeah.

7 Q. Has the petitioner ever turned up the radio in
8 the car loud while you were in the car and refused to
9 turn it down?

10 A. You turned it up loud, but you did turn it
11 down.

12 Q. Did you ever observe the petitioner use
13 physical force against another person?

14 A. No, never.

15 Q. Are you and the petitioner, Leland Feldman,
16 still friends?

17 A. Yes, we are.

18 MR. FELDMAN: No further questions.

19 THE COURT: The counsel for Heidi Brush
20 is going to ask you a few questions on cross-
21 examination if you would pay attention, please.

22 THE WITNESS: All right.

23 CROSS-EXAMINATION

24 BY MS. JONES:

25 Q. Ms. Bannier, when was the last time you saw

1 Mr. Feldman in person?

2 A. I think it was about a year ago when we had
3 lunch.

4 Q. And do you speak on the phone or likewise
5 speak with him or exchange letters or have other
6 communication with him regularly?

7 A. It's -- we speak on the phone less frequently
8 than we did a number of years ago. Now we speak on
9 the phone maybe every three months.

10 Q. And just for the record, because my math is
11 not great, you said you were married for 8 1/2. years.
12 When were you divorced? What year?

13 A. It was January of 2006.

14 Q. During your marriage to Mr. Feldman, I think
15 you answered a lot of questions about it here, but I
16 just want to be clear for me. Did you observe any
17 instances of him becoming angry in a way towards you
18 or toward any other household members -- I don't know
19 if there were any -- that was at all frightening?

20 A. No.

21 Q. And this may not be relevant now, but at some
22 point earlier in this custody matter, did you write a
23 letter to Judge Ruest on his behalf?

24 A. Yes because I was just so shocked by the
25 accusations because they were so false. There was no

1 way that Leland could have done any of these things
2 that were insinuated.

3 MS. JONES: Okay. Thank you very much.
4 That's all I've got.

5 THE COURT: Anything else?

6 MR. FELDMAN: Nothing further.

7 THE COURT: Thank you very much, Ms.
8 Bannier. We're going to hang up with you now. Have a
9 great day and thank you for your testimony.

10 THE WITNESS: Same to you.

11 MR. FELDMAN: All right. Now if we
12 could, Your Honor, I would like to call [REDACTED]
13 [REDACTED]. I have her phone number here for
14 you.

15 THE COURT: Okay. Let me just get this
16 name, [REDACTED].

17 MR. FELDMAN: [REDACTED]
18 [REDACTED]

19 THE COURT: And the number?

20 MR. FELDMAN: [REDACTED]

21 Whereupon,
22 [REDACTED]

23 called as a witness and having
24 been duly sworn, was examined
25 and testified via telephone as follows:

1 THE COURT: All right. We're on the
2 speakerphone. It has been working pretty well for
3 some other witnesses that we've had or attorneys, and
4 we will try and keep our voice up if you would do the
5 same, so I'm going to let Mr. Feldman ask you some
6 questions.

7 DIRECT EXAMINATION

8 BY MR. FELDMAN:

9 Q. Can you please state your full name and spell
10 your last name for the Court?

11 A. Sure. My name is [REDACTED]. My
12 last name is spelled [REDACTED]
13 J-O-H-N-S-O-N.

14 Q. What is the highest level of education you
15 have attained?

16 THE COURT: I need to get an address.
17 Could you give me your address, please?

18 THE WITNESS: [REDACTED]
19 [REDACTED]

20 THE COURT: Thank you very much.
21 You may continue.

22 MR. FELDMAN: Thank you, sir.

23 BY MR. FELDMAN:

24 Q. What is the highest level of education you
25 have obtained and from which college?

1 A. I have just finished my doctorate in nursing
2 from Grand Canyon University.

3 Q. So you a Wisconsin board-certified nurse
4 practitioner?

5 A. Correct.

6 Q. You have the rights to both prescribe
7 medication and diagnose patients when working and
8 collaborating with a board-certified physician?

9 A. Yes.

10 Q. Prior to becoming a registered nurse and a
11 nurse practitioner, is it correct you earned an
12 associate's degree in electronics or electrical
13 engineering?

14 A. That's right.

15 Q. Are you currently employed now?

16 A. Yes.

17 Q. For whom are you currently employed?

18 A. I work for a clinic called Kenosha Community
19 Health Clinic, which is a federally-qualified health
20 center.

21 Q. Did you first meet the petitioner, Leland
22 Feldman, in Nursing 100 class at Bryant and Stratton
23 in Wauwatosa, Wisconsin, in either the end of August -
24 -

25 A. Yes.

1 Q. -- or the beginning of September 2009?

2 A. Yes, around that time.

3 Q. Did you subsequently take a number of nursing
4 classes with the petitioner?

5 A. I did.

6 Q. Were there multiple instances when you and the
7 petitioner studied together while in nursing school?

8 A. Yes.

9 Q. Did you and the petitioner become very good
10 friends?

11 A. We did.

12 Q. While you were in nursing school, were there
13 multiple instances in which the petitioner babysat for
14 your young daughters when you had nursing school or
15 clinicals or another scheduling conflict?

16 A. Yes.

17 Q. So there were multiple instances in 2010 and
18 2011 when the petitioner took care of your daughters?

19 A. Yes.

20 Q. Are your daughters named [REDACTED]
21 (phonetic)?

22 A. Yes, [REDACTED] full name is [REDACTED] but yes.

23 Q. How old was [REDACTED] in 2010?

24 A. She was six.

25 Q. And how old was [REDACTED] then?

1 A. At that time she would have been eight.

2 Q. So it's a pretty big deal for a mother to
3 entrust someone to look after your children when
4 they're six and eight; is that correct?

5 A. Yes, absolutely.

6 Q. And the petitioner on multiple instances
7 looked after your children when you had nursing
8 clinicals or things like that to attend, correct?

9 A. Correct.

10 Q. To the best of your knowledge, were there ever
11 any instances of drama, hurt feelings, problems,
12 concerns, worries, badness, basically anything
13 negative that occurred during the instances when the
14 petitioner, Leland Feldman, babysat for your
15 daughters?

16 A. No.

17 Q. To the best of your knowledge --

18 A. To the best of my knowledge?

19 Q. Yeah, yeah. I'm sorry. I started a question
20 and -- so there were no instances of any kind of
21 substance of anything happening while Leland Feldman
22 took care of your daughters, correct?

23 A. Correct.

24 Q. Did you graduate Bryant and Stratton in May of
25 2011 with an associate's degree in nursing?

1 A. I graduated in April of 2011.

2 Q. Oops. Did you pass your nursing boards within
3 months of graduating Bryant and Stratton?

4 A. I passed my nursing boards in May.

5 Q. In or --

6 A. 2011.

7 Q. In or about June of 2011, did you begin work
8 as a registered nurse on the cardiac stepdown unit at
9 Kenosha Medical Center, also known as Eight Palmer
10 (phonetic)?

11 A. Yes.

12 Q. Did the petitioner begin work on that same
13 unit, Eight Palmer, at Kenosha Medical Center in
14 October or thereabouts of 2011?

15 A. Yes.

16 Q. So after the petitioner completed its
17 preceptorship, which is, in essence, on-the-job
18 training, you and the petitioner worked together for
19 approximately 15 months on 8 Palmer as cardiac
20 stepdown registered nurses?

21 A. Correct.

22 Q. Did you ever observe an instance when the
23 petitioner exhibited an inability to take orders or
24 direction from women?

25 A. No.

1 Q. From your experience as a classmate with the
2 petitioner, a coworker with the petitioner, have you
3 ever experienced, seen, any indication or instance
4 where the petitioner did not want to take another's
5 lead or instruction simply based on gender?

6 A. No.

7 Q. Is it your judgment that the petitioner was a
8 good person to work with?

9 A. Yes.

10 Q. Is it your judgment that the petitioner was a
11 diplomatic person in his interactions with patients
12 and coworkers?

13 A. Yes.

14 Q. Did the petitioner get along well, to the best
15 of your knowledge, with others on the staff at Kenosha
16 Medical Center?

17 A. To the best of my knowledge, yes.

18 Q. Did you observe the petitioner as being hard-
19 working?

20 A. Yes.

21 Q. In August of 2010, did you accompany the
22 petitioner to Centre County, Pennsylvania, for the
23 purpose of accompanying the petitioner and acting as a
24 witness while he visited and spent time with his
25 daughter?

1 A. I did.

2 Q. Do you recall the petitioner, the respondent,
3 the parties' daughter, and a male associate of the
4 respondent being present at a park on the first
5 meeting of that trip in August of 2010?

6 A. Yes.

7 Q. Did you observe the petitioner and the
8 parties' daughter, [REDACTED] interact during that first
9 meeting?

10 A. I did.

11 Q. Did it seem as though it went well?

12 THE COURT: Why don't you ask her --
13 rather than leading her, ask her what she observed.

14 BY MR. FELDMAN:

15 Q. What did you observe at the first meeting at
16 Barnes & Noble?

17 A. From my memory, it was a park, and you and
18 [REDACTED] I think, just played in the park. There was
19 like a small set of -- it looked kind of like a little
20 town and I think you guys played through that, and,
21 yeah, that was -- that was about it. I think there --
22 you may have played ball.

23 Q. Wow. You have a better memory than me. I
24 forgot about that. That is absolutely correct, and
25 the second meeting, which was at Barnes & Noble, can

1 you tell us anything about that?

2 A. The meeting at Barnes & Noble, I sat up front
3 in the cafe area. I believe [REDACTED] and you went back
4 into the children's section and read books, but I did
5 not see any of that.

6 Q. And -- okay. And then, let's see, the meeting
7 after that was where?

8 A. It was in another park.

9 Q. And can you tell us about how things went
10 while [REDACTED] and I were together in the park?

11 A. So in the park, I think there was a stuffed
12 animal of some sort that you guys were throwing
13 around, and then you were looking around the park
14 actually for robots. So it was very -- it seemed very
15 fun, you know, from what I observed. She seemed to
16 have a good time, and it ended quite abruptly when her
17 mom decided that they had to go and she walked [REDACTED]
18 away, who was crying and upset, and it just kind of
19 ended there.

20 Q. And she was upset because the meeting was
21 ending, correct, and she didn't want it to end, did
22 she, in your opinion?

23 A. I believe she said that. I can't -- I can't
24 remember for sure, but she didn't want to leave.

25 Q. At all, aside from that instance, did the

1 child, [REDACTED] seem agitated or upset while her dad --
2 while they were playing together?

3 A. Not at all.

4 THE COURT: I'm sorry. Did you hear?
5 The question was -- what was your question? While
6 they were playing together?

7 BY MR. FELDMAN:

8 Q. While they were playing together, did [REDACTED]
9 - while they were playing together, did [REDACTED] or dad
10 seem upset at all?

11 A. Not at all.

12 Q. Have you ever seen the petitioner conduct
13 himself in a manner that was threatening to anyone?

14 A. No.

15 Q. Have you observed him to be cruel to any
16 animal?

17 A. No.

18 Q. Is it true that you and the petitioner are
19 still very good friends?

20 A. Yes.

21 Q. At one time, more than five years in the past,
22 did you have an intimate relationship with the
23 petitioner?

24 A. Yes.

25 MR. FELDMAN: No further questions.

1 THE COURT: All right, ma'am, the
2 attorney for Ms. Brush is going to ask you a few
3 questions on cross-exam.

4 THE WITNESS: Okay.

5 CROSS-EXAMINATION

6 BY MS. JONES:

7 Q. Hi, Ms. Brantman-Johnson. In a healthcare
8 setting, conflicts arise during work, right,
9 generally?

10 A. Yes.

11 Q. Did you have the opportunity to observe Mr.
12 Feldman in any sort of situation at work where a
13 conflict had arisen regardless of -- you know, between
14 a patient and a nurse or something like that?

15 A. Sure. Many times. We had a charge nurse who
16 was quite difficult to deal with.

17 Q. And can you give an example of how Mr. Feldman
18 deescalated those high-conflict situations?

19 A. Sure. So one instance that always stands out
20 is Mr. Feldman had a patient who wanted to eat. We
21 were third shift, so late in the middle of the night,
22 and it so happened that the charge nurse -- her name
23 was Melissa -- answered the call light and really got
24 into a, like, screaming match with the patient. We
25 did come out of a different patient's room and he was

1 able to, you know, help calm the patient down who was
2 quite upset. You know, Melissa was kind of carrying
3 on about how the patient shouldn't eat, the patient is
4 diabetic, and just kind of going on about it, you
5 know. We managed to kind of diffuse the situation
6 with the patient. I don't quite remember the outcome,
7 but, you know, the patient was okay. There was no
8 shouting, there was no yelling, and it just got
9 resolved.

10 Q. Thank you. And just for clarity, how long --
11 approximately how long was your romantic relationship
12 with Mr. Feldman? How long was that?

13 A. Oh, less than a year.

14 MS. JONES: No further questions.

15 THE WITNESS: Maybe six or eight months.

16 THE COURT: All right. Thank you very
17 much.

18 Anything else?

19 MR. FELDMAN: Nothing on cross. Thank
20 you.

21 THE COURT: Thank you very much, Ms.
22 Brantman-Johnson. Have a great day. Thank you for
23 participating with us here today.

24 THE WITNESS: Thanks. Stay safe.

25 THE COURT: Yep.

1 MR. FELDMAN: Okay. Next witness will be
2 my sister, Jillian Fraser. I have the phone number
3 right here, sir.

4 THE COURT: All right. I think I can do
5 that one, Jillian, J-I-L-L-I-A-N, F-R-A-Z-I-E-R?

6 MR. FELDMAN: I think it's F-R-A-S-E-R.
7 I always get confused, so we will have her spell it.

8 THE COURT: Okay.

9 Whereupon,

10 JILLIAN FRASER QUANDT

11 called as a witness and having

12 been duly sworn, was examined

13 and testified via telephone as follows:

14 THE COURT: Okay. Thank you. Now,
15 you're on the speakerphone closest to me and it's a
16 little further from the attorneys and parties, so I
17 will ask them to keep their voices up for you, and if
18 you would do the same for us? If there is anything
19 you can't hear from us, just say stop, stop, I
20 couldn't hear that, and we will try again, okay?

21 THE WITNESS: Yes, sir.

22 THE COURT: All right. Thank you.

23 DIRECT EXAMINATION

24 BY MR. FELDMAN:

25 Q. All right. State your last name and -- state

1 your name and spell your last name for the Court,
2 please.

3 A. Jillian Fraser Quandt, Q-U-A-N-D-T.

4 THE COURT: And Fraser was spelled?

5 THE WITNESS: F-R-A-S-E-R.

6 THE COURT: And your address, please?

7 THE WITNESS: 180 25th Avenue, Santa
8 Cruz, California, 95062.

9 THE COURT: Thank you very much.

10 You may continue.

11 BY MR. FELDMAN:

12 Q. Is the petitioner your brother?

13 A. Yes, he is.

14 Q. And that would make you the parties' -- and
15 that that would make the parties' daughter your niece?

16 A. Correct. Yes.

17 Q. In January 2011, did you meet the petitioner
18 in Pennsylvania such that you could accompany him to
19 visit the parties' daughter?

20 A. Yes, I did.

21 Q. Do you recall where you first met the
22 respondent and your niece?

23 A. We first met at Panera.

24 Q. And did the respondent have any security with
25 her for that meeting at Panera?

1 A. No, she did not.

2 Q. So it was just the respondent and the parties'
3 daughter, correct?

4 A. Yes.

5 Q. Can you tell us about the meeting at Panera,
6 what you remember, if anything?

7 A. We were sitting in a side room, away from --
8 away from the busy part of Panera. We had a small
9 snack, basically lunch, and chatted with [REDACTED]

10 Q. Was there any unhappiness on the part of
11 [REDACTED] or did she seem pretty comfortable and happy?

12 A. I did not observe any uncomfortable behavior.
13 It was -- it was a happy meeting. I was excited to
14 see my niece.

15 Q. Did you go anywhere after the meeting at
16 Panera?

17 A. During that trip, we visited the library.

18 Q. And it was quick walking distance to the
19 library?

20 A. It was. It was a chilly walk to the library,
21 but it was within blocks.

22 Q. It was. And, in the library, can you tell us
23 about how -- what did [REDACTED] do? Did she interact
24 with her dad? Did you observe? What kind of time did
25 they have?

1 A. We -- I observed [REDACTED] playing in the
2 library, looking at books with her -- with her dad.
3 There was a small sort of children's area that they
4 were interacting in. There was -- there were other
5 children around that [REDACTED] and her father knew, were
6 interacting on -- on a play level.

7 Q. And you have been --

8 A. (inaudible)

9 Q. I'm sorry. I didn't hear the last thing you
10 said.

11 A. Everything seemed to be that [REDACTED] was
12 enjoying herself and interacting with books, with
13 other children, with her dad, with the activities that
14 the library had set up in the children's section.

15 Q. And you have been around children quite a bit
16 as you worked for a number of years at Club Med
17 teaching trapeze; is that correct?

18 A. That is correct.

19 Q. Do you know what an agitated child looks like?

20 A. I would say yes.

21 Q. Did the parties' child appear to be agitated
22 to you at any time while the petitioner and the
23 parties' child were interacting at the library or
24 Panera?

25 A. No. [REDACTED] seemed to be engaging and having a

1 good time. At no time did I see any sort of unhappy
2 behavior. She appeared to be inquisitive and willing
3 to interact and did not appear uncomfortable, in my
4 opinion.

5 Q. Was there another meeting that occurred after
6 that at a pottery-painting facility?

7 A. Yes, we did meet at 2,000 Degrees, which is a
8 self-painting pottery studio.

9 Q. And did [REDACTED] appear to be having fun?

10 A. Again, in my observation, [REDACTED] was having a
11 good time. She selected an art piece for her and her
12 father to paint and I witnessed the interaction the
13 entire time and at no time was there anything besides
14 typical child behavior while painting.

15 Q. And she didn't seem agitated to you at any
16 time?

17 A. Not in my observation, no.

18 Q. Was there another instance where [REDACTED] and
19 her dad interacted that you observed during this trip?

20 A. During this trip, we also met at the Penn
21 State campus in a meeting room. It was cold outside,
22 so we weren't able to meet for an outdoor visit. So
23 we were in a -- almost like a conference room
24 environment, and we spent time with [REDACTED] there
25 playing with some juggling balls, like balls that were

1 just available, and chatting and just genuinely
2 enjoying the time that we had with her.

3 Q. All right. And you did take a look at the
4 pictures of [REDACTED] that we took --

5 A. Yes.

6 Q. -- of her during this trip?

7 A. Yes.

8 Q. The majority of them, I did take. There are a
9 few of me with her, but yes, I recall the photos that
10 were taken, yes.

11 MR. FELDMAN: All right. No further
12 questions.

13 THE COURT: Ma'am, the attorney for Ms.
14 Brush is going to ask you a few questions if you would
15 hang on.

16 THE WITNESS: Yes, sir.

17 CROSS-EXAMINATION

18 BY MS. JONES:

19 Q. Hi, Ms. Fraser. Was Ms. Brush present during
20 the visits that you just described?

21 A. Yes, she was.

22 Q. So at no point was [REDACTED] separated from her
23 mother during those visits?

24 A. Correct.

25 Q. And then, just generally, about how often do

1 you see Mr. Feldman?

2 A. I'm sorry. I couldn't hear. Could you
3 repeat?

4 Q. Absolutely. Absolutely. I'm talking through
5 a mask into a microphone, so I apologize.

6 A. No worries.

7 Q. About how often do you see Mr. Feldman?

8 A. I see him about once a year.

9 Q. And about how frequently would you say you
10 speak with him?

11 A. Once every couple months.

12 MS. JONES: Thank you. No further
13 questions.

14 THE COURT: Anything else?

15 MR. FELDMAN: I have nothing further,
16 Your Honor.

17 THE COURT: All right. Thank you very
18 much, Ms. Quandt. I appreciate your time. Have a
19 great day. We're going to hang up with you now.

20 THE WITNESS: Thank you, sir. Have a
21 good day.

22 MR. FELDMAN: All right. I'm just
23 thinking for a moment, Your Honor. What I would like
24 to do, if I may -- can I put the letters from 2019
25 that I have and 2011 as exhibits?

1 THE COURT: Do we already have them?

2 MR. FELDMAN: No. You know, you have
3 2011, I believe. You don't have -- well, you have
4 2017. You don't have 2011 and you don't have 2019,
5 the ones that I have from those dates. I think they
6 would be -- well, perhaps if, you know, [REDACTED] could
7 make comments on them.

8 THE COURT: You can certainly move them
9 into evidence.

10 MR. FELDMAN: This us 2011, Your Honor.

11 THE COURT: Now, consistent with this, of
12 course, I have been handed a pack of documents. Have
13 you looked at these documents?

14 MR. FELDMAN: Have I?

15 THE COURT: Yes.

16 MR. FELDMAN: I believe I have, yes.

17 THE COURT: And you authored them?

18 MR. FELDMAN: Oh, all of those I
19 authored.

20 THE COURT: So you can certify to the
21 Court in authentication these are all documents that
22 you prepared and sent?

23 MR. FELDMAN: Yes, I can.

24 THE COURT: Any objection to their
25 admission?

1 MS. JONES: Can I just quickly --

2 THE COURT: Absolutely. Take your time.

3 MS. JONES: I believe so, but I just want
4 to lead through it and see what is in here.

5 THE COURT: Are we on Defendant's 3, I
6 think?

7 MS. JONES: I believe so. Were the two
8 groups of photographs all one? I'm not sure.

9 THE COURT: I think I made them 1 and 2,
10 so this would be No. 3.

11 MS. JONES: Mr. Feldman, just to confirm,
12 is there nothing in here but letters? Is there
13 anything in here that's not a letter?

14 MR. FELDMAN: Is that one -- those are --
15 well, those are drawings. There's also pictures of
16 gifts and gifts that are wrapped. That's what all the
17 pictures are. Those have been given by -- for 
18 -- and wrap them and send them to her.

19 MS. JONES: May I ask you just one or two
20 questions? Are you able to take the stand so I can
21 ask you one or two questions about these?

22 THE COURT: No. If it's in regard to
23 authentication, yes.

24 MS. JONES: I didn't have this exhibit
25 when I was asking the questions before, so it's not

1 exactly an authentication question.

2 THE COURT: Okay. Well, let's just get
3 through the authentication.

4 MS. JONES: I don't have a problem with
5 authentication.

6 THE COURT: You don't object to their
7 admission, then?

8 MS. JONES: No, except for maybe just the
9 last two pages look like maybe they were -- there's a
10 confidential information --

11 MR. FELDMAN: My understanding is, in
12 order to do that, that's just for the Court's benefit.
13 That's not for mine.

14 MS. JONES: Okay.

15 THE COURT: All right. Defendant's 3 is
16 admitted, there being no objection, and she may need
17 to ask you a question, but do you have something else
18 you want to do first?

19 MR. FELDMAN: Yes, I do. Then I also
20 have some 2019 letters and material. There are also
21 some more checks that were sent that were not cashed -
22 - wait. These were cashed. 2019 checks were cashed.

23 MS. JONES: I'm sorry?

24 THE COURT: Do you have her copy?

25 Any objection?

1 MS. JONES: No objection. I believe I've
2 seen these before. Thank you.

3 THE COURT: Defendant's Exhibit 4, being
4 letters from 2019 and copies of checks, is admitted,
5 there being no objection.

6 MR. FELDMAN: All right. I don't know if
7 I need to recall myself to the stand or --

8 THE COURT: Well, if you have more
9 testimony, you can certainly come to the stand. If
10 it's just brief, you can say it there. I think we can
11 hear you and see you, and as long as the court
12 reporter can hear you.

13 Whereupon,

14 LELAND FELDMAN

15 called as a witness and having
16 been previously duly sworn, was
17 examined and testified as follows:

18 THE WITNESS: All right. I just did want
19 to point out, in the 2011 letters, documented
20 underneath these letters that I sent to 
21 especially when you get back to May of 2011 and
22 thereabouts, I was making efforts to call her.
23 Granted, she was a little girl at the time, but I
24 thought it was really important that she heard my
25 voice even though I was in nursing school.

1 Let's see. On 5/21 -- I called her on
2 5/13 and we talked -- and the phone was answered but
3 we didn't talk. And then 14th, phone was answered and
4 we didn't talk. The 15th, 16th, 17th, 18th, 19th, no
5 answer. I didn't call her on the 20th or 21st.

6 MS. JONES: I'm sorry. What month are we
7 in?

8 THE WITNESS: We're in May, May 21, 2011.
9 And then, on June 16, it's listed also. I won't go
10 through all of these, but there are pretty much --
11 many of these letters you will see multiple instances
12 where I documented I made calls to try to talk to
13 [REDACTED] over a week and, well, I couldn't get through,
14 and I have nothing further.

15 THE COURT: Cross-exam.

16 MS. JONES: Yes.

17 CROSS-EXAMINATION

18 BY MS. JONES:

19 Q. How old was [REDACTED] in 2011?

20 A. 2011, well, she was three. She was born in
21 January, for most of 2011.

22 Q. I would direct your attention to the last
23 letter in the stack -- I just kind of picked one --
24 dated October 8, 2011.

25 A. Sure.

1 Q. Can you read the first paragraph, please?

2 A. It's me, your dad. Hope all is well with you.
3 I have as usual been calling pretty much every day,
4 twice a day, to talk to you, but haven't been getting
5 through. Your mom stated that I should call between 6
6 PM and 8 PM Eastern time Monday through Saturday, and
7 at about 2 PM Eastern time on Sundays in a previous
8 email, but needless to state, the phone is not
9 answered when I call. My calls will continue.

10 Q. So, at the time, she was three. Do you think
11 it was appropriate to be writing letters to her
12 regarding your call schedule?

13 A. I think that it was appropriate because I
14 wanted to let her know she was not forgotten, that her
15 father was not someone who had disappeared and didn't
16 want to spend time with her. I mean, it was -- you
17 know, when you have -- parental alienation is a bad
18 thing. There aren't good answers and a little girl is
19 going to get her feelings hurt.

20 Q. Could you --

21 A. I thought that was the lesser of evils right
22 there.

23 Q. Could you have phrased that as I miss you and
24 I'd really like to talk to you rather than providing
25 the specific -- an arrangement that you had made with

1 Heidi?

2 A. All that I can say is I was trying to be as --
3 I believe in being very honest and, you know, I have
4 never been accused of being a good writer. I don't
5 think I've ever been accused of that in my life. I
6 did the best I could. I wanted to make it very clear
7 to [REDACTED] that her dad loves her more than anything
8 and would go to any length possible to spend time with
9 her, period, and that's all I was trying to convey
10 there. If I did it wrong, whoops.

11 Q. Would it be fair to characterize these letters
12 in part as a way to document your phone calls?

13 A. That was not my intention. I really thought,
14 at this point in time, that things were going to -- I
15 never thought that I would be dealing with the
16 situation that I've dealt with here in Centre County
17 in terms of the misconduct on the judicial level, on
18 the attorney level. I never thought I'd see that. I
19 thought that there would be, at some point in time,
20 reasonable visitation so [REDACTED] would grow up with a
21 dad as opposed to having gone 2,000-plus days without
22 a dad in her life. Goodbye. I mean, what crime --

23 Q. I think you've answered my question.

24 A. Yeah. Sure.

25 Q. Is communication directly with three-year-old

1 [REDACTED] you think, the best way to address conflicts
2 you're having with mother?

3 A. There was no conflict there. I was merely
4 informing her that I was trying to get through to her.
5 I didn't say that -- I didn't say anything other than
6 I've been trying to call.

7 Q. The phrase "needless to state" suggests that
8 she should be aware of the fact?

9 A. I think that the reason I said "needless to
10 state" is because, if we go backwards here, all the
11 way to, I believe, June, and this was in October,
12 there were multiple calls -- we can count them if
13 you'd like -- of how many times I called to try to
14 talk to [REDACTED] where I was not allowed to talk to her,
15 and I think it's important she knew that she had a dad
16 that loved her a lot and would literally do anything
17 to try to talk to her and be with her.

18 Q. And did you say that somewhere, you know, I
19 love you a lot and I'm --

20 A. Every one says, "Love, Dad," and if you look
21 at the other ones, like, "Dearest [REDACTED]" always
22 "Love, Dad," because you know what? I wouldn't be
23 here if I didn't love her more than anything. I don't
24 enjoy this at all. I can give you dates if you'd
25 like.

1 Q. So, on the letter dated May 12, 2011, again,
2 is [REDACTED] still three at this point?

3 A. On May 12, 2011, she would be three, yes.

4 Q. Could you read that first paragraph?

5 A. How are you? Good, I hope. It's me, your
6 dad, writing. As you may or may not know, I have
7 called you pretty much every day over the past month
8 or so. Most recently I have called you on May 6 at
9 6:37 Eastern Standard Time, May 7, 6:30 Eastern
10 Standard Time, May 8, 6:30 PM Eastern Standard Time,
11 May 9, 6:34 Eastern Standard Time, May 10, 6:37 PM
12 Eastern Standard Time, and on May 11, 6:46 Eastern
13 Standard Time. My usual time of calling is about
14 6:30, but I am flexible. I understand the totality of
15 the situation and overall just want you to know I love
16 you and love talking to you when the opportunity
17 presents itself.

18 Q. If you had had the opportunity to talk to her
19 that day, is that something that you would have said
20 to her?

21 A. No, no, no, absolutely not.

22 Q. Okay.

23 A. If I had had a normal relationship, we
24 wouldn't be sitting here in front of Judge Klementik,
25 would we?

1 Q. Now, you stated something while you were
2 handing us these exhibits, saying that the 2019 checks
3 were cashed?

4 A. They were.

5 Q. And so, when you said previously that none of
6 the checks were cashed --

7 A. I was referring to the 2017 checks.

8 Q. I see.

9 A. Which were the only ones in evidence at the
10 time. I forgot -- I totally forgot about the 2019
11 checks that were cashed.

12 Q. Were there any other checks that have not been
13 put into evidence?

14 A. I don't believe so, but maybe. Either way, as
15 I recall, 2017, no checks. We had the hearing in
16 front of Judge Oliver and then suddenly the checks
17 started -- and then, from 2019 on, they were cashed.
18 I did write to Heidi -- no, I wrote to  in one
19 letter stating that, hey, write me if you would like
20 to, you know, get all the checks that haven't been
21 cashed. I'm more than happy to make good on those. I
22 never got a response. Which letter that is, I don't
23 recall.

24 Q. And I believe you made it clear in all your
25 letters that she could write back to you, right?

1 A. I don't recall letters from 2011. Did I?

2 Q. Sorry, in 2019. I moved on to 2019.

3 A. Because they were all --

4 Q. Did you --

5 A. I believe --

6 Q. -- make it clear --

7 A. -- I left her an address in accordance with
8 the court order of how to get a letter to me as I
9 believe I did do that in all of them or almost all of
10 them. Dear Doug Hearn, Attorney.

11 MS. JONES: Thank you. No further
12 questions.

13 THE COURT: All right. Thank you. Do
14 you have any other evidence?

15 MR. FELDMAN: I have nothing else, Your
16 Honor.

17 THE COURT: Do you rest at this time?

18 MR. FELDMAN: I rest at this time.

19 THE COURT: All right. Well, we've still
20 got 25 minutes. Let's start with the respondent's --

21 MS. JONES: Okay. I just need to -- Your
22 Honor, I understand your direction from earlier and
23 our discussion or my intent or provide evidence
24 regarding past abuse will not be extensive, but
25 because it is a custody factor, the second custody

1 factor, and also plays into the eighth custody factor,
2 I am going to briefly address the issue of abuse and -
3 - for the Court.

4 THE COURT: Okay. I understand, and keep
5 in mind, of course, and understand that the age of the
6 alleged abuse is also a factor, so --

7 MS. JONES: Understood. Understood.

8 THE COURT: Spend whatever time you want.

9 MS. JONES: Okay. Thank you. So, on
10 that note, I would like to call Officer Todd Walter to
11 the stand, please.

12 Whereupon,

13 MICHAEL TODD WALTER
14 called as a witness and having
15 been duly sworn, was examined
16 and testified as follows:

17 THE COURT: Very well. Please be seated.

18 THE WITNESS: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MS. JONES:

21 Q. Hi, Officer Walter.

22 A. Hello.

23 Q. Could you please state your name and address
24 for the Court?

25 A. Yes. It's Michael Todd Walter, and my address

1 -- you mean my employment address?

2 Q. I think that would work for this purpose?

3 A. Okay. 236 West Lamb Street, Bellefonte,
4 Pennsylvania, 16823.

5 Q. Officer Walter, where are you employed and
6 what is your role there?

7 A. The Bellefonte Borough Police Department. I'm
8 a patrolman.

9 Q. And how long have you been employed by the
10 Bellefonte Police Department?

11 A. Bellefonte police since 2002. I'm in my 23rd
12 year of law enforcement with Philipsburg Borough
13 Police and Bellefonte Borough.

14 Q. Have you met or previously dealt with Mr.
15 Leland Feldman?

16 A. I have.

17 Q. And do you recall what year that was?

18 A. I do not, not without my notes in front of me.
19 I'm sorry.

20 Q. Would it sound right to say it was in about
21 2014?

22 A. I believe so, yes.

23 Q. Can you tell me what happened when you met
24 him?

25 A. Mr. Feldman arrived at the Bellefonte Borough

1 Police Department. He wanted charges brought upon Ms.
2 Brush regarding a perjury incident that he alleged
3 occurred in the Centre County Courthouse.

4 Q. So did he want you to investigate or charge
5 her with a crime related to that?

6 A. Yes, he did.

7 Q. And what was your overall impression of Mr.
8 Feldman at that point?

9 A. At that point, not only -- it was the
10 consensus of everybody who was in the room with him
11 that day that it's a little creepy; this individual is
12 giving out a really creepy vibe to everybody,
13 including our secretary at the police department, to
14 the point where we wanted to make sure, you know,
15 whenever we found out the back story of everything, we
16 wanted to make sure Ms. Brush was kept safe while here
17 in Centre County.

18 Q. Did you believe at that point that he might
19 have posed a threat to Ms. Brush?

20 A. At that point, I didn't know what he was
21 capable of. He advised that he came from Milwaukee to
22 Centre County to deliver transcripts and, you know, he
23 wanted her -- charges pursued against Ms. Brush.

24 Q. And at that point, did you contact anyone to
25 express your concern?

1 A. Yes, I did. I did a little background, a
2 little history investigation. I spoke to judge's
3 secretary to find out the history between the two and
4 then I contacted Ms. Brush's attorney.

5 Q. And have you ever made or maybe since then
6 made a call like that before to notify someone's
7 attorney of your concerns?

8 A. No, not once.

9 Q. So this is a very unusual --

10 A. Yes.

11 Q. -- Situation?

12 MS. JONES: That's all, Your Honor.

13 THE COURT: That's it?

14 MS. JONES: That's it.

15 THE COURT: Cross-exam.

16 CROSS-EXAMINATION

17 BY MR. FELDMAN:

18 Q. Officer?

19 A. Yes, sir.

20 Q. Why did I come on October 14, 2014, to speak
21 to you?

22 A. From my recollection -- granted, that was many
23 years ago, and I apologize, Your Honor. I was on duty
24 until six o'clock this morning -- you showed up. You
25 brought -- I believe it was 300-and-some pages for me

1 to go through quickly to prove that Ms. Brush
2 committed perjury on it. I contacted the DA's office
3 and they said that they were declining any kind of
4 prosecution towards her.

5 Q. Could it instead have been false swearing as
6 opposed to perjury?

7 A. Possibly.

8 Q. Oh. And did you take any of that evidence
9 into custody or did you take -- did you put it on --

10 A. Momentarily, yes, I did. I took it back into
11 the back room, contacted the attorney. I write the
12 part -- the bullet points that you pointed out to me.

13 Q. Okay.

14 A. And then I explained it to the District
15 Attorney. At the time it would have been the
16 Assistant District Attorney -- would have been Nathan
17 Boob, and he advised that they would not be
18 prosecuting this in any way, shape, or form; that the
19 items that you alleged occurred would be impossible
20 because of context. You were claiming that there was
21 a bunch of -- that she made allegations that you were
22 disruptive and loud, but nowhere in the written
23 documents did it have any kind of context or volume of
24 voice or anything like that, so it would be
25 impossible.

1 Q. Okay. Let's see. I have your report here.
2 If I can read from your report, it says Judge Ruest --
3 let's see -- Feldman advised he had a court appearance
4 regarding the PFA and later his wife filed paperwork
5 through Judge Ruest's office citing that, in not so
6 many words, was disruptive and had to be told to calm
7 down on numerous occasions by legal counsel.

8 Did you see any instance where I had to
9 be told to calm down on numerous occasions by legal
10 counsel during this hearing?

11 A. With the paperwork you gave me, from the
12 bullet points that you pointed out to me, no, I did
13 not --

14 Q. Okay. And from the actual transcript, did you
15 observe that anywhere?

16 A. It was well over 300 pages.

17 Q. Okay.

18 A. I did not have time to do that.

19 Q. Okay. So all right. So you did not
20 completely investigate this. There may well have been
21 no instances of Mr. Feldman being disruptive in court
22 and having been told to calm down by legal counsel.

23 A. I brought it to the DA's office. They
24 reviewed, advised me they would not be -- or --

25 Q. That's not what I'm asking you, but okay. I'm

1 asking you did you see any instances in the transcript
2 where it actually said that that happened?

3 A. Again, it would not be in the transcript your
4 volume of voice. It would not give any kind of
5 context to that.

6 Q. A transcript would have specific words, would
7 it not?

8 A. Absolutely. I believe so.

9 Q. And being told that you're disruptive and to
10 stop it, that would be written in there, wouldn't it?

11 A. I'd imagine so.

12 Q. And you didn't see that, though, did you?

13 A. I did not see those --

14 Q. Thank you.

15 A. -- specific words.

16 Q. Thank you. Did you see any words where I was
17 told to calm down or be quiet or the deputy had to do
18 something or the judge banged her gavel or anything
19 along those lines? Did you see that in the
20 transcript?

21 A. No, I did not.

22 Q. And you contacted Mrs. -- you contacted Dr.
23 Brush's attorney, correct?

24 A. I believe so.

25 Q. During the hearing -- now, you said Mr.

1 Feldman told you he was from Wisconsin and he lived in
2 Wisconsin. Is that what he stated?

3 A. No, you told me that you were from Milwaukee.

4 Q. And Milwaukee is in Wisconsin, is it not?

5 A. Yes.

6 Q. Did you check the defendant's address with the
7 Department of Transportation?

8 A. I checked it with the license plate that was
9 beared (sic) on the back of your --

10 Q. Non-responsive. Objection. Did you check --
11 because the car wasn't filing a complaint with you,
12 was it?

13 A. No.

14 Q. Was the car talking to you?

15 A. No, the operator of said car --

16 Q. Okay. The operator of the car. Did you ask
17 the operator of the car to see his driver's license?

18 A. No.

19 Q. Okay.

20 A. We -- so what we normally do, if a person
21 comes in and explains -- you know, is speaking to us -
22 - we don't have to identify every single person who
23 comes into our police department.

24 Q. But you thought this individual was creepy?

25 A. Yes.

1 Q. And you did not run even his driver's license?

2 A. Yes.

3 Q. You did?

4 A. I believe so.

5 Q. His driver's license?

6 A. I know we did the license plate. I'm not sure
7 about that license. I can't -- I can't --

8 Q. Okay. That is my question. Did you run this
9 individual who you claimed to think was creepy -- did
10 you run his driver's license?

11 A. What year was this, sir?

12 Q. This was 2014.

13 A. I cannot remember back to 2014 accurately
14 enough to answer that. I'm sorry.

15 Q. So -- all right. Well, then let's take a look
16 at how you testified earlier.

17 A. Okay.

18 Q. Could you read for the Court --

19 THE COURT: Do you have a copy for
20 everyone?

21 MR. FELDMAN: I have a copy for everyone,
22 Your Honor.

23 THE COURT: You read yours. I will read
24 mine.

25 THE WITNESS: Okay.

1 MR. FELDMAN: A copy for you.

2 THE COURT: Do you have one for the
3 attorney? Thank you.

4 We're all looking at page 104. Is
5 that --

6 MR. FELDMAN: Oh, here it is. Yes, 104.
7 All right. Could you read lines 16 and 17 from page
8 104, which is your sworn testimony from November 14,
9 2018?

10 A. You said 16 and 17.

11 Q. Sixteen and 17, yes.

12 A. Okay. 16, question: Did you check the
13 defendant's address with the Wisconsin Department of
14 Transportation?

15 Q. And then you responded on line 18 and 19.

16 A. Answer: No, I did not. I asked the defendant
17 himself his address and he gave me his address.

18 Q. Okay, but this was a creepy guy. You didn't
19 run him for warrants, either, did you?

20 A. I did not. I probably would have if I had not
21 gotten the information I had received from Judge
22 Ruest's secretary and Brush's attorney at the time.

23 Q. Was your feeling that immediately -- that
24 something seemed off about this person and he was --

25 A. Not immediately.

1 Q. No, not immediately?

2 A. No.

3 Q. And how long did it take until you decided
4 that this individual was -- you know, something was
5 wrong?

6 A. Well, the individual you're implying is you.

7 Q. It is.

8 A. And when you stare frequently at me and my
9 secretary for about two minutes without saying
10 anything whenever I told you that we were not going to
11 prosecute this, that the DA's office would not
12 prosecute this and you seemed flabbergasted that
13 somebody was telling you no, and you did not like the
14 fact that somebody was telling you no. That is my
15 opinion.

16 Q. That is your opinion?

17 A. Yes, sir.

18 Q. Okay, but in spite of all that, you didn't run
19 --

20 A. At that time, I was a 16-year veteran of the
21 police department. That was my opinion.

22 Q. And at that time you decided, well, no, we
23 don't really have to check his driver's license or
24 anything else at any time because he told me that he
25 lived in Wisconsin, and you didn't do any further

1 research?

2 A. Okay. At that time.

3 Q. Yes or no?

4 A. You told me you lived in Wisconsin. I took
5 that at face value.

6 Q. So you believed it even though -- so basically
7 a trustworthy creepy guy; is that correct?

8 A. I'm not saying that.

9 Q. Then why didn't you go and ensure that I
10 wasn't a couple blocks away or somewhere else?

11 A. Because you told me you were driving -- that
12 you lived in Wisconsin. The license plate on the back
13 of your car bore Wisconsin. That would make me, as
14 kind of a decent police officer, to realize I can put
15 two and two together and that this gentleman is
16 probably from Wisconsin.

17 Q. And people don't sometimes put plates on the
18 wrong cars on --

19 A. Sir, sometimes --

20 THE COURT: Okay. All right. I have
21 heard enough about this. Let's move on.

22 THE WITNESS: Thank you, Your Honor.

23 MR. FELDMAN: I guess I'm going to ask
24 opposition counsel to stipulate that Dr. Brush's
25 alleged assault of 12/12/12 was on 12/12/12 and --

1 THE COURT: Is this for this witness?

2 MR. FELDMAN: It is relating -- it
3 involves him, yes, Your Honor.

4 THE COURT: Okay.

5 MR. FELDMAN: Regarding the 12/12/12
6 assault, occurred on 12/12/12; is that correct?

7 THE PLAINTIFF: Am I being asked?

8 THE COURT: No, no.

9 MR. FELDMAN: I'm asking --

10 THE COURT: -- he addressed it to
11 counsel.

12 MS. JONES: Yeah, he asked to stipulate
13 that you were attacked --

14 THE COURT: Well, let's not lose sleep
15 over it. It's well-documented in the transcript of
16 prior proceedings, which I already take notice of.

17 MS. JONES: And we will document it
18 during future testimony this afternoon.

19 MR. FELDMAN: Okay. All right.

20 BY MR. FELDMAN:

21 Q. Why don't you read for us your statement here?
22 Actually, I'll read it.

23 THE COURT: No, let him read it. That's
24 fine. It's his statement. Thank you.

25 BY MR. FELDMAN:

1 Q. If you could start in the third paragraph from
2 the bottom, the third sentence where it starts, "Wanda
3 advised," and read to the end of that paragraph?

4 A. Wanda advised that Brush did live in State
5 College when she filed for a PFA on Feldman. It took
6 way less than three hours to make sense. Less than a
7 week after the PFA was filed, Brush had her throat
8 slit during work -- or while running on the bike path
9 in State College.

10 Then putting into context what that means
11 by it took way less than three hours, when I asked you
12 during our --

13 Q. No one is asking about that --

14 A. -- during our --

15 Q. -- Officer. I guess the question is you have
16 the timeline dead backwards. Are you aware of that?

17 A. I'm sorry?

18 Q. You have the timeline backwards. The assault
19 occurred -- the alleged assault occurred on 12/12/12.

20 A. Okay.

21 Q. And then a PFA was ordered. An emergency PFA
22 was ordered on 12/14. You didn't correct this and
23 your investigation didn't show you the correct
24 timeline, did it?

25 A. I was going by what the individual told me,

1 Wanda.

2 Q. Okay, and you didn't correct it.

3 MR. FELDMAN: No further questions.

4 THE COURT: Any cross?

5 MS. JONES: Redirect.

6 THE COURT: I'm sorry. I think this is
7 your witness, yes.

8 MS. JONES: Yeah.

9 REDIRECT EXAMINATION

10 BY MS. JONES:

11 Q. I just wanted to give you a chance to explain
12 what you meant by way less than three hours to make
13 sense.

14 A. Oh, thank you. Whenever I was asking Mr.
15 Feldman, he -- every time I'd ask him something, well,
16 it's going to take about three hours for me to explain
17 it to you. I said, well, could you please sum it up?
18 Well, no, I can't. I just need about three hours to
19 explain this to you. This was probably three or four
20 times I was told I need about three or four hours to
21 tell this to you, and it got summed up, which she
22 could have done very simply in a matter of minutes,
23 just explain to me, like, hey, this happened on this
24 day and so on and so forth.

25 MS. JONES: Thank you. No further

1 questions.

2 THE WITNESS: Thank you.

3 MR. FELDMAN: Redirect?

4 THE COURT: You may.

5 RECROSS-EXAMINATION

6 BY MR. FELDMAN:

7 Q. Didn't you just state moments ago that you did
8 not look through the document that I asked you to look
9 through because it would take too much time?

10 A. I said that I did look through it and I took
11 it into the back room. I contacted the DA's office.
12 I was reading it to them. I was reading through a few
13 pages, and that was whenever -- I'm sorry. The
14 question was? I did read through it, but I didn't
15 read through 300-and-some pages in a matter of
16 minutes. No, I did not.

17 Q. But in order to do it and properly go and do a
18 complete and thorough investigation, it would have
19 taken hours, wouldn't it have?

20 A. I followed the bullet points that you pointed
21 out to me and I explained that to the DA's office, and
22 they declined.

23 Q. And that wasn't my question just now. My
24 question was to completely and thoroughly investigate
25 this, it would have taken a number of hours to read

1 all those pages, wouldn't it?

2 A. It would have taken days.

3 Q. And so basically there was a reason why I
4 stated that it would take a long time. Doesn't that
5 make sense?

6 A. I asked you to summarize some things.

7 Q. And did I summarize it for you?

8 A. No.

9 Q. What about the bullet points?

10 A. You just said look at this, look at this, look
11 at this. You didn't summarize anything.

12 Q. Did the bullet points summarize it for you
13 when you read them?

14 A. No.

15 Q. Oh, so okay.

16 MR. FELDMAN: No further questions.

17 THE COURT: Anything else?

18 MS. JONES: No.

19 THE COURT: You may step down.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: Does this witness need to
22 stick around or can he be excused?

23 MS. JONES: No, I would ask that he be
24 released from his subpoena.

25 THE COURT: Any objection to him being --

1 MR. FELDMAN: No objection, Your Honor.

2 THE COURT: You're released from further
3 service.

4 THE WITNESS: Thank you, Your Honor.

5 MS. JONES: Your Honor, our next witness
6 -- it will be by Zoom, and so I'll just need to -- I
7 don't know if you wanted to do it right now or not,
8 but I would need to notify him that he should sign on
9 to the Zoom link.

10 THE COURT: How long is he going to be?

11 MS. JONES: I would anticipate I'd be
12 asking him five to 10 minutes of questions, but I
13 don't know about cross, Your Honor.

14 THE COURT: All right. Let's, at this
15 point, take a lunch break now. We will meet with the
16 child in chambers at one o'clock. Oh, that's a good
17 point, and I said we would discuss the mechanics.
18 There was a motion, of course, to interview the child
19 in chambers, which, by the way, I always interview a
20 child in chambers. Obviously, it's an issue of how
21 old they are, whether they can understand the nature
22 of telling the truth and telling lies and whether they
23 would be heavily susceptible to having been coached.
24 So, when I practiced as an active judge, I normally
25 would not talk to a child under 10 years of age.

1 [REDACTED] is 12, so we should be in good stead, and it
2 sounds as if she's a very smart young lady, so I'm
3 hoping she will have an understanding of what we're
4 trying to get at.

5 Again, under perfect circumstances, we
6 have two attorneys, and the attorneys can come in and
7 ask questions. This will be on the record, by the
8 way, but because of the fact that a parent being
9 interjected into the conversation would cause a child
10 to react as if trying to please one parent or another,
11 so I'm going to interview her with just the court
12 reporter present and we will see how it goes. Okay.
13 So she is going to be here at one o'clock.

14 THE PLAINTIFF: That's what we have been
15 planning for.

16 THE COURT: Very well. Okay. We will be
17 on our lunch break till one o'clock.

18 MR. FELDMAN: I just want to state that I
19 object to the fact that there are no lawyers present
20 during the -- and there are no representatives present
21 during the interview of [REDACTED]

22 THE COURT: Okay.

23 MS. JONES: And I will state that Ms.
24 Brush, under these circumstances, does waive the right
25 of her attorney to interview the child.

1 THE COURT: Very well. Okay. I
2 understand where you're coming from. Over my years of
3 serving as an active judge, we had to do this from
4 time to time. I would like to have attorneys present,
5 but the attorneys don't have the bearing upon a minor
6 child such as their parents would. With their parent
7 in the room, then, they feel that they will either be
8 rewarded or hurt by hurting somebody's feelings or
9 what have you, so I think we can get the most candid
10 answers from her if we simply just ask her.

11 MR. FELDMAN: Ali (phonetic) and Barrett
12 and Pennsylvania law that you're well-aware of says
13 just -- says lawyers are allowed and that's --

14 THE COURT: And you're not a lawyer.
15 You're a party and a lawyer.

16 MR. FELDMAN: Well --

17 THE COURT: You're pro se.

18 MR. FELDMAN: Well --

19 THE COURT: Okay. I mean --

20 MR. FELDMAN: That's -- that's a legal
21 question.

22 THE COURT: I have made my ruling, okay?

23 MR. FELDMAN: You did. I understand,
24 sir.

25 THE COURT: All right. Thank you. All

1 right. We'll be in recess until one o'clock.

2 (Luncheon recess)

3 (Whereupon, the following discussion
4 with the Minor Child was held in
5 chambers:)

6 THE COURT: Okay. We're going to go on
7 the record. I'm Judge Klementik. Nice to see you.
8 I've seen your picture here a few times this morning
9 and some pictures that your dad had sent of, I guess,
10 the last time you got together. You were like four
11 years old or something, here in State College. I
12 think there were pictures of -- you were at the
13 pottery place, 2,000, 2,000 Fahrenheit or whatever
14 where you paint pottery. Do you remember that?

15 THE MINOR CHILD: Yeah.

16 THE COURT: You remember that? That was
17 quite a while ago.

18 THE MINOR CHILD: I remember, but I think
19 I was more like two, maybe four.

20 THE COURT: You were. Well, anyhow, I had
21 seen your picture, but you're quite the grown-up lady
22 since I last saw you. Again going back to sort of
23 introductions here, I'm Judge Klementik. I'm actually
24 a retired judge, but I get called back to hear cases
25 from time to time when courts need somebody to fill in

1 here. This is really not my chambers. This is
2 Katherine Oliver's chambers, and she is on vacation
3 this week so they're letting me use her chambers.
4 This gentleman here is a court reporter, as we would
5 call him, and he is tasked to take down every word
6 that we say because whatever happens in court, and you
7 may not know this, is we put on what is called the
8 record.

9 THE MINOR CHILD: Oh.

10 THE COURT: And we want people to have an
11 opportunity to go back and know what they said so
12 that, if I make a mistake, people can say, well, the
13 judge heard me say that. I don't know why he thinks
14 otherwise. But it helps people retrace themselves, if
15 you will, when they go back to take a look at a case.
16 So he's on the record here and that's what we're going
17 to do.

18 THE MINOR CHILD: I have a question. Do
19 I need to wear a mask?

20 THE COURT: If you would like to take it
21 off, that's fine. I think we're relatively far enough
22 apart here that we can get by with it. Very
23 uncomfortable, aren't they?

24 THE MINOR CHILD: Yeah, definitely.

25 THE COURT: Yeah, and as we found out

1 here this morning, it mutes your words a little bit.
2 It's hard to hear people sometimes and they don't--
3 you can't enunciate as well and it's just a little bit
4 uncomfortable, so fine. Thank you for asking. That's
5 not a problem at all. She's like, well, if he doesn't
6 have to, I don't have to.

7 (Laughter)

8 THE COURT: All right. Well, listen, we
9 are here, having a court proceeding today, and of
10 course, as you probably know, the two main players are
11 your dad and your mom, but the most important player
12 is you, okay? Because we are here to think about you,
13 and my guidance as a judge is always to act in the
14 best interest of -- you could be one child, two
15 children, three children, whatever, of all the
16 children to deal with how we are going to go forward
17 with relationships with parents. Obviously, when
18 parents separate, we can't cut children in half. We
19 haven't done that in a long time. We realize that
20 you're going to spend some time with one parent and
21 sometimes with another, at least we hope that's what
22 you would do because we always believe in the premise
23 that every child deserves to be influenced and
24 benefited by each parent, okay? Okay. So that's what
25 we're here to talk about. Your dad would like to

1 spend time with you. It has been quite some time,
2 hasn't it?

3 THE MINOR CHILD: Yeah. I just don't
4 know if I feel comfortable with that.

5 THE COURT: Well, and that's what we're
6 here to talk about, and I need to understand where
7 you're coming from. Nothing happens from that regard
8 quickly because it has been a long time and so it
9 would take some time to work back into a situation
10 where it might happen, but I need to ask you, did you
11 and your mom talk about this at all?

12 THE MINOR CHILD: Just a little. She
13 just said I'd be coming here.

14 THE COURT: Okay. She didn't say, you
15 know, here is what you need to tell the judge, this or
16 that, or anything like that?

17 THE MINOR CHILD: (Shaking head side to
18 side)

19 THE COURT: So what I'm hearing from you
20 is what you really want me to know?

21 THE MINOR CHILD: Yeah.

22 THE COURT: Okay. And you're 12 years
23 old, as I understand it.

24 THE MINOR CHILD: I'm almost 13.

25 THE COURT: Almost 13. There you go. So

1 you obviously would know then the difference between
2 right and wrong and telling the truth and telling a
3 lie, right?

4 THE MINOR CHILD: Definitely.

5 THE COURT: So I can count on you to tell
6 the truth, right?

7 THE MINOR CHILD: Yeah.

8 THE COURT: Okay. We talked a little bit
9 ago about how long ago it was that you spent time with
10 your dad. Do you remember? Was that like when you
11 were four? Does that ring a bell?

12 THE MINOR CHILD: I think, like, I just
13 remember his place. I think I was like five or six
14 maybe.

15 THE COURT: Okay. Maybe. It could be.

16 THE MINOR CHILD: I think we were at his
17 place for maybe, like, two hours. I don't know.

18 THE COURT: Yeah. Yeah, I think he said
19 something about going to the library and going to --
20 maybe that was more than one occasion. One time you
21 went to the library. Another time I think he said you
22 had lunch at Panera.

23 THE MINOR CHILD: I think I was probably
24 really little.

25 THE COURT: Well, you were. That's what

1 I said. I thought you were just a couple of years
2 old. So it has been quite some time.

3 THE MINOR CHILD: Well, no, I think there
4 was something when I was like four at his place where
5 a lot of kids were. I remember there were a lot of
6 kids there meeting their parents.

7 THE COURT: Okay. So what is your
8 recollection of those exchanges with your dad? Were
9 they fun or were they bad?

10 THE MINOR CHILD: From what I remember, I
11 was actually really scared because I don't know. I
12 just thought it was kind of scary.

13 THE COURT: Did he ever do anything to
14 hurt you?

15 THE MINOR CHILD: He didn't like
16 physically, but it was more like mentally, like, I
17 didn't want to be, like, torn away, like, to spend
18 time with him. I just, like, I don't know. It's been
19 this long and we don't have a relationship, so I'm not
20 sure I want to make one now.

21 THE COURT: Okay. I'm just trying to
22 understand that. He never physically abused you?

23 THE MINOR CHILD: It was more mental.

24 THE COURT: Okay. How did he mentally
25 abuse you?

1 THE MINOR CHILD: Well, I was really
2 scared. I was --

3 THE COURT: And why were you scared?

4 THE MINOR CHILD: I --

5 THE COURT: You know he's a police
6 officer.

7 THE MINOR CHILD: Okay. I didn't even
8 know that, but --

9 THE COURT: Three and a half years, he
10 was a police officer.

11 THE MINOR CHILD: I just thought he was
12 kind of scary. I remember him asking information
13 about -- I barely remember this, okay -- but he asked
14 for information about me and my mom, and I just felt
15 really uncomfortable with that.

16 THE COURT: You mean he was trying to pry
17 things out of you or -- I mean, he's, obviously, got a
18 right to know about you and what you do, doesn't he?

19 THE MINOR CHILD: Yeah, I mean --

20 THE COURT: Okay. I mean, you're his
21 daughter. He has the right to hear what's going on in
22 your life.

23 THE MINOR CHILD: I also think he crossed
24 the line.

25 THE COURT: And how did he do that?

1 THE MINOR CHILD: I just remember -- I
2 don't know if he even got questioned about it. He did
3 -- he asked some things --

4 THE COURT: Is that your opinion or is
5 that what your mom told you?

6 THE MINOR CHILD: No, that's my opinion.

7 THE COURT: Well, then tell me what it is
8 that's crossed the line.

9 THE MINOR CHILD: Well, he's just asking,
10 like, about -- I don't remember. I just remember
11 being, like, scared. I just don't want to make that
12 happen again.

13 THE COURT: Okay.

14 THE MINOR CHILD: I don't want to be torn
15 away from everything and everyone I know and love.

16 THE COURT: Well, nobody's going to tear
17 you away from anybody.

18 THE MINOR CHILD: I don't want to go to
19 some alien place with some guy I don't know and he
20 seems really scary.

21 THE COURT: I understand, and I wouldn't
22 do that. It's not my position and I'm very sorry that
23 -- I'm very sorry that you have bad feelings because
24 again, my actions are not to cause you distress. They
25 are to give you an opportunity to experience your

1 other parent, and I think everybody understands
2 nothing would happen quickly. Nothing would happen
3 quickly.

4 THE MINOR CHILD: I'm not necessarily
5 worried that he would hurt me, but I'm worried about
6 my mom and my dog. Me and my mom have never been away
7 from each other and we're really close, and my dog,
8 we're so close with him.

9 THE COURT: Well, maybe he feels the same
10 way about not being away from you -- or being away
11 from you. Maybe he feels badly that he's not had that
12 opportunity. Did you think about that?

13 THE MINOR CHILD: I don't know, but I
14 just don't want to have my life turned upside down
15 (crying) my seventh-grade year with all my friends.

16 THE COURT: Nobody's taking you from
17 school. The chances that you would leave State
18 College --

19 THE MINOR CHILD: And I'd have to leave
20 activities like volleyball in the summer, you know.

21 THE COURT: That's understood.

22 THE MINOR CHILD: I have a life here.

23 THE COURT: I understand. I understand,
24 and that's --

25 THE MINOR CHILD: This is my home.

1 THE COURT: You're not the only one who
2 has ever done this, okay? Well, tell me what you do
3 like to do. Do you like to play volleyball?

4 THE MINOR CHILD: Yeah.

5 THE COURT: Are you on the team?

6 THE MINOR CHILD: I was. The team --

7 THE COURT: Was this a travel team or was
8 this high school or junior high?

9 THE MINOR CHILD: Is a travel team like
10 where you -- we're not, like, going to California.

11 THE COURT: Yeah, travel teams are not
12 associated necessarily with the school. You get a
13 team and they play in a league. They can go to
14 different towns and --

15 THE MINOR CHILD: Yeah, we went, like,
16 maybe an hour away.

17 THE COURT: Yeah, yeah, yeah. My
18 daughter, middle daughter, played on two travel teams,
19 and I know she came up to State College and played
20 here a number of times and they would go to
21 Pittsburgh. I used to live in Johnstown, if you know
22 where that is. That's about 90 miles from here, yeah,
23 and she would travel around, and that was other than
24 the high school team that she played on, too. So,
25 actually, I had two daughters that played volleyball.

1 How about basketball? Are you a basketball player?

2 THE MINOR CHILD: I did play basketball.

3 THE COURT: So you're wild about?

4 THE MINOR CHILD: That wasn't really my
5 thing.

6 THE COURT: You're not wild about it?

7 What do you like to do other than volleyball and
8 school? Do you have any other activities? Do you
9 ski?

10 THE MINOR CHILD: I do ski in the winter.
11 Me and my mom, we got -- last year, and I'm sure we'll
12 do it this year, we had a ski pass form -- I think it
13 was Seven Springs.

14 THE COURT: Yeah.

15 THE MINOR CHILD: And that was really fun
16 and we also go to Tussey, like, here.

17 THE COURT: We were just laughing that
18 the court reporter here is from Jerome, Pennsylvania,
19 and I was from Windber, Pennsylvania. Both of them
20 are in Somerset County and Seven Springs was in our
21 county, so I went to Seven Springs an awful lot. We
22 actually had a house up there. It's a great place.
23 You can really spend some time on the mountains up
24 there. This one here is -- the one right by the
25 school here. What's the name? Is that Tussey, right

1 here outside of State College, Tussey Mountain? It's
2 not real big, is it?

3 THE MINOR CHILD: Yeah, we got a ski pass
4 there and also --

5 THE COURT: Well, you get to learn.
6 That's great.

7 THE MINOR CHILD: But when we go to my
8 grandfather's house, which is, like, near Seven
9 Springs --

10 THE COURT: Yeah. Where does he live?

11 THE MINOR CHILD: He lives -- he lives
12 near there. I think it's called Acme.

13 THE COURT: Yeah.

14 THE MINOR CHILD: It's like a little
15 town.

16 THE COURT: It's a little crossroads. I
17 can't even remember where it is, but I think I've
18 heard of it or it might even be slightly over into
19 Fayette County because Seven Springs is right on the
20 borderline between the two. Okay. Well, tell me
21 about your extended family. Do you ever see your
22 grandparents? Are your mother's parents living?

23 THE MINOR CHILD: Oh, yeah. I just said
24 when we go to my grandparents' -- my grandfather's
25 house.

1 THE COURT: Okay. They live down in that
2 area of Somerset County, Fayette County. Are both of
3 them living? Is your grandmother living?

4 THE MINOR CHILD: My grandma is not.

5 THE COURT: She's deceased. Okay. So
6 you get to see your granddad. How about uncles and
7 aunts? Do you have any?

8 THE MINOR CHILD: I don't know any of
9 those, but I do have some cousins.

10 THE COURT: Okay.

11 THE MINOR CHILD: And, you know, we spend
12 time together, like, once a year maybe, you know --

13 THE COURT: Yeah.

14 THE MINOR CHILD: -- all get together.

15 THE COURT: Are they in the area? Are
16 they out of the area?

17 THE MINOR CHILD: Well, like Bethany and
18 Brittany, who are older, like, maybe, like, maybe 20.
19 I don't know.

20 THE COURT: Okay.

21 THE MINOR CHILD: They don't live around
22 here. I think they live in South -- South -- South
23 Carolina.

24 (Laughter)

25 THE COURT: Okay.

1 THE MINOR CHILD: But --

2 THE COURT: So what do you know about
3 school this fall? Is State College going to have in-
4 person school, do you think?

5 THE MINOR CHILD: I think so. I think we
6 will be wearing masks, but -- and, like, maybe just,
7 like, social distancing.

8 THE COURT: Yeah, yeah, do whatever they
9 can.

10 THE MINOR CHILD: But I do think we'll
11 have in-person school.

12 THE COURT: I think everybody is happy
13 about that. Will you be happy to go back and see your
14 friends?

15 THE MINOR CHILD: Yeah.

16 THE COURT: What have you been able to do
17 with them here this summer? Do they come over or do
18 you go over their place or nobody will let you get
19 together?

20 THE MINOR CHILD: Most of my friends
21 parents are serious about corona and they don't want
22 them coming over, but one of my friends -- her name is
23 Mya -- she came over to our house in the past month.
24 I think she came over, like, two weeks ago.

25 THE COURT: Okay. Well, that's nice.

1 THE COURT: Yeah, it's hard, and how
2 about -- do you do any Zoom get-togethers with any of
3 your friends?

4 THE MINOR CHILD: Sometimes. They're not
5 crazy about using Zoom.

6 THE COURT: Well, it's pretty painless.
7 All you've got to do is sit there and talk.

8 THE MINOR CHILD: Yeah.

9 THE COURT: It's pretty simple. Well,
10 okay, I understand what you're saying.

11 THE MINOR CHILD: Okay.

12 THE COURT: I think that comes through
13 loud and clear. I'm always, of course, put in a very
14 difficult situation in these cases because, as I said,
15 we start with the premise that every child should have
16 an opportunity to enjoy the benefits of both parents,

17 THE MINOR CHILD: Actually, I have an
18 idea.

19 THE COURT: I'm listening.

20 THE MINOR CHILD: Like, what you just
21 said, maybe -- and like let's make a Zoom call to get
22 to know each other.

23 THE COURT: I think that's a great idea.

24 THE MINOR CHILD: I think that's a good
25 thing I'd feel comfortable with.

1 THE COURT: Well, you know,
2 unfortunately, [REDACTED] that was supposed to have
3 happened.

4 THE MINOR CHILD: Oh, I don't think I
5 remember that.

6 THE COURT: There was supposed to be
7 Skype. There was supposed to be letters. Do you get
8 letters from your dad?

9 THE MINOR CHILD: Yeah, I get letters,
10 but --

11 THE COURT: Did you ever think about
12 sending a letter back?

13 THE MINOR CHILD: Well, the letters, when
14 I read them, they don't even seem like they're for me.
15 They all start exactly the same. It feels like fill-
16 in-the blank.

17 THE COURT: Yeah.

18 THE MINOR CHILD: It doesn't feel like it
19 matters.

20 THE COURT: Well, I guess. you know,
21 think about it from his standpoint. He gets no
22 feedback as to what you're doing. He doesn't know
23 whether you're playing volleyball or whatever you're
24 doing. So maybe if you were to have sent something
25 back and say, well, thank you for the letter. I

1 understand he sent you some money, which I'm sure
2 you're putting to good use and, well, either for
3 something you want or maybe something for school or
4 what have you, but, I mean, for him to be able to warm
5 up to you a little bit and say oh, thank you for the
6 letter, I'm glad to hear school is going well, because
7 he gets nothing. He gets nothing. He has absolutely
8 no idea about your life.

9 THE MINOR CHILD: I feel like I don't
10 even want to have a relationship because I've always
11 grown up to think it's normal just to have a mom and I
12 like this being an all-girl apartment.

13 THE COURT: Oh, really.

14 THE MINOR CHILD: I mean, my dog is a
15 boy.

16 (Laughter)

17 THE MINOR CHILD: -- three chickens and
18 they're girls.

19 THE COURT: Well, okay, so maybe a little
20 Zoom time. Would you be willing to participate in
21 that?

22 THE MINOR CHILD: I think I'd feel
23 comfortable with that.

24 THE COURT: Okay. All right. I think
25 that's a great thing. You know, it's not like it your

1 dad is some kind of a criminal. You may not know much
2 about him, but he was a police officer. He was in the
3 United States Marine Corps, so he served his country.
4 He is now a registered nurse. Did you know that?

5 THE MINOR CHILD: He said in his letters.

6 THE COURT: Yeah, which I think is pretty
7 great. I mean, becoming a registered nurse is no
8 small feat just in itself. So, you know, he has
9 obviously got the ability to be around lots of people,
10 and we have heard people today testify that, you know,
11 they have never seen him raise his voice, they have
12 never seen him get angry at anybody. So, you know,
13 I'm faced with that. I haven't heard from your mother
14 yet. She gets to testify this afternoon, so I will
15 get to hear the other side perhaps of that whole
16 picture, but at least, from what I have heard so far,
17 he doesn't sound as if he is some kind of an animal
18 who would be in any way at all interested in making
19 you unhappy.

20 THE MINOR CHILD: It's not that I feel
21 like he's -- he's, like, going to try to kill me.
22 It's like I just don't -- I don't want to --

23 THE COURT: Well, you don't even know
24 him.

25 THE MINOR CHILD: I don't want to make

1 another relationship. Like, I -- my family is all
2 complete.

3 THE COURT: I see. I see. Okay. All
4 right. Well, is there anything else you want me to
5 know?

6 THE MINOR CHILD: Not really.

7 THE COURT: I appreciate your time. It's
8 very nice meeting you, and I mean that sincerely. I
9 wish you all the best. I'm not sure where we are all
10 going to go with this, but thank you for at least
11 extending the idea of the Zoom opportunity because,
12 you know, frankly, Zoom is pretty darn good. You can
13 really see people. You get their inflection. You can
14 talk when you want to talk. It's almost like being in
15 the room, so that's great. Okay?

16 THE MINOR CHILD: I think I'd feel
17 comfortable with that.

18 THE COURT: That's great. All right.
19 Well, I appreciate your time and I wish you all the
20 best, and enjoy the rest of the summer, okay?

21 THE MINOR CHILD: Okay.

22 THE COURT: All right. Take care,
23 

24 (Recess)

25 AFTERNOON SESSION

1 THE COURT: I had a chance to meet
2 [REDACTED] a very nice young lady. I enjoyed talking
3 with her. Again, that was all on the record, so that
4 record will be available at some point in time. All
5 right. We're ready to move on with respondent's case.

6 MS. JONES: Thank you, Your Honor. Our
7 next witness is Jen Bierly. She is in the hallway, so
8 if I may go retrieve her, she's --

9 THE COURT: That will be fine.

10 MS. JONES: She didn't want to hear
11 anything. She wasn't --

12 THE COURT: Yep, that will be fine.

13 Whereupon,

14 JENNIFER BIERLY

15 called as a witness and having
16 been duly sworn, was examined
17 and testified as follows:

18 THE COURT: Please be seated.

19 DIRECT EXAMINATION

20 Q. Hi, Ms. Bierly. Could you state and spell
21 your name for the record, please?

22 A. Sure. My name is Jennifer Bierly. The last
23 name is B-I-E-R-L-Y.

24 Q. And I believe the judge wants your address,
25 your business address?

1 A. Sure. My business address is 112 West Foster
2 Avenue, Suite 301, State College, Pennsylvania, 16801.

3 Q. And what do you do for a living?

4 A. I'm an attorney.

5 Q. And in this case, were you previously Ms.
6 Brush's counsel?

7 A. I was.

8 Q. Can you provide the approximate time period
9 during which you were her counsel?

10 A. Sure. To the best of my recollection, it
11 would have been early 2012 through mid-2018.

12 Q. And during that time period or at least for
13 some portion of it, did you or your staff in your
14 office regularly pass along updates to Mr. Feldman
15 about  either through his counsel or to him?

16 A. Sure. Yes. My recollection is, during that
17 time, Ms. Brush would forward PDF documents to us.
18 Particularly I remember that when I was at my prior
19 firm, which was Babst Calland, so that would have been
20 prior to 2016, and I recall that after that date as
21 well. They would come in, and I remember my
22 paralegal, Anne-Marie Tufo, would typically be the one
23 that would forward those. I'm sure I did at points,
24 but yes, I do recall that.

25 Q. Can you estimate a rough frequency with which

1 that occurred?

2 A. I don't know -- I can't say that it was weekly
3 or monthly. I do remember doing it frequently and I
4 remember there was direction from Mr. Brush and
5 follow-up from her to make sure that it was done, so
6 that's what sticks out in my head, was her desire to
7 comply with that requirement. In terms of frequency,
8 I don't actually have a solid memory.

9 Q. Thank you. I am going to give you a copy of
10 an email you wrote in 2017 that I'm going to give you.
11 You may just need to look at --

12 A. Sure.

13 Q. -- to see if you recall. I will give you a
14 moment here to look at this.

15 A. Yes.

16 Q. So, in 2017, did Mr. Feldman request that Ms.
17 Brush send information to him regarding 

18 A. Yes, this appears to be an email from Mr.
19 Feldman in letter form. Actually, it came to me on
20 February 3 of 2017, and at that point, I had moved to
21 my current firm, Leech Tishman.

22 Q. And can you just explain your response to him?

23 A. Sure. My response was a confirmation that Ms.
24 Brush would continue to forward information,
25 schoolwork, relevant information, to Mr. Feldman

1 through my office relative to [REDACTED] as she had been
2 doing for the three years prior to that. I think the
3 request was that it happen every two weeks, but I
4 explained in this email that, yes, she is committed to
5 doing that, but I can't guarantee that there will be
6 something to submit every two weeks.

7 Q. Thank you. I would ask -- and you did write
8 this email and this is a fair and accurate copy, to
9 the best of your recollection, of this email?

10 A. Yes. To the best of my recollection, yes.

11 MS. JONES: Thank you. I would ask that
12 this be entered as Plaintiff's Exhibit C.

13 THE COURT: Any objection?

14 MR. FELDMAN: No.

15 THE COURT: What are we at here,
16 Plaintiff's?

17 MS. JONES: C, I think.

18 THE COURT: Bravo? B, as in bravo?

19 MS. JONES: C, as in cat.

20 THE COURT: Charlie, okay.

21 THE COURT REPORTER: I thought we had a
22 C.

23 MS. JONES: Oh, you were at B.

24 THE COURT: Well, I think you started
25 with a B because A was the --

1 MS. JONES: Because A was the order that
2 you guys read, yes.

3 THE COURT: So we are C; is that --

4 THE COURT REPORTER: I thought we have a
5 C. I have C marked down here as entered.

6 MS. JONES: Oh, nope. You're right.
7 Yep, the rest of this is D. I apologize.

8 THE COURT: Okay. Exhibit D will be
9 admitted, there being no objection.

10 BY MS. JONES:

11 Q. Ms. Bierly, I just have a couple additional
12 questions for you about an incident in 2013. In
13 approximately April of 2013, did you receive a phone
14 call from Attorney Raquel Ross regarding Mr. Feldman
15 and, if so, can you tell me about that?

16 A. Sure. My recollection was I was sitting in my
17 vehicle outside a restaurant, the American Alehouse in
18 Toftrees, which is an area of State College. I was
19 seated in my vehicle. I was alone. I believe I was
20 going in to meet my husband for dinner. Ms. Ross
21 called me, and during that conversation, she advised
22 me that she had communication with Mr. Feldman, that
23 she felt compelled she needed to tell me that she
24 perceived it as threatening and that my specific
25 recollection was that it had caused her concern not

1 only for herself, but for Ms. Brush, myself, and Judge
2 Ruest. That is my recollection as I was seated in a
3 vehicle.

4 Q. And what was your response to that phone call?

5 A. I advised my client and I called the police.

6 MS. JONES: Thank you. No further
7 questions, Your Honor.

8 THE COURT: Cross-exam.

9 CROSS-EXAMINATION

10 BY MR. FELDMAN:

11 Q. Ms. Bierly, regarding the frequency of
12 documents sent by Dr. Brush, you're saying once a
13 month, you're saying once every two months, or you
14 just don't remember?

15 A. I don't remember. I have a recollection, Mr.
16 Feldman, of her sending them with some frequency. I
17 apologize. I don't remember the exact frequency.

18 Q. So it might be fair to say that it was only
19 perhaps once every other month?

20 A. I don't recall, sir.

21 Q. Well, I guess as long as we are going to bring
22 that up, I do have a copy of -- I do have a copy of
23 all the updates that Dr. Brush sent me from September
24 19, 2014, through, if I can get the papers to work, it
25 looks like, June -- August 2, 2019, so that would

1 cover much of the period in which you were
2 representing her.

3 A. Sure. I did not represent her for that entire
4 period, but yes.

5 Q. But a decent portion of it, okay, and when did
6 you start representing her again?

7 A. My recollection was it was early in 2012,
8 early meaning sort of the first quarter.

9 Q. So you certainly were representing her on
10 September 19, 2014; is that correct?

11 A. That would be correct.

12 MR. FELDMAN: Well, then I guess I would
13 request to enter these documents into -- as Exhibit --
14 I don't know where we are, but I have all the updates
15 that Dr. Brush gave me between the dates of September
16 19, 2014, and whatever date that I said just a moment
17 ago, August 2, 2019.

18 THE COURT: Well, you are, obviously,
19 offering them as part of your cross-examination.

20 MR. FELDMAN: I am, Your Honor.

21 THE COURT: Are they going to be offered
22 by you at some point in time other than in her case?

23 MR. FELDMAN: I can offer them if I go
24 back up on the stand.

25 THE COURT: I guess it's important, then

1 I need to know this. Is there something in here I
2 need to see or are you really offering it for purposes
3 of rebutting the frequency of --

4 MR. FELDMAN: Certainly rebutting the
5 frequency, Your Honor, and also I think it's important
6 to see exactly what information was given over this
7 period of time. Frankly, I don't have any idea what's
8 going on in [REDACTED]'s life. Recently there has been an
9 uptick in terms of what I have been informed of, but
10 other than that, this is --

11 THE COURT: Well, let me just ask do you
12 have any objection to him offering these documents? I
13 take it he's authenticating that these are documents
14 he received in the course --

15 MS. JONES: Right. So I don't object to
16 these documents. What I would object to is the
17 characterization that they are all of the
18 communications because I have no way to verify that,
19 obviously, and --

20 THE COURT: Well, that may well be your
21 problem, but if he says that's all I got, that's all
22 he got.

23 MS. JONES: Are you saying that this is
24 all you've received?

25 MR. FELDMAN: That's all I received.

1 MS. JONES: Okay. So I will probably at
2 some point ask for a brief recess just so we can check
3 against because it's going to take me quite a bit of
4 time to just confirm to see if there's something
5 missing here that we have in our records. I don't
6 know that I can do that quickly.

7 THE COURT: Well, that will be fine.
8 Maybe we want to take a break.

9 MS. JONES: Okay.

10 THE COURT: But for purposes, then, of
11 admitting now, which I guess will be Defendant's or
12 Petitioner's 5, is admitted.

13 BY MR. FELDMAN:

14 Q. I recall -- I believe it was May 20 of 2014,
15 an order came down from President Judge Ruest in
16 regards to how often -- actually, it first came down
17 December -- in December of 2013, the agreement that we
18 had, do you recall that, ma'am, or should I dig that
19 up, too?

20 A. I do not recall that.

21 Q. Okay. Let me dig it up then.

22 THE COURT: Am I to understand this was
23 an agreed custody order?

24 MR. FELDMAN: It was an agreed custody
25 order, Your Honor, of December 27, 2013. There we go.

1 THE COURT: Well, I probably already have
2 it.

3 MR. FELDMAN: You do already have it.

4 THE COURT: Let me take a look.

5 MS. JONES: And I do have a copy of this,
6 too, Mr. Feldman.

7 THE COURT: Okay. So then we're good.
8 We're good. Okay. Continue.

9 BY MR. FELDMAN:

10 Q. And in this document it does order that any
11 school district in which the child attends school
12 shall provide both parents identical information. The
13 custodial parent shall provide to the noncustodial
14 parent on a weekly basis all school papers, projects,
15 or other products of the child's development so as to
16 allow a sharing of those items as fully as possible.
17 I'm reading on Paragraph 1, Sub E; is that correct?

18 A. I see that language. Yes, sir.

19 Q. And that was ordered, it looks like, December
20 27, 2013; is that correct?

21 A. That is the date on the order.

22 Q. And you said that maybe, possibly, at best,
23 Dr. Brush was providing updates monthly?

24 A. No, that wasn't my testimony, sir. I don't
25 recall the frequency.

1 Q. Oh, okay. I guess that just in regards to the
2 document that I gave to -- that I put into -- I gave
3 to the judge and put in as an exhibit, the first
4 document that I received from you or from Dr. Brush is
5 dated September 19, 2014. It seems as though there
6 was a long period of time here where I was supposed to
7 be getting weekly updates and I got nothing. Do you
8 have any documents that I didn't get perhaps by
9 mistake?

10 A. Sir, I don't remember the first date that any
11 documents were provided. I acknowledge this is what
12 the order said. I don't recall the exact date on
13 which the first time you would've received documents.

14 Q. I guess we can move on. I just --

15 MR. FELDMAN: Your Honor can see how many
16 documents were received in accordance with the order.
17 I also believe that there is a pending contempt
18 charge, which is directly related to this, in regards,
19 and Ms. Bierly knows about that, in regards to --

20 MS. JONES: Objection.

21 THE COURT: All right. Don't testify.
22 If you have questions, just ask them.

23 MR. FELDMAN: Fair enough.

24 BY MR. FELDMAN:

25 Q. And you did receive a subpoena from me,

1 correct?

2 A. I did.

3 Q. And it did order you to bring any documents,
4 communications, emails, or any sort of evidence in
5 that respect that you received from Attorney Ross?

6 A. I apologize. I don't have the subpoena right
7 in front of me, but I do remember that it directed me
8 to bring documents that I would have received from
9 Attorney Ross, I believe, relative to threatening
10 emails, et cetera, and I do not have a document from
11 Attorney Ross.

12 Q. Do you have any emails that Attorney Ross
13 forwarded to you that showed any kind of threatening -
14 - any threats that were legitimately made?

15 A. No, I do not have any such email. That
16 occurred over a telephone call, sir.

17 Q. And you have no documents that state -- that
18 show any evidence -- because you were subpoenaed to
19 bring this -- any documents or emails that state, hey,
20 this is a threatening document, this is a threatening
21 email that Feldman sent. Do you have any of those to
22 present to the Court?

23 A. I do not, sir.

24 Q. Do you have any --

25 THE COURT: Just so I understand, you

1 don't have them because there weren't any.

2 THE WITNESS: There weren't any, Judge.
3 It happened over a phone call.

4 THE COURT: So you did all this simply
5 based on a phone call.

6 THE WITNESS: I -- based upon a phone
7 call from Raquel Ross and the tone of her voice and me
8 knowing her and the tone of her voice and what she
9 said to me, I made a report to the police for the
10 safety of my client.

11 BY MR. FELDMAN:

12 Q. When you say, "I made a report to the police,"
13 did you report it to the State College Police
14 Department?

15 A. That is my recollection, yes.

16 Q. Did you report it to the Federal Bureau of
17 Investigation?

18 A. They were advised, yes.

19 Q. I'm sorry. Did you go to the Federal Bureau
20 of Investigation and report it in-person, yourself?

21 A. I don't recall whether I went in-person. I
22 recall that the FBI was advised.

23 Q. Did you speak to the Federal Bureau of
24 Investigation?

25 A. I don't recall.

1 Q. As of now, you can testify that, to the best
2 of your knowledge, there never was any threatening
3 email sent by Raquel Ross, was there?

4 A. I can testify that Raquel Ross told me that
5 she received an email from you, which she perceived as
6 threatening to me, to her, to Judge Ruest, and to my
7 client. I never saw the email. She would not share
8 the email with me, I'm assuming, because it was
9 otherwise a protected -- it contained information that
10 was otherwise protected in attorney-client privilege
11 relationship, but she believed she had a duty to
12 advise me for the safety of those that I just named.

13 Q. We'll move on. Did you report Raquel Ross to
14 the Pennsylvania disciplinary board for having made a
15 false allegation against her client?

16 A. I did not.

17 Q. And do you recall which date it was when
18 Raquel Ross called you? Do you recall the date?

19 A. Not exactly. I want to say it was the end of
20 2012. I don't recall, specifically. I think it was
21 relatively early on in my involvement.

22 Q. You do recall talking to Detective Deidre
23 Fishel, correct?

24 A. I do not as I sit here recall specifically
25 talking to Deidre Fishel.

1 Q. Can you read the first paragraph of Detective
2 Fishel's report?

3 A. She says, I was contacted this date by Brush's
4 attorney, Jen Bierly. Bierly reported that she had
5 received communication from Feldman's attorney, Raquel
6 Welch, advising Feldman had sent a threatening email
7 to her. Welch advised Bierly she was notifying her
8 that the email threatened Welch, Bierly, Brush, and
9 Her Honor Ruest.

10 Q. So it seem from this report that it was only
11 an email; is that correct?

12 A. This references a threatening email.

13 Q. And you have never seen a threatening email?

14 A. I have not seen the email.

15 Q. Do you see what date it states on that
16 document as to when this occurred?

17 A. I see an occur date at the top of 12/13/12.

18 Q. Okay.

19 A. And then I see a date at the bottom, 4/15/2013
20 and 4/16/2013.

21 Q. I believe from Detective Fishel's last
22 testimony, I believe it was 4/15/2013.

23 A. Okay.

24 Q. Have -- were -- oh, basically --

25 MR. FELDMAN: No further questions, Your

1 Honor.

2 THE COURT: Any redirect?

3 MS. JONES: Very briefly.

4 REDIRECT EXAMINATION

5 BY MS. JONES:

6 Q. Ms. Bierly, do you recall how often in your
7 career as an attorney you have called the police?

8 MR. FELDMAN: Objection, relevance.

9 THE COURT: I'll overrule the objection.

10 THE WITNESS: Can you repeat the
11 question, please?

12 BY MS. JONES:

13 Q. Do you recall how often in your career as an
14 attorney that you have called the police about a
15 threat?

16 A. The majority of my work is family law. This
17 incident, sitting out in the car that day, hearing
18 Raquel -- I called her Raquel Ross -- Raquel Ross's
19 voice, that sticks out in my mind. This would be -- I
20 can't say it's the only time. I have been practicing
21 since 1997. I cannot say that this is the only time
22 that this happened, but I can probably count on about
23 three fingers the times that it happened.

24 Q. And just to be clear, it is not a usual
25 occurrence that opposing counsel calls you regarding a

1 threat to the safety of you or your client?

2 A. That would be correct.

3 MR. FELDMAN: Objection, relevance.

4 THE COURT: Overruled.

5 THE WITNESS: That would be correct.

6 MS. JONES: That's all, Your Honor.

7 THE COURT: Anything else?

8 MR. FELDMAN: I do.

9 RE-CROSS-EXAMINATION

10 BY MR. FELDMAN:

11 Q. Was Raquel Ross terminated from working for
12 Leland Feldman on April 14, 2013?

13 A. I don't know.

14 Q. Could that possibly have been the reason why
15 she sounded as upset as she did when she was talking
16 to you, because she lost another client? Is that
17 possible?

18 MR. FELDMAN: Objection, speculation.

19 THE COURT: I'd sustain that objection.
20 You're asking her to speculate.

21 MR. FELDMAN: I'm just asking if it's
22 theoretically possible.

23 THE COURT: No, that's speculation.

24 MR. FELDMAN: Okay.

25 BY MR. FELDMAN:

1 Q. Were you present in June of 2014 for an
2 instance where emails were presented to you in regards
3 to this matter?

4 A. I don't recall.

5 Q. Do you recall a conference on Wednesday, June
6 5, 2013, with yourself, Judge Ruest, Raquel Ross, and
7 Attorney Trialonas?

8 A. Not specifically, sir, no.

9 THE COURT: Was this an in-person
10 conference you're referring to?

11 MR. FELDMAN: This was -- I believe it
12 says conference call, so I wasn't there, but I assume
13 --

14 THE COURT: I was going to say Attorney
15 Ross is from Wisconsin, wasn't she?

16 MR. FELDMAN: No, no, she's a local
17 Pennsylvania --

18 THE COURT: Oh.

19 MR. FELDMAN: I don't know where she is
20 originally from, but she is a --

21 THE COURT: Oh, I'm sorry. I thought she
22 was from out of state.

23 BY MR. FELDMAN:

24 Q. Were you presented -- did you see -- did you
25 look over any of the emails that Attorney Ross claims

1 were threatening?

2 A. I don't have an independent recollection of
3 that.

4 Q. I guess, for the record, I would like to
5 present -- these are the emails that Attorney Ross did
6 send to Attorney Weaver that she stated were
7 threatening. If you could, could you show where in
8 those emails are at all threatening to anyone?

9 A. I have read the emails. I don't recall seeing
10 the emails.

11 Q. Did you find anything threatening in them to
12 President Judge Ruest or anyone else who may or may
13 not be threatened?

14 A. Reading this now, I don't see any direct
15 threats.

16 Q. Do you see any indirect threats?

17 A. I don't see an indirect threat. I do not know
18 that these are the emails about which Raquel Ross was
19 speaking to me.

20 Q. Okay.

21 A. I can't testify --

22 Q. Those are the ones she supplied. You don't
23 recall the June 5 conference with the people I
24 mentioned earlier?

25 A. Independently, no.

1 MR. FELDMAN: I would like to put those
2 emails Attorney Raquel Ross furnished under subpoena
3 to Attorney Mark Weaver in regards to the threatening
4 emails. Those are the threatening emails that she
5 claims exist.

6 THE COURT: Any objection?

7 MS. JONES: I don't object to the emails
8 themselves. I don't actually see the subpoena, so I
9 don't know what this was responsive to. I can see
10 that it was a response to a subpoena, but I don't know
11 the scope of the subpoena, so that would be my only --

12 THE COURT: With that limitation, the
13 emails will be admitted.

14 MS. JONES: Thank you, Your Honor.

15 THE COURT: There being that limited
16 objection --

17 MR. FELDMAN: And I can supply --

18 THE COURT: Understood.

19 MR. FELDMAN: -- and I have it here.
20 I'll get that in a moment. Next, I have a copy from
21 an email from Attorney Steve Trialonas from June 5,
22 2013, and I'm just going to read this briefly and then
23 you can take a look at it. I just would like to
24 state, on the second page, on the third paragraph
25 down, it does state Jen Bierly stated that she didn't

1 find anything threatening in the emails, wishes to
2 depose Mr. Feldman based on the contents of those
3 emails.

4 MS. JONES: Can I object as to hearsay
5 here? This is from Steve Trialonas to Mark Weaver. I
6 don't even see that Jen Bierly was copied on it.

7 MR. FELDMAN: Jen Bierly was not copied
8 on it. This was sent to me.

9 MS. JONES: I'm going to make a hearsay
10 objection to this email.

11 THE COURT: Well, I'm going to overrule
12 the objection because it's not for the purpose of
13 saying that that's true but rather that she
14 acknowledged that that was said.

15 MS. JONES: That it's true that Jen
16 Bierly stated this?

17 MR. FELDMAN: Well, I guess I would also
18 like to state that, in my understanding of the
19 Pennsylvania law, a document from a lawyer is not
20 hearsay. It can be presented as evidence.

21 THE COURT: Not necessarily so, but I
22 would offer it under the fact that it's not being
23 offered as to whether he did proposed threatening
24 emails. It's whether she made such a statement. So
25 did you make such a statement as is suggested in this

1 email?

2 THE WITNESS: I don't recall, Judge.

3 THE COURT: Okay.

4 BY MR. FELDMAN:

5 Q. Okay. If you look through that and then the
6 subpoena -- here we go.

7 MR. FELDMAN: And I certify -- admit that
8 that is a true document that I received from Attorney
9 Weaver in regards to the threatening emails which
10 don't exist.

11 THE COURT: This was the point in time
12 when he was your attorney?

13 MR. FELDMAN: He was my attorney, yes.

14 All right. Then I have right here --

15 MS. JONES: No objection, Your Honor. No
16 one asked me, but --

17 THE COURT: Well, okay, no objection. I
18 guess we're at, what, 7, No. 7? And also then
19 apparently we do have a subpoena and it did ask for
20 all documents of a threatening nature, then I'm going
21 to withdraw the restriction --

22 MS. JONES: I understand.

23 THE COURT: -- that I had relative to the
24 other exhibit. Okay.

25 MR. FELDMAN: Okay, and then I have --

1 through the Freedom of Information Act, I received a
2 Federal Bureau of Investigation report in regards to
3 the report that they wrote regarding the threatening
4 emails. Now, there is information redacted, but it
5 does state in Paragraph 2 that blank advised that she
6 represents blank. The other party, blank, is Leland
7 Feldman.

8 BY MR. FELDMAN:

9 Q. Having read this -- did you read the first
10 paragraph, Ms. Bierly?

11 A. Are you on the first page, sir?

12 Q. First page, yes.

13 A. Yes.

14 Q. Does this refresh your memory in regards to a
15 walk-in complaint that you filed with the Federal
16 Bureau of Investigation?

17 A. If this says I went there, then yes, I
18 probably went there.

19 Q. I'm asking you did you go there or you still
20 don't remember? This does not help refresh your
21 memory?

22 A. I know that the Federal Bureau of
23 Investigation at one point, I believe, was located in
24 the building I work in, in Innovation Park, and I
25 believe they were also located in a building next to

1 me when I worked on Allen Street, and there have been
2 instances when I have been in that office, those
3 offices. Do I have specific recollection of going
4 there on April 15, 2013? I don't. I'm not saying I
5 didn't. I just do not have a specific recollection of
6 walking in there that day.

7 Q. Could you read the last sentence on paragraph
8 three, please, of the FBI report?

9 A. Is that the --

10 THE COURT: Page 2.

11 THE WITNESS: Page 2.

12 BY MR. FELDMAN:

13 Q. Page 3, actually. One -- it says page 3 on
14 the bottom.

15 A. And which paragraph?

16 Q. The very last paragraph, "Based on the above."

17 A. I don't -- based on the above, S-C-O-L-R-A
18 will not be initiating any active investigation into
19 this matter.

20 Q. And then the sentence right before that which
21 starts, Parham stated that he -- and, for the record,
22 Chief Tyrone Parham was the chief of Pennsylvania
23 State University Police Department.

24 MS. JONES: Sorry. Is that a question?

25 MR. FELDMAN: I was just asking her to

1 read the letter.

2 THE WITNESS: Oh, I'm sorry. It says,
3 Parham stated that he was unaware for any basis for
4 his department's initiating a criminal investigation
5 against Feldman.

6 BY MR. FELDMAN:

7 Q. Well, when did it become apparent to you that
8 Leland Feldman never sent anybody any threatening
9 emails?

10 A. As I sit here today, I do not recall ever
11 receiving copies of emails that appeared to be
12 threatening.

13 Q. So just now, now --

14 A. No, as I'm saying it right now, I don't recall
15 ever receiving copies of emails that were threatening.

16 Q. My question is this: When did it become
17 apparent to you that Raquel Ross clearly told a lie in
18 regards to stating that there were any kind of
19 threatening communications?

20 MS. JONES: Objection. She didn't say
21 that.

22 MR. FELDMAN: I'm not asking --

23 THE COURT: Well, wait. Wait. Wait a
24 second. Whether she said a lie or not, that's a
25 conclusion, but I think the question has already been

1 answered.

2 MR. FELDMAN: Nothing further, Your
3 Honor.

4 THE COURT: You know, a lot of this stuff
5 was in the PFA report that I read. I mean, I've
6 already seen all of these documents.

7 MR. FELDMAN: Your Honor, I didn't call
8 Ms. Bierly. This is --

9 THE COURT: I know. I know.

10 MR. FELDMAN: -- a witness that I'm just
11 rebutting, Your Honor.

12 THE COURT: Okay.

13 MR. FELDMAN: I think that's only fair.

14 THE COURT: Anything else?

15 MR. FELDMAN: I have nothing further,
16 Your Honor.

17 THE COURT: I want to go back to your
18 answers regarding the updates. You didn't handle them
19 personally.

20 THE WITNESS: What would happen is the --
21 Ms. Brush -- to the best of my recollection, Your
22 Honor, Ms. Brush would forward the documents, and I
23 had two paralegals at that point. One was Anne Marie
24 Tufo, and I believe she was the paralegal -- I had
25 assigned the paralegals by case. I believe Anne-Marie

1 was the one that worked on Heidi's case, and when
2 there would be -- we tried our best to keep Heidi's
3 costs down because that's a burden that we don't
4 normally have, forwarding documents on behalf of a
5 client like that, so, at my direction, I believe that
6 Anne-Marie would often send those documents. I'm not
7 saying I didn't ever send them. I believe I did as
8 well.

9 THE COURT: Did you read them?

10 THE WITNESS: I would have at least
11 scanned them, Judge, before I sent them.

12 THE COURT: Scanning them is not reading
13 them -- oh, you mean scan them personally not --

14 THE WITNESS: Yeah, yeah.

15 THE COURT: -- scanner. Okay. Okay.

16 THE WITNESS: And I would have looked at
17 it and said, okay, she sent a second-grade spelling
18 test or whatever.

19 THE COURT: Okay. Okay.

20 THE WITNESS: I apologize.

21 THE COURT: No, I'm sorry. We're in the
22 electronic age. Scanners are scanners. We don't
23 personally scan anymore.

24 THE WITNESS: Right. Did I look --

25 (Laughter)

1 THE WITNESS: -- specifically at every
2 document? Probably not. Did I look to see if it was
3 a second -- like I said, a second-grade spelling test
4 or whatever, I probably did look at that.

5 THE COURT: So you really couldn't
6 testify as to the frequency.

7 THE WITNESS: Correct, Judge.

8 THE COURT: Okay. All right.

9 THE WITNESS: I remember it happening. I
10 don't remember the frequency.

11 THE COURT: That's all. Anything else?

12 MS. JONES: No.

13 THE COURT: All right. You may step
14 down.

15 May she be excused?

16 MR. FELDMAN: Yes, Your Honor.

17 THE COURT: You're excused. Thank you.

18 THE WITNESS: Thank you.

19 MS. JONES: Our next witness -- I'd like
20 to call Jack Bratich. He is going to come in by Zoom,
21 so she's just going to let him know to join, and I
22 sent the link previously, so hopefully, if we open it
23 up, he can join in.

24 Whereupon,

25 JACK BRATICH

1 called as a witness and having
2 been duly sworn, was examined
3 and testified via Zoom as follows:

4 THE COURT: Very well.

5 MS. JONES: I'm having a little bit of
6 difficulty hearing him. I don't know if it's possible
7 to increase the volume.

8 THE COURT: Let me see what I can do
9 here.

10 (Whereupon, the volume was increased on
11 the laptop.)

12 DIRECT EXAMINATION

13 BY MS. JONES:

14 Q. Mr. Bratich, could you state and spell your
15 name for the Court, please?

16 A. Sure. My name is Jack Bratich, J-A-C-K, last
17 name B-R-A-T-I-C-H.

18 Q. Thank you. Mr. Braddock, how long have you
19 known Heidi Brush?

20 A. I've known her for 21 years. We met right
21 about this time in 1999.

22 Q. So how did you meet?

23 A. We met -- we both were in the same graduate
24 program at the University of Illinois Urbana-
25 Champaign.

1 Q. And have you kept in touch with Ms. Brush over
2 the years?

3 A. Yes, quite frequently.

4 Q. During her marriage with Mr. Feldman, did Ms.
5 Brush confide in you regarding concerns about her
6 safety?

7 MR. FELDMAN: Objection, hearsay.

8 THE COURT: No, she's a party, so it
9 wouldn't be hearsay. She is the one who spoke. He is
10 telling us what she said. You can cross-examine her
11 about this, but that would not be hearsay. She's a
12 party.

13 THE WITNESS: Okay.

14 BY MS. JONES:

15 Q. Yeah, you can go ahead then, sir.

16 A. Okay. Yes, she conveyed to me a few things
17 over time. Some of them were about a general kind of
18 climate of danger and hostility and there were also
19 some specific concerns that she had. One I remember,
20 while she was pregnant, she was worried that she would
21 be thrown down the stairs and it would be seen as an
22 accident, so she wanted to convey to me that it would
23 not be an accident if that were to happen to her.

24 Q. Kind of stepping forward, did you accompany
25 Ms. Brush to the 2014 supervised visit between 

1 and Mr. Feldman?

2 A. I did accompany her.

3 Q. Can you just tell me -- obviously, you weren't
4 in the visit, right?

5 A. Right.

6 Q. But can you tell me what you observed at the
7 end of that visit?

8 A. Sure. Sure. So, yeah, I stayed in the car
9 during the entire time. At the end of the visit, Ms.
10 Brush went into the building to retrieve [REDACTED] and I
11 saw them come out and walk out, and then they walked -
12 - they took a little walk around the parking lot,
13 around the building, and then, within a few minutes,
14 Mr. Feldman also came out of the building and went in
15 that similar direction, and my understanding was that
16 was -- it was earlier than the required time, the
17 waiting time, to leave the visit in this building.

18 Q. Thank you. After the visit, did you spend a
19 little bit of time with [REDACTED] and Ms. Brush?

20 A. Yes, we then returned to the car, then we
21 left, and yeah, we drove around for a bit, yeah.

22 Q. Can you describe what [REDACTED]'s demeanor was
23 like following that visit?

24 A. Yeah. So [REDACTED] is a very verbose child and
25 quite talkative, quite energetic and enthusiastic, and

1 what really struck me is how clammed up she was in the
2 car afterward, nonresponsive to questions and just
3 kind of drifting. Her gaze was drifting. It wasn't
4 the kind of present, energetic child that I know.

5 Q. Thank you. Turning now to Ms. Brush's
6 relationship with [REDACTED] have you had the chance to
7 spend a lot of time with Ms. Brush and [REDACTED]
8 together?

9 A. Yes. Yes, we have seen each other and spent
10 some time over the years together. Yes.

11 Q. And have you observed Ms. Brush attend to
12 [REDACTED]'s daily needs, and, if so, what kind of things
13 have you seen her do?

14 A. Oh, yeah. So we've often seen her attend to a
15 number of needs and sort of be a devoted and nurturing
16 mother. One of the things that always kind of struck
17 me about their relationship is how educational it was.
18 They're always sort of learning -- having learning
19 projects, having craft projects, learning about
20 history, you know, always doing something and learning
21 something, and then also kind of also physical
22 projects of athletic sorts or -- and providing for her
23 physical needs and really giving her a sense of
24 support and nurturance that, you know, gave [REDACTED] a
25 kind of sense of confidence as a growing girl and

1 eventually a young woman.

2 Q. Thank you. So I kind of -- to follow up on
3 that, you may have already answered this in part, but
4 how would you describe Ms. Brush as a mother?

5 A. Right. Yeah, so, you know, kind and nurturing
6 when needed, and supportive, devoted, devoted to her
7 well-being, the holistic well-being of the child. So,
8 you know, [REDACTED] is the center of her life and she
9 gives her a lot of loving attention that -- and I
10 witnessed it, for sure.

11 MS. JONES: Thank you. That all the
12 questions I have.

13 THE COURT: Mr. Bratich, one thing that
14 we didn't get from you at the outset is what is your
15 address, please?

16 THE WITNESS: My address is 1633 Wolf
17 Street.

18 THE COURT: Is that Wolf?

19 THE WITNESS: Yeah.

20 THE COURT: Thank you.

21 THE WITNESS: Yep. That's in
22 Philadelphia, Pennsylvania, 19145.

23 THE COURT: Thank you.

24 THE WITNESS: Sure.

25 THE COURT: Now Mr. Leland has an

1 opportunity to ask you some questions, and we will try
2 and keep our voice up here so you can hear him, so
3 thank you for your bearing with us in this audio
4 issue.

5 CROSS-EXAMINATION

6 BY MR. FELDMAN:

7 Q. What state were you in for the July 2014
8 meeting? Where was it located?

9 A. It was in Maryland.

10 Q. Do you remember what city?

11 A. Probably Annapolis or somewhere in a suburb.
12 I'm not that familiar with Maryland.

13 Q. You think you were in Annapolis?

14 A. Or around it.

15 Q. Okay. Can you describe what the location
16 looked like?

17 A. It looked like a one -- maybe like a one-story
18 school or -- it might have been connected to a church,
19 but I'm not quite sure. Like, a parking lot was in
20 the back and then there were woods sort of behind the
21 parking lot.

22 Q. Was it a church or not, or you don't remember?

23 A. I don't remember if it was connected to a
24 church, but it reminded me of a school.

25 Q. Was there a festival going on?

1 A. There was a festival. Yes, there was, like --
2 like a -- almost like a flea market.

3 Q. Do you recall what was across the street?

4 A. What was across the street from the festival?

5 Q. What was across the street from the church.

6 A. I don't recall. Maybe a fast-food place, but
7 --

8 Q. I'm sorry. What?

9 A. Perhaps like a fast-food place, but I'm not
10 sure. I was behind the building, so I'm not sure what
11 would have been across the street because I was in the
12 parking lot, which is in the back.

13 Q. So how long did -- now, you stated that -- is
14 it correct that Dr. Brush and ██████████ left the school?
15 Is that correct? And then you saw them leave the
16 school, correct?

17 A. Correct.

18 Q. And where did they go then?

19 A. They went around the corner of the school, and
20 I lost sight of them at that point.

21 Q. Why didn't they get into the car with you and
22 drive off?

23 A. I think they wanted to just walk off, you
24 know, get a little fresh air after what might have
25 been a difficult and challenging experience.

1 Q. So they walked off out of your line of sight?

2 A. Yep.

3 Q. How long were they out of your line of sight?

4 A. Maybe two, three minutes.

5 Q. And at that point -- and at what point did
6 Leland Feldman come out?

7 A. Well, probably right around then because they
8 would have -- I lost sight of them for two or three
9 minutes, then Mr. Feldman came out and went in that
10 general direction.

11 Q. And what happened then? Where did Feldman go?
12 Was he carrying anything?

13 A. It might have been a bag, maybe even like a
14 duffel bag. Like, you went around the corner also out
15 of my sight, so I don't know after that corner where
16 you ended up.

17 Q. So you didn't see any -- you did not see any
18 kind of confrontation between Dr. Brush and Leland
19 Feldman?

20 A. No.

21 Q. Were you concerned?

22 A. Yes.

23 Q. Did you get out of your car?

24 A. No, I texted Ms. Brush.

25 Q. Oh, you texted Dr. Brush?

1 A. Dr. Brush, yes.

2 Q. Now, you did state -- did you believe Dr.
3 Brush's stories about any kind of threats of violence
4 from Leland Feldman?

5 A. Not only did I believe them, my understanding
6 is that there have been cases where that has been
7 documented, so yes.

8 Q. So you believed it yet you remained in your
9 car while your good friend and her young daughter
10 leave your line of sight in addition to Leland
11 Feldman? You were perfectly fine just hanging in your
12 car, doing nothing?

13 A. Not perfectly fine. In fact, I was -- I felt
14 a sense of potential danger and figured that texting
15 her, getting her attention to tell her that was
16 happening, was going to be the most effective route to
17 get to her.

18 Q. So but you did not feel it was important to
19 get out of the car yourself and perhaps go and make
20 sure that something horrible didn't happen? You were
21 not compelled to do that, were you?

22 A. I was not compelled to go in that panicked
23 state to think that I was going to intervene and
24 potentially cause more problems, yes.

25 Q. Did you observe Mr. Feldman take any physical

1 action against Dr. Brush at that time?

2 A. No.

3 Q. Did you observe -- so you didn't observe any
4 of the interaction between Dr. -- you did not observe
5 any of the interaction between Dr. Brush and Leland
6 Feldman in the parking lot, which you stated you
7 observed as you let them walk out of your line of
8 sight?

9 A. I did not, sir, observe them confronting each
10 other. I observed them both being in the general
11 vicinity of that building, in the parking lot, at the
12 same time, in violation of certain orders, yes.

13 Q. I'm sorry. A violation of what?

14 A. A violation of a certain timeframe of
15 departure for Mr. Feldman. It was -- the reason I was
16 concerned is not just that he left the building but
17 that he left the building earlier than was required.

18 Q. And have you known any instances where Dr.
19 Brush has ever made false statements to you or to --
20 to you? Has she ever lied to you?

21 A. I don't recall there was ever a time that she
22 lied to me, no.

23 Q. You believe she is a very honest person who
24 does not lie?

25 A. Yes, she is very direct and candid person and

1 therefore honest. She speaks her mind. she speaks it
2 clearly, and I have never known her to fabricate or
3 lie.

4 Q. My question is do you think she is an honest
5 person?

6 A. I also said honest in there.

7 Q. Okay.

8 A. Direct, candid, and honest, yes.

9 MR. FELDMAN: Okay. No further
10 questions.

11 THE COURT: Redirect.

12 MS. JONES: No, Your Honor.

13 THE COURT: What was your understanding -
14 - you seem to have some knowledge of an order. What
15 was your understanding of this order?

16 THE WITNESS: At the time -- so what I
17 was told, because it was -- this was -- it was the
18 first structured visitation in this kind of like
19 third-party space.

20 THE COURT: So you never saw anything in
21 writing.

22 THE WITNESS: Oh, did I see anything in
23 writing? I don't recall seeing something in writing.

24 THE COURT: Okay.

25 MR. FELDMAN: Your Honor, could I have

1 recross?

2 BY MR. FELDMAN:

3 Q. Dr. Bratich, do you recall, on September 10,
4 2015, testifying in regards to this matter?

5 A. Yes.

6 Q. In regard to the PFA?

7 A. Yes.

8 Q. Did you state anything about having allegedly
9 been a witness to this incident that occurred in July
10 of 2014 when Dr. Brush walked outside of your line of
11 sight? In your testimony, was that included?

12 A. I don't know if I was asked those things, so I
13 don't know if I did.

14 Q. Well, I have your testimony here --

15 A. Okay.

16 Q. -- Dr. Bratich, and I'm just going to give it
17 --

18 MR. FELDMAN: I don't know. Is there any
19 way for him to look at it or would I have to read it,
20 Your Honor?

21 THE COURT: No, you'll have to read it.

22 MR. FELDMAN: All right.

23 BY MR. FELDMAN:

24 Q. Now, you were asked, did you observe Leland
25 Feldman's behavior towards -- no, that's actually --

1 disregard.

2 MS. JONES: What page are we on?

3 MR. FELDMAN: I'm still looking.

4 MS. JONES: Okay.

5 BY MR. FELDMAN:

6 Q. Oh, see, it's here, on page 82, line 7, you
7 were asked: Can you tell me what she told you? And
8 this is in regards to concerns of safety. And you
9 said: Yes, there were messages that were stating she
10 was fearful for her life, specifically if there would
11 be an accident or seeming accident; that he had
12 threatened her; that he had, at a different time; also
13 threatened her to such a degree that she thought
14 [REDACTED] was threatened. There was a specific message
15 about feeling she was going to be thrown down the
16 stairs or that he was going to throw her down the
17 stairs, so there was a series of these, yeah,
18 confidences. Do you know why counsel did not ask you
19 to give the testimony you just gave?

20 MS. JONES: Objection, speculation.

21 THE COURT: I will sustain the objection.

22 MR. FELDMAN: Okay.

23 THE COURT: You're asking him to guess.

24 Q. Did opposition counsel talk to you before you
25 testified?

1 A. (No response)

2 Q. Before you testified on September 10, 2015,
3 did Heidi's attorney talk to you?

4 A. It's possible that we went over some basics of
5 how the hearing was going to go and my testimony.

6 Q. Did you, regarding these -- well, gosh, there
7 was an instance in July of 2014 you should probably
8 bring up and ask me about as I was a witness?

9 A. I was probably letting the lawyer determine
10 what was relevant. I mean, I don't -- I don't
11 remember being asked, like, do you have, you know,
12 specific information about different kinds of custody
13 moments or visitations or -- so it's not my -- it's
14 not my job at that point to figure out what's
15 relevant.

16 MR. FELDMAN: Not your MOS. Got it.

17 MS. JONES: I'm sorry. I don't know what
18 that means.

19 MR. FELDMAN: Not your military
20 occupational specialty, kind of a joke. I'm sorry.

21 MS. JONES: No, no, that's good. I just
22 didn't know.

23 THE COURT: All right. Anything else?

24 BY MR. FELDMAN:

25 Q. Last question: Have you ever seen Leland

1 Feldman yell or -- two last questions. Have you ever
2 seen Leland Feldman yell at Dr. Brush, in your
3 presence?

4 A. In my presence, not -- we only met once, and
5 no, I did not see that.

6 Q. Did you see, at any time, Leland Feldman
7 strike or take any kind of physical action against Dr.
8 Brush?

9 A. Physical action, no. I did not witness
10 anything.

11 MR. FELDMAN: No further questions.

12 THE COURT: Any redirect?

13 MS. JONES: No.

14 THE COURT: All right. Thank you very
15 much, Mr. Bratich. We appreciate your time here this
16 morning. Thank you for clocking in with us. Have a
17 great day.

18 THE WITNESS: Okay.

19 MS. JONES: Your Honor, our next witness
20 is going to Jacqueline Gum, and I can call her or Ms.
21 Brush is going to try to send her a text here just to
22 let her know to sign in on the Zoom.

23 THE COURT: Very good. Thank you. Wh

24 JACQUELINE GUM
25 called as a witness and having

1 been duly sworn, was examined
2 and testified via Zoom as follows:

3 THE COURT: Okay. Very well. You may
4 proceed.

5 MS. JONES: Thank you.

6 DIRECT EXAMINATION

7 BY MS. JONES:

8 Q. Ms. Gum, could you state and spell your name
9 for the record?

10 A. Sure. My name is Jacqueline Gum.

11 THE COURT: How do you spell the last
12 name?

13 THE WITNESS: G-U-M.

14 THE COURT: And your address, please?

15 THE WITNESS: 2565 Middle Road.

16 THE COURT: I'm sorry. We had somebody
17 talking while you were saying -- say it again.

18 THE WITNESS: 2565 Middle Road. This is
19 in Lewistown.

20 THE COURT: Thank you.

21 BY MS. JONES:

22 Q. Ms. Gum, what is your profession?

23 A. Sure. I'm a middle-school counselor at Park
24 Forest Middle School.

25 Q. And how do you know  Brush?

1 A. [REDACTED] was one of my students this past year
2 in sixth grade.

3 MR. FELDMAN: Your Honor, my
4 understanding was -- are you interviewing her as a
5 therapist or as a teacher?

6 MS. JONES: She was [REDACTED]'s guidance
7 counselor. I'm asking her --

8 MR. FELDMAN: I mean, because it does
9 seem as though, if you're going to get testimony from
10 any kind of psychiatrist, guidance counselor,
11 therapist, that needs to be --

12 THE COURT: Let's do this: Let's just
13 ask for an offer of proof.

14 MS. JONES: Right. She is going to be
15 able to speak to [REDACTED]'s academic work and how her
16 behavior is in school. That's all I'm going to need
17 her for.

18 THE COURT: Okay. I --

19 MR. FELDMAN: And so she's not asking as
20 a therapist.

21 THE COURT: No, no --

22 MR. FELDMAN: That --

23 THE COURT: Sounds to me --

24 MR. FELDMAN: That was my only concern,
25 Your Honor.

1 THE COURT: Sounds to me well within the
2 realm of what a guidance counselor or a school
3 counselor does. Okay? All right. You may proceed.

4 BY MS. JONES:

5 Q. In your experience, is [REDACTED] well-cared-for
6 in terms of her physical, emotional, and educational
7 needs being met?

8 A. Yes. I worked in the building with her in the
9 mornings. I would see [REDACTED] coming to school pretty
10 much daily. Physically, she always was -- you know,
11 had fresh clothes on, you know, seemed clean.
12 Emotionally and educationally, her needs were always
13 met. I'm trying to think of anything else, but she
14 seemed to be very well taken care of for the most
15 part. If she had any educational needs or emotional
16 needs, [REDACTED] or her mom would reach out to myself or
17 her teachers for support.

18 Q. How would you describe [REDACTED]'s academic work?

19 A. [REDACTED] is very strong academically. She has a
20 gifted IEP through the district, which means that,
21 after testing from our school psychologist, she placed
22 at the gifted level. This year, what that looked like
23 for [REDACTED] was I worked with her and her mom and her
24 teachers to have curriculum that met her needs. She
25 actually took two courses out of grade, a grade level

1 ahead of her peers' grade-wise and she did very well.
2 She got pretty much straight A's. I think she had two
3 B's. She's a straight-A student. She works very
4 hard. [REDACTED] took school very seriously and I think
5 she enjoyed it overall.

6 Q. And how would you describe [REDACTED]'s behavior
7 in school?

8 A. Behaviorally, [REDACTED] never had any behavioral
9 referrals that were reported through the school
10 system. She was always very kind and respectful to
11 myself and her teachers, the staff, and the other
12 students, so behaviorally, she was a pleasure to have
13 in school.

14 Q. Thank you, and understanding that you have had
15 limited interactions with her mom, Heidi Brush, how
16 would you describe her as a mother based on your
17 limited interactions with her?

18 A. Yeah. Sure. I met Heidi from August of this
19 past year until currently, and at school, my
20 interactions with her have been mainly at meetings for
21 [REDACTED]'s gifted IEP. During that time, I think that,
22 as a parent, Mrs. Brush was very proactive t
23 advocating for [REDACTED]. She was in touch with myself
24 and her teachers even before the school year started
25 to make sure that her curriculum was set up that met

1 her needs. She was very responsive to [REDACTED]'s needs
2 throughout the year. If [REDACTED] had any issues with
3 friendship or some organization throughout the year,
4 mom reached out to me immediately or the teachers to
5 make sure we could help her to the best of our
6 ability. So I would say, in my interactions with her
7 this year, in the school realm, she was very loving
8 towards [REDACTED] and very devoted to just make sure that
9 her school needs were always met.

10 MS. JONES: Thank you, Ms. Gum.

11 I have no further questions, Your Honor.

12 THE COURT: Any cross?

13 CROSS-EXAMINATION

14 BY MR. FELDMAN:

15 Q. Hi, Ms. Gum.

16 A. Hi.

17 Q. First off, thank you for doing as good a job
18 as you have done with my daughter, at least that's
19 what it sounds like.

20 A. You're welcome.

21 Q. First question: You said well taken care of
22 for the most part. In what way was she not well taken
23 care of?

24 A. Oh, the only way that I would judge is like --
25 like physically, when she came in the building, I can

1 note her appearance. She had fresh clothes on every
2 day, you know. She appeared clean to me.
3 Emotionally, she was always very open and aware of how
4 she was doing at school. If she ever had any needs,
5 she came and talked to me about it. I mean, like I
6 said, I can only speak through the lens of the school,
7 so that's what I can observe, part of the school lens.
8 I don't know everyone --

9 Q. So perhaps she was just well taken care of as
10 opposed to well taken care of for the most part.
11 That's what it sounded like. I'm just wondering, you
12 didn't see any deficiency, did you?

13 A. No, I never did.

14 Q. What percentage of the kids at your school
15 test as gifted?

16 A. That's not something that I know. I'm not one
17 of the gifted teachers nor in the special-ed
18 department, so I don't know that number exactly.

19 MR. FELDMAN: All right. No further
20 questions. Thank you, ma'am.

21 THE COURT: Anything else?

22 MS. JONES: Nothing, Your Honor.

23 THE COURT: Thank you, Ms. Gum. Have a
24 great afternoon. Appreciate your testimony. Thank
25 you.

1 MS. JONES: And thank goodness. We are
2 done with Zoom.

3 THE COURT: Oh, okay.

4 MS. JONES: I'm just going to call Ms.
5 Brush. We are going to try to streamline things for
6 you.

7 THE COURT: Very good. Thank you.

8 MS. JONES: Yeah. Is it possible to take
9 a quick break just --

10 THE COURT: I think it's a great idea.
11 Let's take a 10-minute recess.

12 MS. JONES: Thank you, Your Honor.

13 (Recess)

14 THE COURT: All right. You may continue
15 with the respondent's case.

16 MS. JONES: Thank you. I would like to
17 call Ms. Heidi Brush to the stand.

18 Whereupon,

19 HEIDI BRUSH
20 called as a witness and having
21 been duly sworn, was examined
22 and testified as follows:

23 THE COURT: Please be seated.

24 DIRECT EXAMINATION

25 BY MS. JONES:

1 Q. Ms. Brush, I'm going to start your testimony
2 at -- this was something I thought about covering in
3 the contempt matter, but I just want to talk to you
4 about the communications that you provided to Mr.
5 Feldman over time. Since 2014, have you provided
6 redacted updates to Mr. Feldman about [REDACTED]'s
7 progress and health?

8 A. Yes, I have.

9 Q. And can you explain over time how the method
10 of getting that information to him has changed?

11 A. As I recall, it started with me sharing
12 documents through Jennifer Bierly's office like she
13 was mentioning. I would send them, I think, to
14 Jennifer and her paralegal, Anne-Marie, and then I
15 would usually see some kind of follow-up, you know,
16 you know: Did you send it to him? Did you share it?
17 So that was the method for, I don't know, a couple of
18 years, and then at some point it switched and I
19 started sharing it with a different attorney, who was
20 in charge of the PFA matter, Douglas Hearn, and I
21 don't know, but that's maybe, like, a year. I don't
22 even know if it was that long.

23 And then, at some point after that, maybe
24 2018, but I can't be completely sure -- I'd have to
25 look -- I started -- I set up an email account

1 specifically for the purpose of sharing documents with
2 him, and then I just started directly using that email
3 account and sending everything that I have to him
4 through email to the present day. That's the method
5 now when I share something.

6 THE COURT: So -- and again, I'm
7 technically challenged -- so you have an email account
8 and you actually send it straight to him?

9 THE WITNESS: I have a separate email
10 account just for that, just for that purpose.

11 THE COURT: Yeah. Okay.

12 THE WITNESS: Yeah.

13 THE COURT: All right. Thank you.

14 THE WITNESS: You're welcome.

15 BY MS. JONES:

16 Q. And Ms. Brush, I was not prepared to have this
17 as an exhibit, but is this a copy of everything you
18 could find that you have sent to --

19 A. That is what I could find on --

20 Q. And are there any segments of those
21 communications that you believe are definitely missing
22 from this?

23 A. Yes, the time period that Douglas Hearn was
24 sharing them, I -- it wasn't usually through email.
25 Sometimes I would drop things off because his

1 secretary would handle it, and I think she was just
2 more comfortable with getting a physical copy, so I
3 would just drop -- you know, go over to his office or
4 whatnot and drop it off there, but I don't have copies
5 of those because I don't have, like, any way of
6 checking email, you know. It's not like in an email
7 account or anything.

8 Q. So without taking the time to compare your
9 stuff against the stuff Mr. Feldman brought, would you
10 offer these as a supplement including recent updates
11 up till July 15, 2020?

12 A. Yes, that's what I was able to find sifting
13 through years of emails.

14 MS. JONES: I would offer this as
15 Plaintiff's Exhibit E. I do not actually have a
16 second copy of it, so this is going to the Court.

17 THE COURT: Well, let him take a look at
18 it.

19 MS. JONES: Yeah, absolutely.
20 Absolutely.

21 THE COURT: Let him take a look at it.

22 MS. JONES: And we will work on getting
23 that copy to you, Mr. Feldman, if you would like to --

24 MR. FELDMAN: I would very much like a
25 copy. Thank you.

1 MS. JONES: We believe all of these were
2 previously sent to you.

3 BY MS. JONES:

4 Q. Is that correct, Heidi?

5 A. Yeah, and you can even see, you know, that
6 there's an email address on there showing it went to
7 his email.

8 MR. FELDMAN: Like, I would have to
9 compare, and that would take a very long time.

10 MS. JONES: Understood.

11 THE COURT: Thank you.

12 MS. JONES: So, yeah, I'd ask that those
13 be entered as Exhibit E.

14 THE COURT: Any objection?

15 MR. FELDMAN: No objection.

16 THE COURT: Respondents' Exhibit E will
17 be admitted, there being no objection.

18 BY MS. JONES:

19 Q. So I was intending to start by asking you some
20 questions to just kind of clarify the case for the
21 judge. I think at this point he has heard most of
22 that and so I'm just going to kind of skip through
23 asking questions. That may feel a little disjointed,
24 but try to avoid the fluff. How long have you had
25 sole legal custody of ?

1 A. I think it was from 2014 to the present.

2 Q. And do you recall why Judge Ruest gave you
3 sole legal custody?

4 A. Yes. It was because there was significant
5 conflict between -- well, from Leland -- and he was
6 fighting our ability to get a therapist. There were
7 things, you know, like that that had come before her,
8 and it was so severe that at one point we were coming
9 back to see the judge and she said: What? You still
10 don't have a therapist? And it had been a lot of
11 back-and-forth with the lawyers arguing, like, oh, he
12 won't agree to any of these therapists; he only wanted
13 one that specialized in parental alienation; he only
14 wanted that kind of a therapist, and we just -- he
15 wasn't being at all reasonable, so it was difficult
16 and the judge felt that it was just difficult and
17 [REDACTED] needed to see a therapist at that time because
18 she was getting stressed, and that is -- that's one of
19 the factors, I think, that went behind, you know,
20 getting the sole legal custody.

21 Q. And how long have you had primary physical
22 custody of [REDACTED]?

23 A. I have always had primary -- I mean, whether
24 it's legally or not, I mean, from the day she was
25 born, we have been together every day.

1 Q. Do you recall when the weekly letters were
2 ordered?

3 A. I think in 2017.

4 Q. And do you provide those letters to [REDACTED] as
5 you receive them?

6 A. Yes, I do.

7 Q. And have you let her know that she is able to
8 write back to Mr. Feldman if she would like to?

9 A. Yes, and I -- many of the letters and even --
10 you know, he even has written there, like, if you want
11 to -- if you gave me a copy of one, I could read it to
12 you, but it's something like if you ever want to write
13 to me, you can write to me care of this address, and
14 he writes out the address, and, you know, she has
15 definitely seen that many times.

16 Q. And in terms of the checks Mr. Feldman noted,
17 have you given those checks to her?

18 A. Yes, and I did deposit them, so --

19 Q. Can you explain the process for how you --
20 when you say you deposited?

21 A. Oh, I deposited the checks and then would give
22 her, like, cash or if she wanted me to buy something
23 with the money or --

24 Q. And did you let her know that that was from
25 her father?

1 A. Yes, she definitely knew it and she was
2 definitely, you know, a part of it. She saw the
3 checks and she knows that, you know, she was using
4 them, you know, for whatever she felt she wanted. I
5 did invest some of it also, and I let her know that,
6 like, hey, would you like to try buying a couple
7 stocks, you know, just learning about investing. So I
8 thought that would be a good thing to do with it and
9 we talked about it and she said yeah, let's buy, you
10 know, a couple shares of a stock with some of the
11 money, so we did do that also.

12 Q. Can you give me your recollection of the Skype
13 visits, just sort of how they went.

14 A. Okay. How they went? Well, there was a lot
15 of difficulty coordinating. I do know that. We --
16 sometimes I would try to place a Skype call to Leland
17 multiple times and he wouldn't answer. I know he
18 claims that I haven't answered. There was a lot of
19 difficulty in working this out. [REDACTED] did definitely
20 not want to do the Skype calls, too, so it was
21 difficult. I'd have to say, you know, look, this is
22 something we have to do, but it was definitely not
23 something she wanted to do, so she was very reluctant.
24 Just to go along with that, I will say that there was
25 no specific direction from the judge. I mean, what

1 she said is, you know, [REDACTED] doesn't have to talk for
2 a certain length of time if she doesn't feel like
3 talking. That's up to her.

4 I feel that that was my understanding of
5 the direction that I was given, like, okay, you must
6 place the Skype calls, but it's not like she has to
7 sit there if she doesn't want to.

8 Q. And do you still have access to your Skype
9 account to determine the exact timing or length or
10 dates of those Skype calls?

11 A. I do not have access to the Skype, but I was
12 able to find old, like, screenshots of different, you
13 know, times that I placed Skype calls.

14 Q. Is it your -- and I can provide this to you
15 just to refresh your recollection.

16 A. Okay.

17 Q. I'm not looking to have those be a
18 respondent's exhibit. Let me ask you the question and
19 let me know if you remember. Is it your recollection
20 that generally video was enabled during the calls?

21 A. Yes.

22 Q. And did Mr. Feldman ever miss calls that you
23 placed to him?

24 A. Many times, yes. I have many emails that I
25 wrote to Jennifer Bierly. When that would happen, I

1 would typically say, well, then I tried calling him
2 and he wasn't available, and usually I would put a
3 screenshot on there showing, like, I made -- you know,
4 I tried seven times or whatever and he didn't respond.

5 Q. Now, do you recall that -- and I'm going to
6 give you the exhibit because there's a lot of dates --
7 that the Skype calls ended in February of 2015; is
8 that --

9 A. That sounds right.

10 Q. And what was your understanding of why they
11 ended?

12 A. Because Leland's attorney at that time wrote
13 to my attorney and said basically he's done with the
14 Skype calls. He said his work schedule changed.

15 Q. To the best of your knowledge, did Mr. Feldman
16 the Skype visits resume since then?

17 A. No.

18 Q. When was the last physical visit between Mr.
19 Feldman and 

20 A. It was that supervised visit in Maryland that
21 my friend Jack was talking about, so I think that was
22 2014, July.

23 Q. So approximately six years ago?

24 A. Yes.

25 Q. What feedback did  give you? What did

1 you notice about [REDACTED] afterwards with respect to
2 that visit?

3 A. She was upset. It was a stressful event for
4 her. It was two hours in a center, which she was
5 very, you know, uncomfortable or, you know, reluctant
6 to go in in the first place. I mean, she did cry a
7 lot. She didn't want to go into the visit, you know,
8 before it happened. After, she was definitely
9 distraught and it was a lot for her, and she is very
10 sensitive and I think that was a lot to put on her
11 emotionally, but she just had a tough time with it and
12 she did share with me that he was just asking her
13 questions, like adult-type questions, and she felt
14 uncomfortable.

15 MR. FELDMAN: Objection, hearsay.

16 THE COURT: Overruled. I had a chance to
17 talk to her, so I will overrule the objection.

18 THE WITNESS: She -- that's really one of
19 the main things that I remember, her talking about he
20 was trying to ask her, like, you know, about personal
21 information and asking questions about me, so I don't
22 know. I think she just felt like that was a weird
23 kind of thing.

24 Q. And you heard Mr. Bratich describe what
25 happened at the end of that visit. Can you just

1 briefly tell me, from your perspective, what happened
2 at the end of that visit?

3 A. Yes. So, at the supervised center, we were
4 told that, you know, there would be -- according to my
5 attorney and everybody, we thought that there would
6 be, like, a 30-minute period after I leave with
7 [REDACTED]. They would, you know, keep Leland in there
8 just to, you know, make sure we weren't interacting,
9 and unfortunately what did happen in reality was
10 within, I would say, two minutes maybe after I left
11 with -- you know, after I took [REDACTED] out of the
12 building -- here comes Leland and he was walking
13 towards us. I felt like it was threatening. I didn't
14 see why he would come. I was scared, like, what's
15 happening? Where's the security guard? Why is he
16 able to just leave? Because I thought that he was
17 going to be in there, but I was very surprised and
18 frightened that he was coming out in such a way, and
19 then I don't understand why he was coming out other
20 than to see us because then he just went right back
21 into the building.

22 Q. After that visit, based on your concerns, did
23 you or your attorney at the time file to modify the
24 custody order?

25 A. Yes, we did.

1 Q. And do you recall what you proposed?

2 A. Yes. We -- well, I don't remember exactly
3 what it was, but it was like -- I said, well, that
4 center wasn't very professional, like, they weren't
5 really able to monitor what was happening in there, so
6 I said -- I asked if we could just do the visits in a
7 place -- I think it was in Baltimore. It was a
8 supervised visit center in Baltimore County, which was
9 pretty close to where -- we weren't living in
10 Baltimore County, but we were like the next county,
11 and they just happened to have a supervised visitation
12 center, and so we did propose, like, well, I'm not
13 trying to stop the visits. I just wanted to make
14 sure, you know, that we're safe, and as far as I
15 understand it, he would not agree to that.

16 Q. Subsequent to that, you did not receive
17 information from your attorney or directly from the
18 Court ordering you to resume the visits?

19 A. No.

20 Q. So just going back again -- we heard testimony
21 about this -- but prior to 2014, can you recall the
22 dates of Mr. Feldman's prior visits with [REDACTED]?

23 A. (No response)

24 Q. Not the specific dates, just the years.

25 A. Oh, okay, because I don't -- I don't think I

1 remember the specific dates. Well, just from my own
2 sense of the timing, can I just say, like, I left
3 Colorado where, you know, I had been living with
4 Leland. [REDACTED] and I left in 2008, at the end of the
5 year, after the domestic assault on me, from Leland,
6 and so I wanted to leave the state. I wanted to go
7 back home to Pennsylvania, and let's see. He kind of
8 disappeared for a while. There were no visits at all
9 nor were there any requests to visit in 2009. I'd
10 have to see. I know there were, like, three visits.

11 Q. So would it be accurate in your memory that
12 there was a visit in 2010 that we heard about earlier
13 today, at the park in downtown State College?

14 A. Yeah.

15 Q. And then again I think we heard about it with
16 Mr. Feldman's sister, a visit in 2011, at the library;
17 is that correct?

18 A. That sounds right.

19 Q. And at Panera and then a visit in 2012 at -- I
20 didn't -- I don't know if we --

21 A. I do remember that --

22 Q. Can you talk about that one because I don't
23 know that we heard about that one?

24 A. No. No, that wouldn't have been May of 2012.
25 I do remember that one.

1 Q. And just to be clear, were you present at all
2 those visits?

3 A. I was present at all of them, yes.

4 Q. Those visits, those early visits prior to
5 2014, did you set those visits up with Mr. Feldman
6 either through your attorney or directly?

7 A. Okay. The one in 2010, I set it up directly
8 with Leland. He requested it. He's like, hey, I want
9 to see [REDACTED] so I said okay. Well, you know, like
10 when are you coming, that kind of thing, so it was
11 definitely just me facilitating that one in 2010.

12 2011 was the same thing where I said, hey, I will --
13 yeah, okay, where do you want to -- when are you
14 coming and, you know, I made certain arrangements so
15 that I could take [REDACTED] so that she could see him.

16 The one in 2012, that one was kind of
17 arranged more through the attorneys because the case
18 had been transferred to Centre County at that point
19 and, yeah, so the attorneys were more, like,
20 organizing that particular visit.

21 Q. And to the best of your memory, were those
22 earlier visits prior to the visit in Maryland
23 specifically court-ordered?

24 A. No, they weren't.

25 Q. I'd like to -- because it's one of the custody

1 factors and will relate to a few other custody
2 factors, I'm going to ask you briefly now about
3 custody.

4 A. Okay.

5 Q. And I know the judge has read this, so --

6 A. Okay.

7 Q. -- get it onto the record. Briefly, before
8 s birthday in 2008, can you tell me about your
9 experiences with Mr. Feldman in that marriage?

10 A. Okay. I guess a good place to start would be
11 the day that we were married. Leland's behavior and
12 attitude toward me changed dramatically. Before then
13 he had been pleasant, accommodating, you know. There
14 were probably warning signs, but I did not notice them
15 at that time, but anyway, we married in 2007,
16 February.

17 As I said, the very day he became very
18 cold to me, very controlling. He became very critical
19 of my appearance. Like, he wanted me to dress a
20 certain way. He wanted me -- he would call me stupid
21 a lot. He was very sarcastic about the fact that I
22 had a Ph.D. He always liked to kind of make fun of me
23 and used doctor in a really sarcastic tone, which
24 wasn't good, obviously, and sometimes he would then
25 say, oh, he's under too much stress in the police

1 department and that's why he was behaving that way.

2 So we did see a marriage counselor in --
3 when we were -- when we were living in Milwaukee. We
4 saw a marriage counselor in Milwaukee, in the summer.
5 I was pregnant at that time. I was already pregnant.
6 I was pregnant very soon after the marriage. We had
7 two sessions with her. He stood up and --

8 MR. FELDMAN: Objection, hearsay.

9 THE COURT: She didn't say what they did.
10 She just said we had two sessions. That's not
11 hearsay. Overruled.

12 THE WITNESS: As I recall, it was two
13 sessions with the marriage counselor. Leland did
14 stand up and scream at the counselor and me, which, at
15 that point, I was already getting used to, but when I
16 talked privately with the counselor, she just said
17 like --

18 MR. FELDMAN: Objection. This is
19 hearsay.

20 THE COURT: That would be hearsay.

21 THE WITNESS: Okay.

22 THE COURT: Sustained.

23 THE WITNESS: Okay. Anyway, so, at that
24 point, I'm pregnant. The marriage is in absolute
25 shambles. He was very -- on an emotional roller

1 coaster with it. He'd go from saying, oh, he's happy
2 that I'm going to have a baby to nope, you know, I
3 want you to get an abortion, which I was 100 percent
4 opposed to, 100 percent, but he would flip-flop
5 between those two extremes, like oh, this is great, to
6 get an abortion or I'll do it myself, and I became
7 afraid that he was going to do something to harm me or
8 possibly to -- you know, slam my belly at that time.

9 Q. Can you describe Mr. Feldman's use of weapons?

10 A. Well, he was a police officer. I mean, so I
11 will say that's reasonable, but he, at home, would be
12 walking around with the -- you know, the gun on the
13 belt, which he could probably say, oh, it's okay
14 because I'm a police officer, but I thought that that
15 was intimidating when it was combined with either the
16 general kind of what I felt was unstable behavior and
17 I was afraid definitely that he was going to do
18 something, you know, just outright to make it look
19 like I had an accident or I was very afraid for the
20 safety of  before she was born even and I got no
21 support from him during the pregnancy. All I had was
22 fear. It was a nightmare.

23 That being said, he decided, oh, I'm
24 under so much stress here as a city police officer,
25 it's because of that that I'm acting so cruel to you.

1 So he said, oh, I'll get a job elsewhere. I'll be
2 like a small-town kind of cop, the stress will be low,
3 you know, and the marriage would improve because he
4 would be more -- like, kinder and more -- any kind of
5 improvement at that point would have been great, so I
6 said fine, let's -- yeah, but please, please, you know
7 apply, and so he became an officer in Steamboat
8 Springs, Colorado.

9 Q. Leaping forward then to after [REDACTED]'s birth,
10 can you just explain to me what happened on November
11 1, 2008?

12 A. Yes. So, as a police officer in Colorado,
13 Leland was on a daytime schedule, I think, up until
14 that very day. It was like we had a schedule change
15 where, on November 1, he was going to have to go on to
16 working at night, which he was very opposed to, and he
17 blamed me for that. He was very angry. Somehow that
18 was my fault that he would have to work at night.

19 We had -- I asked him a simple question
20 of how -- looking for something. I was looking for a
21 book, and he was just -- you know, berated me for just
22 being, oh, why are you so disorganized? If you were
23 organized, you know, you'd know where your things were
24 and kind of started getting -- just like that,
25 actually jumping. He jumped up right out of, you

1 know, where he had been, jumped up and went over, you
2 know, come -- he's, like, come on, let's go look at
3 this bookcase, you know, to kind of like make me feel,
4 like, oh, look what a mess it is. No wonder you can't
5 find anything.

6 And he just seemed to be getting more and
7 more amped up and punched me. He punched me right in
8 the side of the chest and I dropped down to the
9 ground. The wind was knocked out of me. I know what
10 wind being knocked out of me is like because I grew up
11 riding horses and I have been thrown from horses and I
12 know that feeling of it's out and you have like -- you
13 wheeze when you get the air back in, and that's what
14 happened. That's how hard he punched me.

15 I was on the ground and I saw him. He
16 asked -- I'll just add that [REDACTED] was in the room as
17 well there. We had, like, an open floor plan. She
18 was in her little highchair during all of it, so she
19 visually could see if even though technically she was
20 in the kitchen and he and I were in -- I guess you'd
21 call it the living room. He got out. He went away.
22 I immediately grabbed [REDACTED], ran upstairs, and I
23 called 911, and they came and the county police came
24 and interviewed me. I know they interviewed him also
25 because the police said, oh, he's trying to say that

1 you, like, grabbed his mouth or something and they
2 said would you be willing to have like a DNA test like
3 -- as if, you know, I had DNA. I'm, like, go ahead,
4 please do, because I didn't do it. I didn't do
5 anything. So, at that time, he was taken to jail and
6 he went there for several days.

7 Q. Do you recall after this what happened with
8 Mr. Feldman's job?

9 A. Yes, I can speak to that directly because
10 there was an internal investigation and I was asked to
11 come in by, like -- I think it was the chief of police
12 in Steamboat. I'm pretty sure it was. I mean, there
13 were several kind of, like, higher-level police, I
14 guess, administrators or chief who came in. They
15 wanted me to come in. They interviewed me about it
16 and -- and then I was -- then I did receive a letter
17 saying -- I guess they sent me a copy of it.

18 They sent me a letter saying he's
19 basically not able to be a police officer because of
20 the domestic violence and that was my only knowledge
21 of it, so I don't know. I think -- I don't know if he
22 resigned or was terminated. I'm not sure. I can't
23 remember.

24 MS. JONES: May I approach?

25 THE COURT: You may.

1 BY MS. JONES:

2 Q. Is this a copy of what you received?

3 A. Yes. Yes, and Joel Ray (phonetic) was the --
4 I believe he was the chief of police, and that would
5 have been one of the people I spoke with. So I got a
6 copy of this letter, I think. I don't remember,
7 actually. I don't remember it being mailed to me. I
8 have no idea how -- how I ended up receiving it, but
9 it does detail, you know, that there was strong
10 evidence that he punched me and they did a thorough
11 investigation, and, you know, after their
12 investigation, they decided it would affect his
13 credibility especially in court. It even says that on
14 page 2. It says his conduct was immoral, and I know -
15 - I don't know -- right after -- they did a lethality
16 assessment, too, because they brought me in for that
17 and I was -- the guy told me -- he said, well, Leland
18 has absolutely no remorse for hitting you. He has no
19 remorse whatsoever, and for that, he said -- this was
20 the quote. He said run like hell from him, and that's
21 what I did. I left the -- I left Colorado with 
22 and moved back towards my -- you know, by my family.

23 MS. JONES: Okay. I'm going to ask that
24 this memo be entered as Plaintiff's Exhibit F, Your
25 Honor.

1 THE COURT: Any objection?

2 MR. FELDMAN: No objection, Your Honor.

3 THE COURT: Exhibit F will be admitted,
4 there being no objection.

5 BY MS. JONES:

6 Q. So now you're in Pennsylvania. I'm going to
7 skip forward briefly to 2012.

8 A. Okay.

9 Q. On December 12, 2012, was there a court
10 proceeding in this case?

11 A. Yes, there was.

12 Q. And did you attend that conference?

13 A. Yes, I did.

14 Q. Did Mr. Feldman attend the conference?

15 A. No.

16 MR. FELDMAN: I'm sorry. Which date?

17 MS. JONES: December 12, 2012. I
18 apologize.

19 THE COURT: Was that a custody conference
20 or --

21 MR. FELDMAN: I'm sorry. Dr. Brush
22 attended it?

23 BY MS. JONES:

24 Q. Were you present --

25 A. Yeah, I was.

1 Q. -- at the courthouse?

2 MR. FELDMAN: With the lawyers?

3 THE WITNESS: In the courthouse, yes.

4 BY MS. JONES:

5 Q. But were you in the room?

6 A. No, I wasn't in the room. I didn't
7 understand. I was here. I came to the courthouse,
8 but I basically sat on the bench for -- for all of it,
9 I think.

10 Q. But Mr. Feldman -- just since my first
11 question wasn't clear, Mr. Feldman was not even at the
12 courthouse?

13 A. I did not see him there. No, I don't think he
14 was there.

15 THE COURT: This was a conference of the
16 attorneys and the judge?

17 THE WITNESS: It was -- yeah, it was a
18 custody conference.

19 THE COURT: You were not called as a
20 witness?

21 THE WITNESS: I was told to come. I
22 don't know. I just came because I thought I was
23 supposed to.

24 THE COURT: You were told by your
25 attorney?

1 THE WITNESS: Yes.

2 THE COURT: You didn't have any notice of
3 hearing or anything like that?

4 THE WITNESS: I really don't remember.

5 BY MS. JONES:

6 Q. Do you recall what the outcome of that custody
7 conference was? Did the parties -- was there an
8 agreement reached?

9 A. I think so. I think it was just -- it was
10 ordered that there would be supervised visits.

11 Q. And were you okay with that outcome?

12 A. Yes. I mean, yeah, I thought that was fine.
13 I wanted, you know, visits to be supervised. I didn't
14 want to be the only one responsible for that.

15 Q. Following the custody conference, what
16 happened?

17 A. I went on a walk after -- upset -- you know, a
18 little bit. Obviously, it's never pleasant to come to
19 court, so I was upset and I went for a walk on a trail
20 at Penn State Arboretum.

21 THE COURT: This was not a custody
22 conference. This was a meeting of attorneys and the
23 judge, right?

24 MS. JONES: That's who -- here in this
25 county we call it a conference. I'm not sure what

1 they call it in other counties. We have conferences
2 that are not prehearing conferences, that are just
3 meetings with the attorneys and the judge, yes. I'm
4 sorry. That's what we call it here.

5 THE COURT: A conference of attorneys she
6 was not a party to?

7 MS. JONES: She was not, right.

8 BY MS. JONES:

9 Q. You were sitting on the bench outside?

10 A. I was here, yeah, physically, yeah, in the
11 courthouse, but I did not go in the room with them,
12 and I was told to come. I mean, I didn't just come
13 randomly. I didn't know if I had to be there or not.

14 Q. So, following the custody conference, what
15 happened to you?

16 A. I went on a walk at Penn State Arboretum and I
17 was quickly assaulted. Somebody came up, jumped on me
18 very suddenly, and -- and it was a -- kind of like a
19 dark, kind of, unpopulated day there. It was like not
20 too many people there and all of a sudden somebody
21 jumped on me. It was obviously a male. He said
22 something like, you know, you know, what this is. As
23 I was being strangled, he kind of had his arms me. He
24 was holding something but I didn't know what it was.
25 I thought I was being strangled. I didn't -- I fought

1 really hard and -- I don't know how to describe it,
2 but I believe that person was trying to kill me. I
3 don't know what other purpose there was for that.
4 It's not like they were trying to steal something.
5 There was no attempt at sexual assault or anything
6 like that. It was purely I'm being strangled to
7 death.

8 MR. FELDMAN: Objection, relevance.
9 There's no evidence that the petitioner had anything
10 to do with this story where Dr. Brush fought off a
11 male assailant allegedly.

12 MS. JONES: I'm asking just to explain
13 her next action. She filed for a PFA. I'm trying to
14 explain her next action.

15 THE COURT: I mean, I have already read
16 about it.

17 MS. JONES: She's already --

18 THE COURT: I've read about all this
19 stuff.

20 MS. JONES: Yeah, exactly.

21 THE COURT: This is part of what I called
22 the ancient history, but keep going.

23 MS. JONES: I'm trying to explain how we
24 got where we are, Your Honor.

25 THE COURT: Yeah. Well, I see where we

1 are.

2 MS. JONES: Okay.

3 BY MS. JONES:

4 Q. And at the time, did you believe that the
5 person holding you was Mr. Feldman?

6 A. No, I did not.

7 Q. Just that it was a male?

8 A. I knew it was a male by the voice and I could
9 see his hand. That's the only real part of him that I
10 ever saw, but I knew it was -- and also I could feel,
11 like, his body behind me and could generally tell it
12 was a different kind of body type.

13 Q. And what were your injuries?

14 A. I had a very large gash on my throat, which I
15 didn't know was even happening. I didn't even know my
16 neck was being cut. I had no idea. I thought I was
17 just being strangled. As I was running away from him,
18 you know, my neck was, like, flapping open as I was
19 running and blood was all over my shirt, and so
20 obviously I'm piecing it together, like, oh, my God,
21 I'm cut, and there was a -- you know, a person, a
22 witness then on the trail who, like, oh, my God, you
23 know, somebody call the police and --

24 Q. Were there any injuries other than the gash to
25 your neck?

1 A. Minor ones. I should say that I also bit that
2 person, so I had that person's blood in my mouth, and
3 I know that the police took, like, DNA off of my teeth
4 because of that. I had, I think, a broken fingernail,
5 like, my knee was bruised maybe.

6 Q. And following the attack, were any security
7 measures taken? Did you take any security measures?

8 A. There were many security measures taken. From
9 the time that I was in the emergency room, there was a
10 police officer with me pretty much patrolling outside
11 the entire time. It was on Penn State property, so
12 Penn State police were also involved and thereby Penn
13 State. They found it to be unsettling enough that --
14 Penn State, I mean -- that they provided an apartment
15 for me and [REDACTED] to go to that would be like a
16 secret, like, you know, like, a private apartment so
17 that, if somebody had been, like, trying to go to our
18 apartment and knew where we lived, they wouldn't meet
19 us there.

20 We were taken to live there. I think we
21 were there for several weeks, and at that point -- I
22 mean, I don't know -- I can't remember exactly when we
23 moved back to our regular house, but before we did or
24 like right when we did, another police department
25 installed a bunch of security cameras into the house

1 so that they could monitor and they were able to
2 access that remotely, I guess.

3 Q. What's your understanding of the status of the
4 investigation into the attack?

5 A. Well, I know Leland was considered a person of
6 interest, and I don't think that's changed. I don't -
7 - they've never found the attacker.

8 MR. FELDMAN: Objection, speculation.

9 THE COURT: Sustained. I've heard about
10 enough of this. I've already heard all this. This is
11 his ancient history, okay? Now, you said this was a
12 preface to doing another PFA, so let's talk about the
13 PFA.

14 MS. JONES: Okay. And, in fact, I can
15 skip forward.

16 BY MS. JONES:

17 Q. Did you get a temporary PFA after that?

18 A. Yes.

19 Q. Because why? I guess I'm just trying to --
20 why did you get the PFA in 2012?

21 A. I was concerned that Leland was responsible
22 for organizing the attack, not doing it, for setting
23 up the attack, paying somebody that would do it.

24 Q. And the temporary PFA, then, was issued in
25 2012?

1 A. Yes. I think it was, like, right the day
2 after maybe.

3 Q. And after a number of temporary PFAs, was
4 there eventually a full hearing on a final PFA?

5 A. Yes, there was.

6 Q. And what year was that?

7 A. I think that was 2015.

8 Q. And what judge heard that?

9 A. Judge Bradley Lunsford.

10 THE COURT: I just want to clarify
11 something here, because, as I was reading the
12 materials, I was very surprised by this. We went from
13 2012 to 2015 on temporary PFAs? There was never a
14 hearing?

15 MS. JONES: I believe they were extended
16 by agreement, Your Honor. I don't know.

17 MR. FELDMAN: They were not extended by
18 agreement.

19 THE COURT: Whatever. Okay.

20 MR. FELDMAN: I will tell you my --

21 THE COURT: You don't know.

22 MS. JONES: Yeah, I don't know.

23 THE COURT: All right.

24 MS. JONES: I don't know. My
25 understanding is that a temporary PFA can only be

1 extended by agreement. That's my experience in this
2 Court, so that's all I can say.

3 BY MS. JONES:

4 Q. The final PFA hearing was held in 2015, as we
5 discussed. What was the outcome of that hearing?

6 A. A final PFA was issued for me and [REDACTED]

7 MS. JONES: I would ask the Court to take
8 judicial notice, and I'm just going to give you a copy
9 here of the final PFA from 2016, and it was on Docket
10 2012-465.

11 THE COURT: And this will be Respondent's
12 9?

13 MS. JONES: This is Respondent's -- I'm
14 doing letters. I think it's G. Did I just write G
15 on? Sorry for my handwriting.

16 THE COURT: All right, G.

17 MS. JONES: I'm a former engineer and my
18 handwriting shows it.

19 BY MS. JONES:

20 Q. Substantively, did Mr. Feldman appeal that
21 final PFA order?

22 A. Yes.

23 Q. And do you recall Judge Lunsford's response to
24 that?

25 A. I think he wrote an opinion, if that's what

1 it's called, I think.

2 MS. JONES: Yes, and I would ask the
3 Court again to take judicial notice of Judge
4 Lunsford's opinion regarding the matters complained of
5 on appeal in Docket No. 2012-465.

6 BY MS. JONES:

7 Q. Did the Superior Court rule on that appeal?

8 A. Yes, they did.

9 MS. JONES: And I would ask the Court to
10 take judicial notice of the Superior Court opinion on
11 appeal in that matter in the same docket number.

12 THE COURT: And that would be?

13 MS. JONES: That would be -- yes, I have
14 been trying to go -- we were at G, H, and I there.
15 Yep.

16 THE COURT: Any objection to G, H, and I?

17 MR. FELDMAN: No objection, Your Honor.

18 BY MS. JONES:

19 Q. And then, as I believe has been noted earlier,
20 you subsequently filed for a new PFA in 2019?

21 A. Yes.

22 Q. Can you just again briefly explain that
23 situation and what happened?

24 A. That one is more -- there was, I think, a lot
25 of confusion and probably since the difficulty of not

1 having easy communication with Leland, there was --
2 okay. I refused --

3 MR. FELDMAN: I'm sorry. Which are we
4 talking about?

5 THE COURT: 2019.

6 MR. FELDMAN: Thank you.

7 THE COURT: I've read the entire
8 transcript.

9 MS. JONES: Okay. I was just going to
10 ask her to explain.

11 BY MS. JONES:

12 Q. If you would -- Ms. Brush, do you believe at
13 this point that it was a misunderstanding that led to
14 you filing the PFA in 2019?

15 A. Yes, it was.

16 Q. And nothing abusive happened in that instance?

17 A. That's correct.

18 Q. Thank you. Ms. Brush, do you believe -- how
19 would you describe your level of conflict with Mr.
20 Feldman?

21 A. Extremely high.

22 Q. Do you believe it is possible for the two of
23 you to directly coordinate visits or make joint
24 decisions regarding ?

25 A. Definitely not. That's already been tried and

1 it failed. I think he's -- you know, also I think
2 it's even difficult for our attorneys to reach
3 agreements with him.

4 Q. Ms. Brush, have you attempted to turn [REDACTED]
5 against Mr. Feldman?

6 A. No, I have not.

7 Q. Have you done anything from your view that
8 would have involved saying negative things about Mr.
9 Feldman in her presence?

10 A. No, I definitely have been avoiding any kind
11 of negative statement. As much as I might have those
12 feelings, I want to protect her from that, so I don't
13 -- I try to be very -- as neutral as possible while at
14 the same time, obviously, I am concerned for her
15 safety, but I'm not -- I have never attempted to turn
16 her against him. It's just that she never had any
17 relationship with him whatsoever. I really do try to
18 be as neutral as I can.

19 Q. Turning now to a happier topic, I have some
20 questions about how [REDACTED] has grown and developed
21 over the years. First of all, does [REDACTED] have any
22 siblings?

23 A. No, she doesn't.

24 Q. Have you been [REDACTED]'s primary caretaker since
25 birth?

1 A. Yes, I have.

2 Q. And very briefly, what is your career
3 background? I know we talked about your education.

4 A. Career background has been a lot in the
5 teaching world. I have a Ph.D. in communications. I
6 did serve as a professor for some years. I taught for
7 Penn State World Campus and I also have a Pennsylvania
8 teaching certification from English, seven through 12,
9 which technically is six through 12, but anyway I have
10 also served as a teacher. I was a teacher in Maryland
11 and I have also -- and I worked as a real estate agent
12 as well.

13 Q. Thank you. Just looking back, particularly
14 over, you know, the most recent years, can you
15 describe some of what you do as a parent to  I
16 guess first with respect to her physical care?

17 A. Okay. Physical care, I mean, I'm very kind of
18 a health-conscious person, so I'm always making sure
19 she's eating, make sure she has food, and obviously,
20 you know, I'm with her for every meal unless she's in
21 school. So, you know, we eat together. We do a lot
22 of physical, like, sports activities together.

23 Q. Do you take her to the doctor and the dentist?

24 A. Yes. Yes, I do.

25 Q. And what about related to her educational

1 development? How have you played a role in that?

2 A. I'm very involved in her education. I'm an
3 educator myself. I guess I have a love of learning
4 and reading and just sharing things like, you know,
5 exploring with her a variety of topics. I kind of let
6 her guide what it is that we do because she's
7 interested in birds, for example, you know, going into
8 the Cornell ornithology lab, for example, and can, you
9 know, study birds there. It's something that I have
10 just -- I've always read to her. I read to her from
11 the time she was a baby. We read. We still read
12 together. We read books. We're reading the Percy
13 Jackson series right now together, so we talk about
14 books and we listen to audiobooks on trips, and I'm
15 also -- like, her GIEP is structured so that I pull
16 her out once, what they call, a cycle. It's basically
17 like a week. It's not like Monday through Friday, but
18 pull her out once a cycle for her learning enrichment.
19 She'll just work on, like, English topics that she
20 might like, writing poems, whatever, you know, things
21 that I -- obviously not just what she wants but things
22 that I think she would benefit from, too.

23 Q. And things that you do related to her social
24 or emotional development?

25 A. Sure. I have taken her, over the years, on

1 play dates and, you know, helping her set up with
2 different friends. I do a lot of activities, like I
3 have taken some of her friends to, like, Penn State
4 sporting events and, you know, taken them to the pool,
5 you know, playing with them, hanging out, talking. So
6 there are a number -- a number of things that I have
7 done to facilitate -- emotionally, like, we have a
8 super-close relationship. Like, we just talk about
9 things if something is bothering her, you know. I'm
10 honored to still -- basically like a teenager at this
11 point. She still wants to talk to me. So I'm honored
12 that she is, you know, still wanting to talk to her
13 mom in, you know, those kind of middle school years.
14 So, yeah, emotionally, we just have a good
15 relationship, so --

16 Q. And have you been able to make yourself
17 available to care for her or to arrange for
18 appropriate care?

19 A. I have always -- I've actually scheduled my
20 entire working career on how I can be most available
21 to her. I've done this purposely. Like, I mentioned
22 I taught at Penn State World Campus. I did that when
23 she was really young so that I could be at home and
24 working from home, and now I also have an extremely
25 flexible schedule where, you know, it's so that I can

1 do all my work when she's at school or, you know, when
2 she's doing something, and then I completely -- we
3 spend the whole time together.

4 Q. I'm going to give you some pictures now and
5 then give them to the judge as well, and I'm sorry.

6 MS. JONES: I sent you a copy of these in
7 color. Is it okay to give you --

8 MR. FELDMAN: Yeah, that's fine.

9 MS. JONES: -- black and white?

10 MS. JONES: I'm also keeping black and
11 white for myself.

12 MR. FELDMAN: I understand.

13 BY MS. JONES:

14 Q. So I'm hoping that these photos will just be
15 able to kind of take you through, jog your memory, on
16 some things you've done with  and some
17 relationships you have.

18 A. Okay.

19 Q. So if you can just start looking at them and
20 tell me -- but I think the first set is kind of things
21 that you've done with her.

22 A. Okay. Yeah. So, on the top, those are two --
23 I think those are both at Penn State football games,
24 so that's something that we do together. That was
25 also -- her grandfather was also with us at that time,

1 but I think he either took the picture or definitely
2 had the bunny ears when I don't think he wanted the
3 bunny ears, but so -- but, yeah, we do a lot like
4 that, like, you know, we're Penn State fans. I'm a
5 Penn State alum, so [REDACTED] likes Penn State events,
6 too. The one on the bottom is us skiing together. We
7 enjoy skiing.

8 Page 2, that's a little portrait that she
9 made of me and her. That was probably from
10 kindergarten. Yeah, this -- there's a picture on the
11 bottom of us going to a Cirque du Soleil performance,
12 and it looks like, you know, an amusement park.

13 Page 3 is basically -- those are Easter
14 pictures on the top. One of those was from an Easter.
15 That's her grandfather's dog that's sitting next to me
16 on that one, and that's us having, like, Easter brunch
17 with the Easter Bunny there, and then the tennis
18 picture on the bottom is -- I took her to a -- I guess
19 tennis -- I think it was called a something open in
20 Washington, D.C.

21 Do you want me to just go through these
22 pages or --

23 Q. Yeah, just keep going.

24 A. Okay. Let's see, page 4, and we're -- that
25 was a photo when we lived in Maryland, so we'd like to

1 go to the beach together. We both like -- like the
2 beach, so we've gone there. We've gone to beaches in
3 Florida and Delaware, South Carolina, gone definitely
4 lots of -- this is us at a merry-go-round and a
5 festival. Like, that's -- that's from a museum, so
6 she does enjoy -- it's something we have fun and we
7 like to do together, go to museums.

8 That's her with her flute. So we both
9 play the flute, so that's something else we do
10 together. One of these -- some of these are, like,
11 Penn State camps that I've taken her to, like, where
12 she is actually participating, not just watching, the
13 sport. That's her with the Penn State volleyball
14 coach, Russ Rose, and that was her and it's one with
15 the little hat on. It's her from an ice-skating
16 event, looks like it was Christmas time.

17 Some of the pictures of her with her
18 friends there now, like, her with her -- should I say
19 their names? Does it matter? They're a couple friend
20 pictures, like serious friends. Here's one of the
21 Penn State volleyball players. This her at a fencing
22 class on -- the Penn State fencing coach is working
23 with her, and cheerleading, celebrating with friends,
24 ice-skating.

25 Q. So skipping ahead, it looks like she's an

1 animal lover?

2 A. Yes. Yep. Yep, she has a great love of
3 animals, and we've done things over the years like
4 volunteer at an -- like, an educational farm. Like,
5 we were working with the goats there. She loved that,
6 so we were like part of the goat squad. She
7 definitely has a strong interest in studying animals.
8 Some of her school projects have been -- a lot of her
9 school projects have been about animals. This is like
10 -- not just like a class project but, like, her
11 independent study that she gets with her gifted
12 program. So a lot of that involved, like, me taking
13 her on different field trips to, like, nature centers
14 and -- so she can kind of go deeper into her interests
15 like that.

16 Q. And then there's a couple pages of pictures
17 with another person.

18 A. Okay. These aren't numbered. And here's her
19 with her grandfather, so they have a super-awesome
20 relationship. That's her from when she's really tiny
21 with him to, like, some more recent pictures. It
22 looks like that one is just from, like, two months ago
23 or something, and it's her with a birthday cake at his
24 house.  and her grandfather have -- I mean,
25 he's definitely been an awesomely stable force in her

1 life. I mean, he has been, like, a really strong kind
2 of male role model and has always supported her. I
3 mean, I'm close with him, like, she is close to him.
4 She just -- you know, they do stuff together. Like,
5 here's some of the football game, laughing, like, they
6 just have a really good relationship. That's him with
7 her at the ski resort. We go up there to ski where he
8 lives, which is in -- he lives close to, like, the
9 Somerset area where they have, like, Seven Springs and
10 Hidden Valley, so we go there a lot for skiing and
11 visiting and, you know, she plays with his dog. They
12 do all kinds of stuff together, so they have -- they
13 have a definite, strong relationship. He has just
14 been a really positive, like, super-supportive force
15 for her throughout the years.

16 Q. And is there a reason he isn't with us here
17 today?

18 A. His health has been poor and he has a heart
19 condition where he doesn't have a lot of blood
20 capacity for ejection from his heart, so this would be
21 very stressful to put him through and could actually
22 jeopardize his health. So he would have loved to be
23 here. In fact, he is here. He's with her right now,
24 so he's actually spending the day with her.

25 Q. And then the last two pictures, you don't have

1 to go through. Those are all school-related, correct?

2 A. Those are times when I volunteered, like,
3 would go into her school many, many times. I have,
4 like, all the clearances to go into the schools as a
5 volunteer, and this is just, like, over the years, I
6 have gone on field trips as a chaperone. I've gone
7 into the classroom to help the teacher. I'd go there
8 on her birthday to pass out cupcakes.

9 MS. JONES: I would ask that all these
10 photos be entered as Plaintiff's Exhibit J.

11 THE COURT: Any objection?

12 MR. FELDMAN: None.

13 THE COURT: Respondent's Exhibit J will
14 be admitted.

15 BY MS. JONES:

16 Q. And then I think that we -- Ms. Gum testified
17 about [REDACTED]'s academics, but can you just let me know
18 what this is?

19 A. Okay. This is her report card from -- the
20 last report card that she had, the most recent report
21 card.

22 Q. And what does it show?

23 A. It shows her final grades are all either an A
24 or A+ in everything including her -- it also shows
25 that she took seventh -- even though she was in sixth

1 grade, she took seventh-grade advanced English,
2 academic literacy seven, and she was in in the
3 advanced math, and she got an awesome report card, all
4 A's and A-plusses, so I was very proud of her. In
5 addition, it shows a lot of really positive comments
6 like completes high-quality work, goes above and
7 beyond requirements, positively contributes to
8 classroom environment, et cetera, like, works well in
9 groups, a pleasure to have in class -- I mean, just
10 glowing, absolutely great report card.

11 MS. JONES: And I would ask that that be
12 entered as Plaintiff's Exhibit K. I apologize that
13 everyone's letters are off right now, but this would
14 be K.

15 THE COURT: Any objection?

16 MR. FELDMAN: None, sir.

17 THE COURT: Exhibit K is admitted.

18 BY MS. JONES:

19 Q. Ms. Brush, do you have any physical or mental
20 conditions that impact your ability to parent?

21 A. No, I don't.

22 Q. And for housekeeping purposes, have you
23 obtained an updated criminal record check and provided
24 an updated criminal record and abuse history
25 verification to the Court?

1 A. Yes, I have.

2 MS. JONES: And I will -- just again for
3 record-keeping, I will provide those as Exhibits L and
4 M.

5 BY MS. JONES:

6 Q. What custody arrangement at this point do you
7 believe is in [REDACTED]'s best interest?

8 A. I believe that -- I do believe that she is
9 excelling under the current custody relationship. She
10 is thriving, in fact. I do believe that if she were
11 to have -- you know, to have facilitated kind of
12 communication beyond just letters from Leland, that
13 the best thing would be a gentle kind of introduction
14 to the idea of him, like a Zoom call supervised by a
15 therapist perhaps.

16 I definitely think she would need a
17 therapist as part of any kind of change in custody,
18 too, because, I mean, she's doing great and I don't
19 really see a reason to uproot her or anything like
20 that.

21 MS. JONES: I think that's all, Your
22 Honor.

23 THE COURT: All right. Cross-exam.

24 MR. FELDMAN: Thank you, Your Honor.

25 I would like to place as an exhibit the petition filed

1 by Dr. Brush on August 12, 2014, by Dr. Brush's
2 attorney.

3 THE COURT: Is there something you're
4 going to do with it?

5 MR. FELDMAN: Oh, I thought -- I was
6 waiting for -- I'm sorry.

7 CROSS-EXAMINATION

8 BY MR. FELDMAN:

9 Q. Dr. Brush, you verified that the information
10 in here is correct. Did you sign a verification?

11 A. I don't know. I have never looked at this doc
12 -- I mean, I certainly haven't looked at it since 2014
13 or whenever.

14 Q. Is this your signature on the verification,
15 Dr. Brush?

16 A. Yeah, it looks like it.

17 Q. And it's dated August 8, 2014; is that
18 correct?

19 A. (No response)

20 Q. On the verification. I've got it right in
21 front of you there.

22 A. Yes.

23 Q. So this is a true and correct document that
24 you, under penalty of Section 4909 relating to unsworn
25 falsification to authorities, you say is true,

1 correct?

2 A. I don't know. I did at that point, I guess.
3 I thought that in 2014.

4 Q. Could you read paragraph 10, please?

5 A. What page is that on?

6 Q. That would be --

7 THE COURT: They're not numbered.

8 THE WITNESS: No, they're not.

9 BY MR. FELDMAN:

10 Q. How about page 5, I think, the 5th page in,
11 approximately, I think.

12 A. So is this going to be No. 10?

13 Q. Yes, paragraph 10.

14 A. At the conclusion of the visit on July 12,
15 2014, mother left the building with [REDACTED]. Within
16 only a couple of minutes, father exited the building
17 behind [REDACTED] and mother, who had not yet made it into
18 their car. Father began to walk toward mother and
19 [REDACTED]. However, he stopped when mother began to
20 photograph him.

21 Q. Do you have any of these photographs that you
22 allegedly took, Dr. Brush?

23 A. I do. I have one with a timestamp. You don't
24 have it? Okay. Well, I don't have it in the room, I
25 guess.

1 Q. I noticed that there is no mention of Dr.
2 Bratich witnessing any of this. Is there a reason
3 why?

4 A. I have no idea. I did not write this
5 document.

6 Q. You verified it is true.

7 THE COURT: She can verify it's true.
8 Whether they did or did not include a paragraph about
9 Bratich, it's up to them. They didn't have to do it.
10 Overruled.

11 BY MR. FELDMAN:

12 Q. Is there a reason why you didn't include Dr.
13 Bratich and what he allegedly saw?

14 A. I really don't remember this circumstance. I
15 didn't write this.

16 Q. But on this date, you were not harmed, were
17 you?

18 A. On this date?

19 Q. On --

20 A. The date of this document?

21 Q. -- July 12, 2014, the date in which you had
22 the visit to the CRC. Were you harmed on that date?

23 A. No.

24 Q. And were the visits ever formally canceled?
25 You went to the one visit on July 12, 2014. Did you

1 go to any other visits because there were others
2 scheduled, were there not?

3 A. No. As I remember, we filed to have it moved
4 to a different venue and you refused. That was my
5 only memory of it.

6 Q. So the order was still in place until a new
7 order was put in place; isn't that correct?

8 A. I really -- I would defer to an attorney on
9 this. I don't really feel comfortable getting into a
10 legal argument.

11 Q. You went once, correct, on July 12, 2014?

12 A. Yes.

13 Q. And you never showed up again. Did you ever
14 show up after July 12, 2014?

15 A. No. No, I did not.

16 Q. Was there a court order in place ordering you
17 to show up there?

18 A. I don't know. I really don't know. I would
19 just defer to my attorney at that time, Jennifer
20 Bierly.

21 Q. This is the custody order of May 20, 2014.
22 Paragraph 2, it states mother shall have primary
23 physical custody of the minor child with father to
24 have supervised physical custody every other Saturday
25 as arranged with the Children's Rights Organization

1 through Prince Georges County, Maryland. The parties
2 shall contact the Children's Rights Organization to
3 complete intake within seven days. So there is an
4 order here. Paragraph 2 of it says there shall be
5 visitation every other Saturday.

6 A. Okay. There were so many orders, honestly,
7 and motions, that it's quite confusing to me, so --

8 Q. What order confused you that was put in place
9 after May 20, 2014, in regard to custody orders, Dr.
10 Brush?

11 A. I can only speak from my perspective, and that
12 was, you know, the supervised visit was violated by
13 you coming out into the parking lot. I told that to
14 my attorney and she was going back and forth with your
15 attorney, and the result of that, I thought, was there
16 was supposed to be some decision on whether we would
17 just do the visit at this other place. That was my
18 only understanding. I was assuming I was getting
19 ready to do the visits in the supervised visitation
20 center, and I think it was in Baltimore, and I was
21 just kind of waiting for direction on that.

22 Q. So it's your understanding that Jennifer
23 Bierly, your attorney, instructed you not to abide by
24 the May 20, 2014, court order?

25 A. I had the understanding that she was working

1 to have a new arrangement to just change the language
2 so that it would go to a different center. That was
3 my understanding.

4 Q. Can you show me or give me a copy of this new
5 arrangement that you --

6 A. There was a motion filed. That's all I know.
7 I mean, I think she filed a motion saying let's move
8 the visit to Maryland -- I mean, made to Baltimore
9 County, and that -- I don't know. It never kind of
10 materialized.

11 Q. Is the motion you're talking about the
12 petition that you're holding right now that's dated
13 August 12, 2014?

14 A. I honestly don't know. I would have to sit
15 here and read it. I really -- I didn't see this
16 document before and I don't know what it says.

17 Q. Was there a ruling regarding the petition
18 Leland Feldman filed against you on January 31, 2014?

19 A. I don't know.

20 Q. In Exhibit C of this same document, which you
21 verified to be true, could you please read from
22 Exhibit C, starting at Paragraph 1 and then read
23 Paragraph 2, please?

24 A. This exhibit says VG.

25 Q. There is an Exhibit C. It's Children's Rights

1 Council. It's from the CEO of -- that organization.

2 A. Is it in this document?

3 Q. It is.

4 A. Oh.

5 THE COURT: I don't which document you're
6 talking about.

7 MR. FELDMAN: I'm talked about the August
8 12, 2014, document.

9 THE COURT: Okay. Do you have this one?
10 It has the letter in the front from Babst Calland.

11 THE WITNESS: Oh, okay. That is this
12 one. Okay. I thought this was a motion or -- is it?

13 MR. FELDMAN: It's a petition.

14 THE WITNESS: Okay.

15 MS. JONES: Just -- I'm sorry -- at the
16 end of it, there are exhibits attached to the
17 petition, so if you keep --

18 THE WITNESS: Oh, okay.

19 MS. JONES: -- going along --

20 THE WITNESS: Oh, I see it.

21 BY MR. FELDMAN:

22 Q. Go ahead and read Paragraph 1, Dr. Brush,
23 please.

24 A. Okay. Do you want me to start at Dear Ms.
25 Bierly?

1 Q. You may start there or you --

2 A. I anticipated this situation could arise. Our
3 records indicate that Mr. Feldman signed in at 10:30
4 AM and Ms. Brush signed in at 11:03 AM. Each of them
5 signed in with their own hand. There is more than
6 ample parking around the center, but it seems Ms. Bush
7 (sic) decided to park in the immediate vicinity of Mr.
8 Freeman (sic) car.

9 Q. Go on to the next paragraph, please.

10 A. I personally witnessed Mr. Feldman remaining
11 at their table for at least 10 minutes.

12 Q. And the next paragraph, please.

13 A. Our rules specifically require that parents
14 immediately exit the parking lot. She should have
15 been long on her way and nor armed with a camera in
16 the parking lot.

17 Q. Thank you. Regarding December 12, 2012, and
18 the custody conference that they called here that you
19 were in the hallway during, now, you stated under oath
20 that you were upset after that hearing; is that
21 correct?

22 A. Yes, I'm always upset after any kind of court
23 appearance.

24 Q. So you were not upset that there had been --
25 the judge had ordered custody visits for Leland

1 Feldman with [REDACTED].

2 A. I was just generally upset. It was a
3 stressful time.

4 Q. So you were happy that visits were ordered?

5 A. I didn't say that.

6 Q. I'm asking you. What did you say or how did
7 you feel? How did you feel about Leland Feldman being
8 ordered to have visitation with [REDACTED] after the
9 12/12/12 custody hearing -- I'm sorry, the custody
10 conference?

11 A. I was, I would say, upset but yet I was okay
12 with the fact that it was supervised, so I felt that
13 was a plus.

14 Q. As a result of that conference, had Leland
15 Feldman received everything that he had thus far
16 petitioned the Court for in regards to visitation?

17 A. I have no idea how to answer that.

18 Q. Did you state on your petition, your petition
19 for protection from abuse of 12/17/2012 -- did you
20 state in that document that Leland Feldman had lost or
21 had suffered some sort of legal defeat or setback in
22 regards to the outcome of the December 12, 2012,
23 hearing?

24 A. I may have. I know that you did not want to
25 be supervised, so that would be seen as, I guess,

1 upsetting. I don't know.

2 Q. But was it an instance where -- after the
3 12/12/12 instance, did Leland Feldman agree to
4 supervision? He did not file a petition against it.
5 He was okay. Does it say that in the 12/12/12
6 document?

7 A. I don't know. I don't know what the 12/12/12
8 document is.

9 Q. Okay. We'll bring it up.

10 MR. FELDMAN: This is the 12/12/12
11 custody order.

12 MS. JONES: I would note that we
13 stipulate to all the orders in the record. There's no
14 need to --

15 MR. FELDMAN: You stipulate to this?
16 Okay.

17 MS. JONES: To all the orders in the
18 record.

19 THE COURT: In other words, we don't need
20 to admit it as an exhibit.

21 MR. FELDMAN: I understand, sir. Thank
22 you.

23 BY MR. FELDMAN:

24 Q. Can you read the first line there, after -- it
25 says -- or where -- starting where it says "and now"

1 and ending at "parties?"

2 A. And now, this 12th day of December 2012, upon
3 agreement of the parties, the order of Court dated
4 October 17, 2012, is hereby amended as follows.

5 Q. Does Judge Ruest's order thereby reflect that
6 this order was given upon agreement of the parties?

7 A. It looks like that.

8 Q. This is another order of the Court. This is
9 your petition for protection from abuse of 12/17/2012.
10 Could you please go to Paragraph 11 and read the first
11 sentence where it starts and says "on the afternoon of
12 the 12th?"

13 A. On the afternoon of the 12th, I was attacked
14 while taking a walk on PSU hiking trail hours after a
15 custody dispute that didn't go the defendant's way.

16 MR. FELDMAN: Your Honor, I request you
17 take judicial notice of the fact that the order of
18 12/12/12, which Dr. Brush is referring to, and the
19 petition of 12/17/2012, was not, cannot, reasonably be
20 considered to be a custody dispute that didn't go the
21 defendant's way as it was upon agreement of the
22 parties.

23 MS. JONES: I don't object to taking
24 judicial notice of the order, but I do object to
25 taking judicial notice of the argument.

1 THE COURT: I understand the argument.

2 MR. FELDMAN: Thank you.

3 BY MR. FELDMAN:

4 Q. Prior -- I guess you didn't answer that.
5 Okay.

6 MR. FELDMAN: Your Honor, this is another
7 document. It was not filed with this Court. It was
8 filed down in a different county. It was filed down
9 in -- it will come to me when I see it -- oh, Fayette
10 County. It was filed on April 3, 2012.

11 BY MR. FELDMAN:

12 Q. Dr. Brush, could you turn to page number --
13 well, I guess it's the first page. It's Petition for
14 Modification of Custody, Paragraph No. -- Paragraph
15 No. 5, please. Could you read that?

16 A. Father avers that the October 15, 2009, order
17 should be modified to provide him with a specific
18 partial custody schedule as father does not anticipate
19 mother will cooperate in father seeing the child
20 absent a specific schedule set forth in a court order.

21 Q. And President Judge Ruest ordered that on
22 12/12/12, that a specific partial custody schedule
23 would indeed be put in place?

24 A. Yes.

25 Q. In regards to any of the updates you sent the

1 petitioner, have you sent any pictures since -- have
2 you sent any pictures recently?

3 A. I don't think so, no.

4 Q. When was the last time you sent the petitioner
5 a picture of his daughter?

6 A. I was not told to send any pictures. I was
7 directed to send report cards, medical, dental, you
8 know. There is a list of those kinds of things and
9 that's what I have been providing, schoolwork. That's
10 what I thought I was supposed to be providing.

11 Q. Have you provided the petitioner any updates
12 in terms of specifics of what sports or what
13 extracurriculars she is involved in or what things she
14 enjoys?

15 A. Yes, I believe so.

16 Q. Can you specify what you remember stating to
17 the petitioner in these updates in regards to what
18  enjoys?

19 A. Well, some of it's from sharing different,
20 like, learning enrichment, like, oh, she is enrolled
21 in the particular, like, fabrics or -- I think there
22 was one called natural dyes and the different
23 interests she had. There was like a little -- I
24 remember there's, like, little paragraphs printed out
25 that would have her name. It's like  is

1 participating in the -- and it would have, you know,
2 specific topics like, I don't know, you know, just
3 like animals or -- if she was doing a project like
4 that. I was sending all the updates. I just did,
5 okay, she was participating in -- you know, she's
6 doing great, you know, she -- you know, maybe I talked
7 about -- I'm just trying to, like, generalize what a
8 typical update would be. It would be something like,
9 oh, [REDACTED] is doing well, you know, maybe I said she
10 went to the dentist; she had no cavities; everything
11 looked great but the dentist said she'd never need --
12 you know, she'd never need braces and maybe I'd say
13 something like she can play in a limited amount of
14 sports now because of coronavirus. It canceled a lot
15 of things. Like, I tried to give, like, a variety of
16 topics in the updates.

17 Q. If the judge is interested, he can review what
18 was actually sent and what wasn't. Dr. Brush, I am
19 going to ask you, did the petitioner threaten you or -
20 - scratch that. Did he use a gun against you?

21 A. I think when I was asked about a gun, I was
22 referring back to --

23 Q. Yes or no, Dr. Brush?

24 A. -- your habit of walking around the house just
25 with the gun on. That's what I was referring to. I'm

1 not saying that you threatened me with a gun. I'm
2 just saying a gun was present at all -- you know, I
3 don't know -- I really don't understand the question.

4 THE COURT: Well, in your PFA, there is a
5 specific answer, a discussion, about were weapons
6 involved in this abuse? You checked yes and you asked
7 that all of his guns be confiscated. Now, that's not
8 just you can't remember. Do you remember doing that?

9 THE WITNESS: Oh, that's what we're
10 talking about, for the PFA. Okay. So I just -- I
11 remember being asked and I would -- I think I was just
12 asked does he have any guns? And I said yes, I know
13 he does, and that was all I said, like, so they would
14 check that off in the box.

15 THE COURT: Okay.

16 THE WITNESS: That's how, I'm sure --

17 BY MR. FELDMAN:

18 Q. Someone else filled it out? You didn't fill
19 that out? Did you fill out --

20 A. Which one are you talking about?

21 Q. The checklist of 2019 and the checklist of
22 2012.

23 A. I definitely filled out -- see, I didn't get
24 to talk about this, but I definitely filled out the
25 one from 2019. I cannot say that I even filled out

1 the one in 2012. It was right after my attack. I am
2 not sure where I did it, if I did it, or whether it
3 was like somebody doing an intake for me, and I have
4 no memory of that. I was absolutely traumatized. I
5 was in a complete state of trauma after the attack. I
6 was in bad shape. I was given anti-HIV medication. I
7 mean, I 8--

8 MR. FELDMAN: Objection, nonresponsive.

9 THE WITNESS: Well, I'm just trying --

10 THE COURT: All right.

11 MR. FELDMAN: We're talking about --

12 THE COURT: Let's move on to another
13 question. I've already got my sense of the answer.

14 MR. FELDMAN: All right. I would like to
15 ask Dr. Brush very clearly --

16 BY MR. FELDMAN:

17 Q. -- did the defendant use a gun against you,
18 yes or no?

19 A. No.

20 MR. FELDMAN: No further questions, Your
21 Honor.

22 THE COURT: Redirect.

23 MS. JONES: Yes, just a few.

24 REDIRECT EXAMINATION

25 BY MS. JONES:

1 Q. Ms. Brush, are you still holding the document
2 that has the front page from Babst Calland dated
3 August 12, 2014, or can you find it?

4 A. Yes, August 13, 2014? Oh, yeah. I see it. I
5 see it. I was looking at the stamp. Yes, I see it.

6 Q. Can you please read Paragraphs 14 and 18?

7 A. After receiving Mr. Frach's (phonetic) letter,
8 undersigned counsel contacted counsel for father in an
9 attempt to resolve the issue regarding mother's
10 concerns with the CRC without having to involve the
11 Court. Mother proposed that the supervised visits
12 between father and [REDACTED] be moved from the CRC to the
13 Supervised Visitation Center of Baltimore County,
14 Maryland. A true and correct copy of the email to
15 Attorney Weaver dated July 25, 2014, marked as Exhibit
16 D, is attached hereto and made a part hereof. Father
17 -- oh, do you want me to read --

18 Q. I'm sorry. And then Paragraph 18.

19 A. Oh, 18, okay. Mother is only requesting for a
20 change in venue of the supervised visits due to the
21 CRC's failure to provide a safe environment for the
22 visits. Mother is not requesting any other changes to
23 father's periods of supervised visitation.

24 Q. Looking at the letter that Mr. Feldman was
25 asking you about from the Children's Rights Council,

1 did that letter provide any information on sign-out
2 times the way it did about sign-in times?

3 A. No, I don't think so. I'd have to go back and
4 look. Is it in the same packet?

5 Q. It's in the same packet.

6 A. No, it doesn't look like it.

7 Q. And in that first paragraph that you read
8 previously, there's is a comment about you, quote,
9 deciding to park in the immediate vicinity of Mr.
10 Freeman's (phonetic) car. At that point in 2014, do
11 you believe you knew what car Mr. Feldman drove?

12 A. No, not at all. No, I had no idea.

13 Q. So you would not have been able to identify
14 that make or model of the car?

15 A. No, I would have had no idea.

16 MS. JONES: That's all, Your Honor.

17 MR. FELDMAN: Redirect.

18 THE COURT: Yes, recross.

19 MR. FELDMAN: Recross. I'm sorry.

20 RE-CROSS-EXAMINATION

21 BY MS. JONES:

22 Q. Dr. Brush, would you have possibly suspected
23 that a car with Wisconsin plates would belong to the
24 petitioner?

25 A. I don't know. I don't know.

1 Q. In regards to -- I can't find it now -- in
2 regards to the visitation of [REDACTED] at the CRC, you
3 filed the petition, correct, or you had your lawyer
4 file the petition?

5 A. Are we talking about the petition that I just
6 read from?

7 Q. Yes, August 12, 2014.

8 A. Yes. Yeah. I mean, I talked to my attorney
9 and she wrote that, yes.

10 Q. And prior to the filing, you did not show up
11 at the CRC at all. You just ignored the court order.

12 A. I was not -- to my understanding, I wasn't
13 ignoring it at all. I was telling, you know, my
14 attorney what happened and she was trying to, I
15 thought, work out the -- just the new location, which
16 I was hoping would solve the problem. I mean, I just
17 thought that the new location would be a better choice
18 and a safer choice, and I wasn't trying to avoid the
19 visits at all. I was, in fact, trying to get them
20 moving by putting it in a safer place and saying here
21 is what we are able to do, and I think she did that
22 pretty quickly.

23 Q. You said in a safer place, but no harm came to
24 you and no harm came to [REDACTED] as a result of your
25 visit on the 12th.

1 A. Thankfully. Thankfully.

2 Q. Have you known or are you aware of anyone who
3 has ever been hurt at the CRC?

4 A. I would have no idea. I don't know anything
5 about -- about it.

6 Q. Have you heard any reports of anyone who had
7 ever been hurt by going to the CRC in Maryland?

8 A. I'd really have to investigate that somehow.
9 I would have no idea.

10 MR. FELDMAN: Okay. No further
11 questions.

12 THE COURT: Anything else?

13 MS. JONES: No.

14 THE COURT: You rest?

15 MS. JONES: We rest.

16 THE COURT: Any rebuttal testimony?

17 MR. FELDMAN: Rebuttal testimony? What,
18 calling someone else up to the witness stand to rebut
19 --

20 THE COURT: Do you have some other direct
21 evidence to rebut something that they have said in
22 their case-in-chief?

23 MR. FELDMAN: Your Honor, all that I
24 would have is things that are, as I believe you have
25 stated, very old and we've gone over. I'll take the

1 risk here to not do that. I don't know what else to -
2 -

3 THE COURT: So you rest. Okay. That's
4 fine. It's --

5 MR. FELDMAN: I do have a closing. I
6 would like to read my closing.

7 MS. JONES: I do as well.

8 THE COURT: It would be the respondent's
9 closing first, so you get the last crack.

10 You may step down.

11 THE WITNESS: Okay.

12 MS. JONES: Oh, yes. Sorry.

13 THE COURT: Should I give you these
14 papers?

15 THE COURT: Please.

16 MS. JONES: Your Honor, Mr. Feldman's
17 petition for custody modification asks for sole legal
18 and primary physical custody, essentially requesting
19 to remove [REDACTED] from the person who is and has been
20 her primary caregiver for her entire life. Requesting
21 such a change suggests that Mr. Feldman has a
22 disregard for [REDACTED]'s need for stability and
23 continuity in her life as well as her overall well-
24 being.

25 On the issue of abuse, several hearings

1 have been held before today, and Ms. Brush has
2 provided her testimony about her experiences both then
3 and now. The fact remains that a final PFA was issued
4 after a full hearing by a judge who was otherwise
5 uninvolved in this custody matter. The final 2015
6 protection from abuse order was supported by that
7 judge on appeal and upheld by the Superior Court. The
8 history of abuse has been proven in the context of a
9 PFA matter and related again today albeit in briefer
10 form.

11 I would ask that the Court consider that
12 history not only with respect to the second custody
13 factor regarding custody but also the consideration
14 with respect to the eighth custody factor in that Ms.
15 Brush's attempt to take reasonable safety measures to
16 protect [REDACTED] and herself from harm should not be
17 held against her in the custody matter.

18 Ms. Brush's testimony and the testimony
19 of her witnesses demonstrate that [REDACTED] is thriving
20 under the current custody arrangement. She is doing
21 very well academically and she's also enjoying life.
22 Ms. Brush has provided [REDACTED] with physical and
23 emotional support such that she feels safe and well
24 cared for.

25 Analysis under the custody factors

1 strongly supports the conclusion that maintaining
2 primary physical custody with Ms. Brush and sole legal
3 custody with Ms. Brush is in [REDACTED]'s best interest.
4 Ms. Brush has not only performed parental duties
5 throughout [REDACTED]'s life, she's also supported the
6 development of a close relationship with her
7 grandfather. Based on these facts, Ms. Brush is very
8 likely more likely to provide for [REDACTED]'s emotional,
9 physical, educational, and other needs going forward.

10 Because [REDACTED] did speak with the Court,
11 we ask that the Court grant her opinion the heavy
12 weight it deserves. Based on the distance between the
13 parties and the extremely high level of conflict
14 between the parties, Ms. Brush asks that the Court
15 continue to grant her sole legal custody to avoid
16 delays in providing responsive care to [REDACTED].

17 With respect to physical custody, Ms.
18 Brush understands that the Court may determine that
19 contact with Mr. Feldman is, in fact, in [REDACTED]'s best
20 interest. Because [REDACTED] has had only four brief
21 visits with her father since 2008, the last of which
22 occurred when she was six years old, the reality is
23 that [REDACTED] does not have a normal parent-child
24 relationship with Mr. Feldman. We ask, under Section
25 5328(A) of Title 23, that you consider the weighted

1 considerations that is to be given to the custody
2 factors which affect the safety of the child, and we
3 ask that any contact be in a structured environment
4 ideally with a therapist to who can facilitate the
5 interaction between [REDACTED] and Mr. Feldman.

6 Therefore, we respectfully ask the Court
7 to deny as stated the petition for custody
8 modification and to grant Ms. Brush sole legal custody
9 and primary physical custody.

10 THE COURT: Thank you.

11 Mr. Feldman.

12 MR. FELDMAN: Your Honor, preponderance
13 of the evidence, not very hard to prove that. It's
14 really, really easy to prove something by a
15 preponderance of the evidence when the person
16 testifying is lying. My petition has shown very
17 clearly how often Dr. Brush lies.

18 Now, I followed your lead and been
19 respectful of your request not to rehash things in the
20 hearing. The opposition -- I had to listen to this,
21 and, quite frankly, it's just incredible. I am not
22 guilty of that. I am not that person.

23 A PFA requires preponderance of the
24 evidence and no more, not hard to -- perjury and false
25 statements are hard enough to fight when you have by

1 reasonable -- you know, when the standard is
2 reasonable doubt. When it's only preponderance of the
3 evidence, it's absolutely devastating. But, Your
4 Honor, you have a decision to face, and that's if my
5 daughter's going to remain a statistic and that of a
6 fatherless child or if it's my daughter's best
7 interest to have her entire family, which includes her
8 dad, paternal grandparents, aunts and uncles and a
9 cousin, be included in her life.

10 For the past many years, I have never
11 pursued this matter for my own personal victory. I
12 want for my daughter to emerge victorious, for her to
13 have the right and opportunity to discover the true
14 content of my character rather than living solely in
15 the shadow and gloom of her mother's distortions and
16 lies. I want for my daughter to know for herself that
17 she is loved and cherished beyond measure by her dad.

18 The opposition has tried to portray me as
19 a really bad guy, volatile, violent, a scornful
20 suppressor of women, and, by extension, an
21 irrepressible threat to my daughter. Today they have
22 essentially tried to create an ersatz PFA under the
23 guise of custody.

24 The opposition believes, posits, that I
25 abandoned my daughter and willfully estranged myself

1 from her. Dr. Brush insists that my daughter was
2 always highly agitated when she had to be with me.
3 The opposition's position is that I have no interest
4 in my daughter whatsoever. That's not the case. I
5 have every interest in being a dad to her. I wouldn't
6 be here if I wasn't.

7 And what is their evidence? Since the
8 December 12, 2012, custody agreement, that was a
9 consent agreement. My daughter and I should at least
10 have been together over 200 times by now. We have
11 seen each other once.

12 And what's their evidence? Well, Dr.
13 Brush, who, quite frankly, has at least 19 instances
14 of providing false information to the Court through,
15 at the very least, false swearing, and I'll say it,
16 perjury. There is a former attorney, Raquel Ross, who
17 represented me and made false criminal allegations
18 against me, which were used to prevent me from having
19 a relationship with my daughter.

20 There is a biased judge, President Judge
21 Pamela A. Ruest, who was forced to recuse herself but
22 not until she paved the way for years of
23 fatherlessness in a little girl's life. There are
24 witnesses who cannot substantiate any level of abuse I
25 ever perpetrated against anyone at any time and most

1 decidedly, in this matter, not against my daughter,
2 either willfully or accidentally, as opposed to the
3 many emergency room visits my daughter has endured
4 under the care of Dr. Brush.

5 I stipulate and have never denied that
6 one time, approximately 11 and 3/4 years ago, I did
7 indeed take action against Dr. Brush in defense. I
8 have talked about the 19 instances of false testimony
9 Dr. Brush has given, which is documented very
10 thoroughly in my petition. Unlike the opposition, I
11 have included only things for which I have actual
12 evidence, the source of which is the opposition's own
13 documents and Dr. Brush's own contradictory and
14 utterly false testimony. If you look back at the
15 hearing -- scratch that.

16 Aside from the one instance on November
17 1, 2008, which did not, in any way, involve my
18 daughter, the opposition has one thing. You have a
19 false narrative, an elaborate contrivance
20 inconsistently spun by their client who, with her
21 Ph.D. in communications, is a professional wordsmith.
22 What they do have in reality is a completely
23 unreliable client who has enjoyed the playground of
24 saying whatever she wants with impunity and that the
25 Court has used to prevent my daughter from having a

1 relationship with her dad.

2 The Commonwealth takes things like
3 perjury and false swearing and unsworn falsification
4 to authorities, false reports to law enforcement
5 authorities, and content for noncompliance with any
6 custody order seriously, at least they do on paper.
7 How many years in prison would it be for these
8 violations for luring the judiciary to make decisions
9 unwise, thereby breaking the very system itself.

10 I feel I would certainly have custody of
11 my daughter if the Commonwealth of Pennsylvania ever
12 deemed to follow its own laws and hold Dr. Brush to
13 task for what are supposed to be serious infractions.
14 I have never been accused of perjury. I have never
15 had contempt of a court order raised against me. I
16 have never been accused of false swearing. I have
17 filed for contempt in 2014 and 2019, but still, in one
18 instance, no hearing, and the other, no verdict.

19 Who is more believable today? I am, by
20 far. This alone now heavily loads the preponderance
21 of the evidence in my favor. I would like to call
22 Your Honor's attention to the fact that a custody
23 order can be completely reversed when it is found that
24 one of the parents has made egregiously false
25 accusations against the other parent; to wit, from the

1 Superior Court of Pennsylvania, argued October 8,
2 1997, and filed August 14, 1998, the appeal of Karen
3 L, natural mother, in regards to Morgan L., two years
4 old, was her daughter. Child and Youth Services took
5 the position that this child was in danger of being
6 emotionally harmed by her mother due to the ongoing
7 allegations of the natural mother.

8 In the matter you have today, my daughter
9 has consistently been led to believe likely that there
10 is one big bad man, her dad, lurking somewhere out in
11 the world, who would harm her, instilling false fear
12 and leading her to believe that she is less loved than
13 she actually is. The appeals court, in its ruling,
14 stated in part, in the experience and best judgment of
15 the Court, it is better to be conservative and protect
16 Morgan -- future -- Morgan's future emotional and
17 mental health and well-being than allow the child to
18 face the peril associated with her mother's current
19 behavior.

20 Your Honor, per Statute 5328,
21 Modification of Existing Order, Subsection A, Interest
22 of the Child, upon petition, the Court may modify a
23 custody order to best serve the interests of the
24 child. I contend in this matter that the future well-
25 being of  mental, emotional, and physical,

1 rests in her ability to have her dad, me, in a very
2 significant portion of her life.

3 The opposition thinks that a therapist
4 and other people need to be part of that. Given what
5 I have heard today and, quite frankly, the lack of
6 candor regarding so much testimony that I heard from
7 the opposition, I just -- I believe that if it's not
8 [REDACTED] and I directly having one-on-one, doing things
9 together, it's going to lead nowhere. There's going
10 to be more false allegations leveled against me. It's
11 going to be more court, and to say nothing of
12 additional bills, which, frankly, I would have trouble
13 justifying.

14 Today I have presented as witnesses my
15 former wife of over eight years, a friend, a former
16 co-student and co-worker, and my sister, all of whose
17 testimony is that my character, nature, and behavior
18 are virtually the opposite of what Dr. Brush has
19 claimed. You have heard from two of those witnesses
20 who were with me when I visited [REDACTED]. Unlike Dr.
21 Brush's assertions that [REDACTED] was withdrawn an
22 agitated, you got the absolute opposite, a little girl
23 who was curious, playful, content, and more than happy
24 spending time with me. I presented forms (phonetic)
25 to Your Honor to support those statements. It defies

1 logic and reasonableness that I would have been some
2 type of monster for a brief and unique period of time
3 while with Dr. Brush but a nice man and a good man
4 before and after.

5 There are spectacular hurdles that have
6 been constructed to prevent me from being able to
7 fulfill many of these factors recommended to determine
8 who is fit for custody and have rendered most of the
9 factors moot while putting others in my favor. 5328
10 is titled -- Sub A is titled Factors to Consider When
11 Awarding Custody. The operative words are "to
12 consider," not must, or shall. I believe they are
13 guidelines, not commandments. I do not believe the
14 factors were ever intended to be contrived in a Catch-
15 22, something to be held against the father for not
16 doing something he was prevented from doing by the
17 Court as a result of lies and bias.

18 When the adolescent girl starts turning
19 away from her mother as often happens to some degree
20 for some time and she doesn't have a father, to whom
21 or to what does she turn? The custody case beladen
22 (sic) with history is completely about the future of
23 an innocent child who has been forced to navigate the
24 world without her father. As such, Your Honor, I
25 request that you restore my parental rights, grant at

1 the very least shared legal custody and shared
2 physical custody, and I will also ask that there be no
3 intermediaries between myself and [REDACTED]

4 Thank you, sir.

5 THE COURT: All right. Thank you very
6 much. The testimony is closed and we have heard
7 closing arguments. Just a couple of observations
8 because I'm not going to rule from the bench. I'm
9 going to write a formal custody opinion. I'm not sure
10 if there has ever been a custody opinion in this case.

11 MS. JONES: I don't think I saw one, Your
12 Honor.

13 THE COURT: I don't think so, either. I
14 think it's all been by agreement and/or modifications
15 to protection from abuse proceedings. I have always
16 maintained, as long as I have been a judge, that one
17 of the most powerful tools in the court system is the
18 Protection from Abuse Act. It has the capability of
19 stripping people of rights without even having had a
20 hearing, at least for a temporary period of time, and
21 that's why the rule requires that a hearing be held
22 within 10 days. It can be extended by agreement, but,
23 in my opinion, that's a disservice to everyone when
24 those things are allowed to fester as I believe they
25 have in this case. There has been way too long a

1 period of protection from abuse orders in place. The
2 Protection from Abuse Act requires fear of imminent,
3 imminent serious bodily injury. That's the entering
4 argument. I haven't seen that in this case. So I
5 think there has been a travesty from that standpoint.
6 I do believe that Mr. Feldman has been improperly
7 denied access to his child and I candidly believe that
8 mother has done practically everything in her power to
9 make sure that he did not spend time with his
10 daughter, and that is sort of echoed from the
11 interview with the child. So, that being said, I am
12 going to modify the custody order. I'm not going to
13 change primary custody for the short term, but we're
14 going to entertain increasing opportunities for dad to
15 spend time with his daughter if it's not already too
16 late. I don't know. I haven't had too many cases
17 like this where a person has been denied access to the
18 visits for practically 10 years.

19 Okay. Thank you very much. I appreciate
20 your time. I'll issue a prompt order. I probably
21 ought to issue an order to that effect. And now, this
22 22nd day of July 2020, following receipt and close of
23 testimony in the petition for modification of custody
24 order, the Court will take all of the evidence under
25 advisement and issue a prompt ruling.

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Thank you very much.

E N D O F P R O C E E D I N G S

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C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me upon the hearing of the within matter and that this copy is a correct transcript of the same.

Date

Thomas C. Bitsko, CVR-CM-M
Official Reporter

