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2 about myself publicly. There's a lot of manipulation on his behalf
3 that I think would pre-dispose him, then, to trying to manipulate the
4 children, as well, if he does not get what he wants.

5 Q. And let me just ask, with respect to the things that have been said to
6 you by Mr. Brewington, the conflict between you and Mr.
7 Brewington, none of that occurred until after the initial custodial
8 evaluation came out, is that correct?

9 A. That's correct.

10 MS. LOECHEL: I believe I'm done. I have nothing further of
11 this witness.

12 A. Thank you.

13 COURT: You may cross.

14 **CROSS EXAMINATION**

15 **QUESTIONS BY DANIEL BREWINGTON:**

16 Q. You said that the conflict came after the evaluation. So there - - were
17 there any concerns about manipulation or any danger that the children
18 were in when they're in the respondent's care?

19 A. During the evaluation?

20 Q. Yes.

21 A. Not during the evaluation. I did not see anything specific at that time,
22 other than, like I said, at the home visit, some of the concerns I saw
23 there.

24 Q. You make a lot of mentions to, uh, uh - - what became of the - -
25 what was the conflict between the Respondent and yourself

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2 following the evaluation?

3 A. Well, you, uh, put very, I think, damaging information about me on
4 the internet. You have made a reference to, uh - - I had an office
5 manager who had embezzled some money from our office and you
6 insinuated that we were in a sex triangle, which was very damaging
7 to myself and my family.

8 Q. Was - - was - - was - - whose name was behind the sex triangle?

9 A. Your's.

10 Q. And then, do you have any proof that the Respondent would have
11 written something like that?

12 A. Your blog.

13 Q. And then what are the HEPA laws that prevent you from releasing
14 psychological test data?

15 A. The HEPA laws - -

16 Q. Or I'm - -

17 MS. LOECHEL: I'm going to object, as - - I'm going to object
18 as Dr. Connor is not a lawyer and this is the
19 same issue we've dealt with numerous times
20 concerning the release of the records, if he's
21 going where I believe he's going.

22 COURT: Well, I haven't heard the complete question.
23 I'm going to overrule at this time. Ask your
24 question.

25 Q. What are the laws regarding the release of your custody evaluation - -

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2 what are the HEPA laws that prevent you from releasing the custody
3 evaluation?

4 A. I cannot release this woman's confidential records to you without a
5 court order or her consent.

6 Q. Okay. On March 26th, 2008 - - or 2008 - - you said you would be
7 happy to release the file if, uh - -

8 MS. LOECHEL: I am again going to object as to this is the same
9 stuff, again, that we have gone over with this
10 court concerning the many motion in limines,
11 motion to release records, etcetera.

12 COURT: Well, he hasn't finished the question. Let him
13 finish the question.

14 Q. Did you say that the Respondent was entitled to the case file on
15 March 26th, 2008, if you received verification that the respondent was
16 representing himself?

17 A. I did.

18 Q. Did you say in the addendum to the evaluation that the parties were
19 entitled to the case file, but you didn't release it to the respondent
20 because he didn't have an attorney?

21 MS. LOECHEL: I am going to object, again, because this is the
22 same stuff we've gone through and Dr. Connor
23 does not - - the Court has ruled on this issue a
24 number of times, so even if Dr. Connor - - Dr.
25 Connor's view as to what the law was, as far as

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2 what he released, doesn't outweigh what the
3 decision of this Court is.

4 RESPONDENT: The Respondent has the ability to - -

5 COURT: I don't think the doctor's being asked for a legal
6 opinion. He's just asking what he said.

7 MS. LOECHEL: Okay.

8 COURT: So I will allow that.

9 A. Repeat the question, please.

10 Q. So, did you state that the parties were entitled to it, but you didn't
11 give it to the respondent because he didn't have an attorney?

12 A. I don't recall exactly how that was worded. My concern with
13 releasing - -

14 Q. Well, that's, uh - - I can tell you - -

15 COURT: No, no, let him answer the question. You've
16 asked it; let him answer it. Go ahead.

17 A. My concern, as this unfolded, was your demeanor and your tendency
18 to distort information and use it to harm - -

19 RESPONDENT: Objection.

20 A. - - to harm other people.

21 COURT: Objection's overruled. You asked the question;
22 he's going to answer it.

23 Q. But on - - on March 11th, did you say that the Respondent was not
24 entitled to the case file?

25 A. I don't recall the exact date. That's possible that, uh - -

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2 Q. Do you have - - do you have any letters with you in your files?

3 A. I do, and - - Your Honor, I have four binders with correspondence
4 that I would have to sort through to find a specific letter. I could
5 summarize for you, Mr. Brewington, my opinion on the matter, if
6 you'd like.

7 Q. I just asked. Did you say that - - that, uh, Respondent was not
8 entitled to - - I think you - - here's the exact words right here,
9 March 11th, 'we cannot release a copy of the case file to you without
10 Ms. Brewington's consent as it contains confidential information
11 about her, as well as the children, in addition to yourself'. This was
12 on March 11th. So you said that you couldn't release the case file.

13 A. Okay.

14 Q. Is that correct, that you couldn't release the case file?

15 A. Without her consent?

16 Q. Yeah.

17 A. Her - - her information is in the case file and I will not release the
18 case file to you without a court order or her consent.

19 Q. Well, then, on March 26th, you said that you'd be happy to release it.
20 You didn't say anything about any court order or anything, it was just
21 - - I'm just looking for an explanation of - -

22 A. And my explanation is that as this unfolded I became more concerned
23 about your intentions.

24 Q. But you said that you'd be happy to release it. So you could release
25 the case file at that point?

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2 A. No.

3 Q. You couldn't release it? Why is that?

4 A. Because I would still need to get her consent or a court order.

5 Q. Did you have the parties sign a consent and release form at the
6 beginning of the evaluation?

7 A. A consent and release form?

8 Q. Yes.

9 A. There was a form that's signed when the parties come in for the
10 evaluation, yes.

11 Q. Well, what forms do you normally have the parties sign at the
12 beginning of evaluations?

13 A. There is a consent to participate in the evaluation and there's also a
14 form that we are to release the report to the Court and both
15 representing attorneys, the report.

16 Q. Yes. And so, what other forms were there that you normally - -

17 A. There are no other forms for a custody evaluation. There was a form
18 that was incorrectly given to Ms. Brewington from our secretary at
19 the time, who is no longer with us. But the basic custody forms - -

20 Q. But that - - that form is an adjunct document to a court order?

21 A. No.

22 Q. Then why did you write a letter to Judge Taul on September 10th,
23 stating that - - or, uh, you wrote a letter to the Respondent on
24 September 10th - - or 9th - - I'm sorry - - which states that you were
25 not provided with the office policy statement, yet the document is

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2 simply an adjunct document to the court order - - it says the office
3 policy statement, which the Petitioner signed for individual
4 psychological services - - it says, 'it appears you were not provided
5 with this document when you initially came into our office, which
6 was an oversight of part of the office staff.'

7 A. That they provided it to the mother, yes.

8 Q. Well, it says up here, 'you were not provided with it when you
9 initially. . .' then you wrote, 'nevertheless, the office policy statement
10 is simply an adjunct document to the court order in which you and
11 Ms. Brewington agreed to participate fully in a custody evaluation to
12 be conducted at this office.'

13 A. There was an agreed order signed for a custody evaluation - -

14 Q. Yes, but is that office policy statement an adjunct document to the
15 court order?

16 A. I'm not sure what you mean by this.

17 Q. Well, I'm not sure, either. You wrote it.

18 A. It's an adjunct - - it's not an adjunct to a court order. It's - - it's
19 adjacent to what we do when people come in. They fill out the forms
20 for the evaluation to participate in it.

21 Q. But you wrote that - - it says, which is - - the office policy statement
22 is simply an - -

23 MS. LOECHEL: I believe this has been asked and answered.

24 Q. - - adjunct document to the court order in which you and Ms.
25 Brewington agreed to participate fully in a custody evaluation.'

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2 A. Okay.

3 Q. Is that an - - is it an adjunct document? Is that what you normally
4 have people sign?

5 A. They normally sign that document that you signed, yes.

6 Q. The office policy statement?

7 A. That, I believe, is a document that was inaccurately or incorrectly
8 given to Ms. Brewington.

9 Q. Yes, yes. And that's what I'm trying to get to the bottom of. Why
10 did you state that the document that you accidentally had Ms.
11 Brewington sign, you're stating in your letter right here that it was an
12 adjunct document to a court order.

13 MS. LOECHEL: I'm going to object as asked and answered. I
14 think that Dr. Connor's - -

15 RESPONDENT: He hasn't been able to give me an explanation
16 to why it is he said it's not a - - that it was an
17 accident - -

18 COURT: I'll allow it one last time. Doctor, you may
19 answer the question, if you can.

20 A. When people come into the office, they sign a consent to release our
21 report to the Court and both attorneys. There is also a form that they
22 sign to participate in evaluation. The form that Ms. Brewington
23 signed is - - was incorrectly given to her by my secretary at the time,
24 because that one has to do with psychological services. As far as the
25 consent being an adjunct to the court order, it's - - you agree to

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2 participate by the agreed order and that document is also an
3 agreement to participate with our office in the evaluation, per the
4 agreed order.

5 Q. So does he agree - - does the provisional order state that the parties
6 are entitled to a copy of the case file?

7 A. The provisional orders?

8 Q. Or I'm sorry - - the provision to serve as an impartial expert in a
9 custody evaluation?

10 A. That you're entitled to the case file?

11 Q. Yes.

12 A. Not - - no.

13 Q. Then what - - what contract - - you wrote, 'Mr. Brewington is correct
14 in stating that our contract indicates we would provide the file to the
15 representing attorney.' What contract indicates that you would
16 provide the file to the representing attorney?

17 A. That might be on the other - - the one that is the consent to release - -
18 the - - the, uh, information form.

19 Q. So you did have consent?

20 A. No. Even - - even if a person has consent, as a psychologist, as a
21 case unfolds, I have the ethical obligation to not release information
22 about another person if I feel that this could cause them harm.

23 Q. Uh, what were - - is the custody evaluation considered a health
24 record?

25 A. I think that's a legal interpretation.

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2 Q. Because - - well, if it isn't considered a health record, then the only
3 way that - - doesn't Kentucky law state, though, the only reason why
4 not to let somebody have their own health record is because with a
5 medical reason, from a medical doctor, that there could be possible
6 harm?

7 A. Their own health record, but again I have an obligation to protect
8 another person's health records from someone who I believe could do
9 damage.

10 Q. Are these - - what evidence did - - at the time - - at the time of, uh,
11 April 16th, 2008, the addendum, what evidence did you have that there
12 might be a potential danger in releasing the case file to the
13 Respondent?

14 A. If I look at your psychometric test results, you're - - your results
15 indicate that you're self-centered and manipulative.

16 Q. Okay. Let's skip over to the psychometric test results. Who scored
17 the psychometric test results?

18 A. Um - -

19 COURT: I'm sorry. Just a moment. Self-centered and
20 what?

21 A. Manipulative.

22 COURT: Thank you.

23 Q. Who scored this test?

24 A. I have a, uh, licensed professional counselor who enters the data.

25 Q. You have somebody do it for you?

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2 A. Who enters the data into a computer system, yes.

3 Q. And who wrote - - who wrote the interpretation in the evaluation?

4 A. In the report?

5 Q. Or in the - - yeah, in the evaluation report.

6 A. I did.

7 Q. On the - - you state that, uh - - you started speaking to the Taylor - -

8 or I'm sorry - - the MMPI, and were reading from it, saying that, uh,

9 that there's - - the MMPI's stating, uh, that there's difficulty

10 concentrating, keeping his mind on task, you know, moderate levels

11 of dysphoria, etcetera. Where - - where do you get that information?

12 What's the - - Do you use the clinical scales on things like that?

13 A. I interpret - - I interpret the profile.

14 Q. The profile? So you interpret the clinical profile?

15 A. Correct.

16 Q. How does that work? How many clinical profiles are there?

17 A. You have nine diametrically opposed clinical scales, and you look at

18 the graph and see what is in areas that need improvement or what

19 areas are - -

20 Q. How many - - how many profiles are, you know, associated with, you

21 know, the MMPI? How many - -

22 A. With the MMPI or the Taylor Johnson?

23 Q. The MMPI. Isn't there like twenty-some hundred profiles that they -

24 -

25 A. No.

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2 Q. Do you match it to a clinical profile?

3 A. I'm sorry?

4 Q. Do you match it to the closest clinical profile, like the person you're
5 testing and do you match it to a similar profile - -

6 A. No, no.

7 Q. - - to determine the clinical - -

8 COURT: Hang on. Sir, ask one question at a time. When
9 you do, let him answer it, okay? I'm getting
10 confused as to what you're answering, so I'm
11 sure the witness is getting confused about what
12 you're asking, as well. So let's slow down here.

13 Q. All right. On the clinical scales, are the - - can you explain the
14 clinical scales review or how they come about, the clinical scales?

15 A. On the MMPI or the Taylor Johnson?

16 Q. MMPI.

17 A. MMPI?

18 Q. Yes.

19 A. Okay. You have nine clinical scales. And before that, though, you
20 have three what they call validity scales to see what type of - - that the
21 profile is valid, if they've answered in an open and forthright manner
22 or if they've tried to what we say malingering or present as more ill than
23 perhaps what they are or if they try to present themselves as much
24 better than what they are. And then the different clinical profiles, you
25 have, uh, the hysteria profile, you have the depression scale, you have

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2 the psychosomatic type scale, you have the psychopathic deviate
3 scale, you have the male-female scale, you have paranoia, you have
4 anxiety, you have schizophrenia, you have social introversion, you
5 have mania. So these are the clinical scales in the MMPI, the
6 primary scales.

7 Q. So is there an attention deficit disorder scale?

8 A. No, there's not.

9 Q. So this doesn't measure for attention deficit disorder?

10 A. No, it does not.

11 Q. Does the Taylor Johnson?

12 A. No.

13 Q. How about the MMCI 3 - - or MCMI 3?

14 A. No, it does not. It does not.

15 Q. So, all of the - - all of the interpretations of the ADHD were your, uh
16 - - were your clinical observation?

17 A. No.

18 Q. So where do you get the - - where - - where you stated that, uh - - a
19 lot of these, you say - - Where the - - If somebody has attention
20 deficit disorder, could it affect the validity of the test?

21 A. If they were not taking their medication, it's possible.

22 Q. Could it be possible that somebody who is taking their medication - -
23 affect the validity of the test?

24 A. It's possible, but less so.

25 Q. How much experience do you have in working with people with

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2 attention deficit disorder?

3 A. Weekly; sometimes daily.

4 Q. Who are the professional peers you consulted with in determining
5 your opinions about attention deficit disorder?

6 A. Your Honor, I would like to ask that I not be - - I not have to reveal
7 the names and give you an explanation as to why before I answer that
8 question.

9 COURT: Proceed.

10 A. First of all, the people that I asked was a very informal, in passing
11 type, like clinicians get together and talk about what have you,
12 different cases. The two people I asked about this knew nothing of
13 the type of evaluation this was, whether it was custody or criminal.
14 They knew nothing of the identify of the parties involved. And so,
15 this, much like in my profession, in social settings or just in passing,
16 you might ask someone, 'what do you think about this?' and that was
17 the context of this conversation I had. The reason I'm apprehensive
18 about revealing the names is because - -

19 RESPONDENT: That's all right. I don't need that name.

20 Q. Another question - -

21 COURT: Okay. Show the question withdrawn. The
22 question's withdrawn.

23 RESPONDENT: Excuse me?

24 COURT: The question's withdrawn. Move ahead.

25 Q. Another question is, are you supposed to make all - - anybody you

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2 consulted with during the custody evaluation, are you supposed to
3 provide those names to - - provide those names in the evaluation?

4 A. Formal consultations.

5 Q. Does, then - - in, uh - - as to KRS 403300, it does not say anything
6 about - -

7 MS. LOECHEL: I'm going to - -

8 Q. - - formal consultation.

9 MS. LOECHEL: I'm going to object as he's citing Kentucky law,
10 the Kentucky revised statutes, as being
11 irrelevant.

12 COURT: Objection sustained. Let's move on.

13 Q. Were you licensed in the State of Indiana at the time of the custody
14 evaluation?

15 A. No, I was not.

16 Q. So then, were you - - did you - - were you aware of the Indiana
17 laws?

18 A. Yes. I had been doing custody evaluations for the southeastern courts
19 in Kentucky, where people come for their evaluation.

20 Q. Did you need a license to practice psychology, to offer psychological
21 services to the public of Indiana?

22 A. They come to Kentucky. You came to Kentucky.

23 Q. But do you all - - but did you - - do you ever serve as an expert
24 witness to an Indiana court?

25 A. I do.

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2 Q. So you do. Have you ever served as a professional expert to this
3 court or the Ripley County court?

4 A. Yes.

5 Q. But you didn't have a license to offer services to the public?

6 A. I don't offer services - - At the time - -

7 Q. Or I'm sorry. Render services.

8 COURT: Let him answer the question, sir. Quit
9 interrupting. Go ahead.

10 A. If I get a subpoena to testify in a case in another state, it's my
11 understanding that I am permitted to go to the state, testify and leave.
12 I am not conducting an evaluation or offering psychological services.
13 I'm rendering an opinion.

14 Q. Why - - did you ever contact - - did you provide - - did you give any
15 input to when or allow the parties any input to when these extra
16 sessions were supposed to take place on March 31st?

17 A. I'm sorry?

18 Q. Did you allow the parties to have any input on how - - withdraw the
19 question. Did your evaluation report contain numerous errors and
20 oversights?

21 A. I don't think it did. I think it contained some that you had pointed
22 out. Your statement is that it contained numerous oversights and
23 errors. I believe that there were some errors in the reports, as I
24 testified to earlier.

25 Q. Why didn't it - - did you leave out the part about petitioner being

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2 involved in an [REDACTED] on your original
3 evaluation or did the Petitioner leave that out?

4 A. I don't recall. That came out in the addendum. That was mentioned
5 in the addendum, I believe.

6 Q. So, you don't know - - so you can't remember if that was in your
7 evaluation case file?

8 A. No, sir.

9 Q. And it also says that her [REDACTED] was not correct in the
10 original report.

11 A. Correct, and she corrected that when she came to her addendum
12 session.

13 Q. So, is the report - - does the report have any more errors in it?

14 A. Not to my knowledge.

15 Q. Not to your knowledge? Uh, in regards to Matt Brewington, what - -
16 or Mark Brewington, what number did you call to contact him?

17 A. The number that you gave me.

18 Q. What number is that?

19 A. I would have to look it up.

20 Q. Why couldn't you provide that information when I requested my
21 information?

22 A. On what?

23 Q. I requested my information and, uh, you know, the case file and you
24 provided some of that. Why didn't you give me my responses?

25 A. I don't know. That should have been included and I will see to it that

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2 you get that, if you like.

3 Q. So - - and then, also, where did you interview the maternal
4 grandparents?

5 A. They came to my office.

6 Q. Why didn't you have Sue Brewington come to your office?

7 A. I gave her the opportunity and she never called.

8 Q. You set up an appointment to interview her in Indiana, to conduct a,
9 you know, a psychological interview in Indiana. Why didn't you do
10 the same, to make things fair and even?

11 A. I did. I told you that and you didn't follow through.

12 Q. Did you call Sue Brewington?

13 A. No, I did not.

14 Q. Did you contact any of the other references?

15 A. No, I did not.

16 Q. Why didn't - - could it have been a possibility that there was a
17 problem with the phone systems in Louisville, Kentucky when you
18 tried to contact the Respondent's brother, who you said it was Mark -
19 - it's actually Matt - - could there have been a problem with the
20 phone system?

21 A. That's possible.

22 Q. So it wasn't worth calling the respondent and asking why - - if there
23 might have been a problem or an alternate number or something like
24 that?

25 A. I felt I had enough information to proceed forward.

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2 Q. Did you ever - - did you request a summary of treatment from the
3 Affinity Center?

4 A. No, you did.

5 Q. Excuse me?

6 A. You did.

7 Q. I requested?

8 A. Yes, you did.

9 Q. Did you - - did you request - - Did you ever request the medical
10 records I provided to you?

11 A. I told you in the beginning to have the Affinity Center send us some
12 information about their work with you. You downloaded a release
13 of information from the internet, I believe, in July and you sent it to
14 the Affinity Center and they did not respond with any information
15 about you.

16 Q. Did you - - so it would be - - if you didn't contact - - if you didn't
17 get anything from the Affinity Center, it wouldn't have been any - -
18 I mean, the respondent would have had no way of knowing if there
19 was a fax issue or something like that, because - - Did the
20 respondent - - did I make an effort to get that information to you?

21 A. You downloaded, as I said, an authorization from the internet and sent
22 it to them to please send information about you to me. They failed to
23 do so until after the evaluation was complete.

24 Q. Did you request the medical records - - or mental health records?

25 A. I asked you to do that and you - - you sent that authorization to the

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2 Affinity Center.

3 Q. Did you request medical records or did you request a summary of
4 treatment because in the evaluation, I believe on page thirteen, uh, in
5 the evaluation, you said that you asked the respondent for a summary
6 of treatment that he didn't provide yet. You have absolutely - -
7 there's nowhere in here that you said that - - or it says, 'Dan was
8 asked to provide a summary letter from the Affinity Center, but as of
9 the date of dictation, has failed to do so.' So, why did - - you didn't
10 request the medical records or at least you didn't document it?

11 A. Sir, you sent them an authorization, per my request, to send me your
12 records and they failed to do so.

13 Q. Yes, but did you ever ask the respondent for his medical records?

14 A. Your medical records or your records from the Affinity Center?

15 Q. Mental health records from the Affinity Center?

16 A. Yes, I did. I asked you to get those for me.

17 Q. Why didn't you write that in there, that you asked and I didn't
18 provide those?

19 A. Why didn't I write that?

20 Q. Why did you not include - - why did you say that the respondent
21 forgot to include a summary letter when it was actually you requested
22 the medical records?

23 A. I don't know why I didn't write that.

24 Q. Did the respondent ever provide the medical records on two separate
25 occasions and you refused to accept them?

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2 A. I refused to accept them?

3 Q. Yes.

4 A. No. I refused to accept your medical records, is that - - was that the
5 question?

6 Q. Yes.

7 A. No.

8 Q. Okay. So, in terms of - - so there - - are there - - On the issue of -
9 - when you found - - when you realized that there were errors and
10 oversights in your evaluation, did you attempt to contact the parties?

11 A. No, sir, you contacted me.

12 Q. No. When you found - - after you got the letter, did you attempt to
13 contact the parties to set up extra sessions?

14 A. Yes, I set up an appointment with you.

15 Q. Did you - - who did you contact first?

16 A. I don't - - my secretary would have done that.

17 Q. Let me refresh your memory. On February the 19th, you claimed you
18 got the information from the respondent that there were numerous
19 errors and oversights. On February - - who did you first contact
20 after you got that letter about the extra session?

21 A. I don't recall. My secretary would have done that.

22 Q. She would have wrote the letter and signed your name to it?

23 A. If it was an appointment letter, that's possible.

24 Q. Or did you contact the court first? Did you contact Judge Taul first?

25 A. Yes. That is correct. When there was a - - when you sent the letter

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2 saying that there were numerous errors and oversights in the report,
3 it's my recollection that I asked Judge Taul if he would be okay if I
4 conducted additional sessions to address the concerns that you had.

5 Q. Were you appointed by the court?

6 A. It was an agreed order.

7 Q. But were you appointed by the court?

8 MS. LOECHEL: I'm going to object; asked and answered.

9 COURT: Sustained. Let's move on.

10 Q. Were you - - so you weren't - - did the Court order that - - did the
11 Court order the parties to seek an evaluation with you?

12 MS. LOECHEL: I'm going to object. Asked and answered.
13 Again, I believe he stated - -

14 COURT: It's my understanding, folks, in reviewing the
15 record here, that the parties agreed that this take
16 place and an agreed entry was entered, okay?

17 MS. LOECHEL: That's correct.

18 COURT: Okay? End of story. Let's move on.

19 Q. So you weren't court appointed - - you were (indiscernible) to the
20 court, so you were - -

21 MS. LOECHEL: Objection.

22 COURT: The objection is sustained. This is what
23 happened. It's my understanding. If it's
24 wrong, tell me. The parties agreed that this
25 happen, an order - - an agreed order was

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 entered, and the evaluation occurred. End of
3 story. Let's move on.

4 Q. Do you have any evidence to demonstrate that the children - - that the
5 children don't - - haven't bonded with the father?

6 A. No.

7 Q. Did you have any evidence - - you already testified earlier - - that you
8 don't think the children were in any kind of immediate physical
9 harm?

10 A. During the evaluation process, we did not see that. My only concern
11 is what I testified to earlier, in the home visit.

12 Q. Okay. Okay. Uh, how far away was the barn, approximately, from
13 the house?

14 A. Uh, to the best of my recollection, I would estimate forty yards.

15 Q. Forty yards? How far away was the road from this?

16 A. Again, to the best of my recollection - - the road in front of your
17 house?

18 Q. Yes.

19 A. Um, I - - that seemed a much shorter distance. I would guess ten
20 yards.

21 Q. So why would you not have concerns with the road, because the road
22 would be more dangerous than the barn?

23 A. That's a good point.

24 Q. Excuse me?

25 A. That's a good point. I - - that's a good - - that's an actual concern.

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 Q. Did the petitioner have a pool in her parents' back yard?

3 A. Yes.

4 Q. Did it have a plastic cover on it?

5 A. I don't think it did at the time.

6 Q. But did both - - was it GFI protected?

7 A. I don't know what GFI means.

8 Q. It's the ground fault interrupted. If, you know, a person were to fall
9 in, if there's electric short or anything like that, that they would be
10 able to - -

11 A. I don't - - I don't know that.

12 Q. How far was the pool away from the house?

13 A. To the best of my recollection, from their deck to the pool might have
14 been fifteen to twenty yards or so.

15 Q. So it was a lot closer than the barn was?

16 A. Yes.

17 Q. Okay. Did - - was there any - - did you see any evidence during the
18 evaluation that - - that the children had been abused, any kind of
19 psychological damage - - withdraw it. Did you interview the
20 children at all?

21 A. No.

22 Q. Did the children interact - - did the children demonstrate anything
23 but satisfaction or - - or did they look uncomfortable with the father?

24 A. No. Our observations of you and the children seemed that the
25 children enjoy their time with you and are bonded to you.

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 Q. So, if - - despite all the - - despite everything that was said about
3 the dangers of - - whether - - Since the evaluation, approximately
4 two years, since it's been noted that, you know, or alleged that there's
5 guns, that there's dangerous objects, that there's barns, that there's all
6 kind of concerns about the respondent and, you know, the safety of
7 the children, after that amount of time, where there's been absolutely
8 no incidences on record, wouldn't you say - - what would be your - -
9 what would be your professional opinion of the respondent's ability
10 to keep the children safe?

11 A. As far as I'm able to discern about the safety issues of the children,
12 that seems to be fairly okay. My concerns are more so with the - -
13 the - - with your personality in trying to cooperate in any type of a
14 joint custody arrangement. That is my primary concern.

15 Q. Did you state that the petitioner would need therapy - - need therapy
16 before she got into another inter-personal relationship?

17 A. I did.

18 Q. Did you state that the petitioner would need - - probably need therapy
19 on down the line because of her - - her, uh, the problem with her
20 obsessive compulsive behavior could cause problems with the - - you
21 know, getting along with the children, interacting with the children?

22 A. Can you direct me to where you're reading, please?

23 Q. Excuse me?

24 A. Will you direct me to where you're reading, please?

25 Q. Uh, page 29.

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 COURT: Go ahead.

3 Q. On page 29, it says on treatment recommendations, you said that, uh,
4 [REDACTED]'s obsessive compulsive tendencies, as the children grow
5 older, these tendencies could be problematic and create power
6 struggles with [REDACTED] and the girls.

7 A. I said that. Correct. It could become problematic.

8 Q. Could some of the problems in communicating with the Petitioner and
9 the Respondent come from the petitioner, because there's no - - you
10 said that she has - - that she would have power struggles with the
11 girls. Could she be part of the problem with the power struggles in
12 communicating?

13 A. Well, in any type of communication where two people are involved,
14 I think both contribute to some degree. However, I feel that your
15 contribution is much more problematic than her's to the
16 communication.

17 Q. Do you - - do you have any examples of communication that's
18 difficult or confusing, any written letters that she sent that were
19 confusing or - -

20 A. Yes, I do.

21 Q. But did you - - could you tell me - -

22 A. Sure.

23 Q. - - why they were - - why they were confusing to you?

24 A. If the Court reviews all the different motions and things that you have
25 filed and that types of - -

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 Q. Excuse me. You wrote in the evaluation that the petitioner - - or in
3 the addendum that the petitioner said that the writings, uh - - that his
4 writings are intimidating, confusing, and difficult for her to follow.
5 This examiner has experienced similar problems with Mr.
6 Brewington's communications. Do you - - what part of
7 documentation do you find confusing or difficult to follow as of April
8 16th?

9 A. Some of the things that you wrote to the mother seemed to be that
10 way.

11 Q. You didn't understand what it meant?

12 A. Please?

13 Q. You didn't understand what it meant?

14 A. I understood what they meant and they seemed to be very challenging
15 and contradictory and difficult to follow and make sense of, on a very
16 minute item, perhaps at such an exchange. Again, if I look at the
17 psychological test results that you produced, you are one who would
18 challenge most anything in a very difficult manner and have difficulty
19 seeing your own contribution to conflict. You tend to be more self-
20 centered and don't always see things from another's perspective.

21 Q. On, uh - - on - -

22 COURT: We're going to have to take a break at this time.
23 I've got another case I have to handle. It should
24 take me about ten minutes or so, so we'll be in
25 recess at this time.

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 **OFF THE RECORD - P.M. RECESS**

3 COURT: Show we're back on the record and we continue
4 at this time with cross-examination. Dr.
5 Connor, you've been sworn; you remain under
6 oath. You may proceed.

7 Q. Do you have the - - Do you have the [REDACTED] - - the letter you
8 referred to, the [REDACTED] letter, that you said I - - or that the
9 respondent gave to [REDACTED]'s therapist?

10 A. I do.

11 Q. Do you remember what the first - - the first sentence of that letter
12 states?

13 A. Is my microphone on? Excuse me. Okay. My microphone was not
14 on.

15 COURT: Your mic's fine.

16 A. Okay, thank you.

17 Q. Did it say something along the lines that - - do you have it in your
18 file or - -

19 A. I do.

20 Q. Does it say that the respondent was, in fact, sending the letter to try
21 to save the marriage?

22 A. That's possible it did. However, I might add that, according to the
23 mother, she did not want you to do that, contact her therapist.

24 Q. What, uh - - you referred to the internet content, the various internet
25 content. Is there - - have you seen anything that's threatening to the

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 petitioner or anything that reveals her identity or anything negative
3 about her?

4 A. Nothing that I recall that was negative about her, per-se. But I do
5 think that by association - -

6 Q. But there's nothing - - there's nothing that - -

7 COURT: Let him finish his answer, please.

8 A. But I believe that by association with the last name that there's a
9 possible disclosure of her identity.

10 Q. Is there any confidential information on - - of Petitioner's on the
11 internet?

12 A. I don't recall.

13 Q. Is there any - - any information that is damaging to the children?

14 A. I believe, again, by association to you that that's potentially damaging
15 to the children, your identity.

16 Q. And - - and their identity?

17 A. Your identity.

18 Q. Okay. But there's - - there's nothing in there that's - - there's
19 nothing in there that's immediately harmful to the children or to the
20 petitioner that you saw?

21 A. Other than their association to you, I don't recall that.

22 Q. Why - - even with the association to the respondent, why would that
23 be damaging to the petitioner? Is there any negative statements about
24 the petitioner?

25 A. It could be damaging in that she would not want her identity disclosed

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 to the general public.

3 Q. Aren't these proceedings public record?

4 A. These proceedings here are, but I'm referring to the website, the
5 Yahoo local, the Indy Dads, the -- all the different internet places that
6 you have posted information about this procedure.

7 Q. Did the petitioner falsely accuse the respondent of being bi-polar?

8 A. No.

9 Q. She didn't?

10 A. No.

11 Q. She said that she thought that the respondent may suffer from bi-polar
12 disorder?

13 A. She had concerns that that was a possibility. She didn't accuse you
14 of being bi-polar. She was concerned.

15 Q. She was concerned, but there's no indications of bi-polar disorder?

16 A. In my evaluation of you, I did not find that you have bi-polar
17 disorder.

18 Q. Uh, how often do people take -- who take such a dosage of Ritalin,
19 which you said was high, how often does that happen that somebody
20 would be on, you know, a level of Ritalin that would be high, and
21 have bi-polar disorder, and not have -- or you know -- and have
22 serious ramifications?

23 A. As a psychologist, in my experience clinically, that would be contra-
24 indicated to be on that much ritalin and have bi-polar and, again, my
25 evaluation of you did not verify bi-polar disorder.

1
2 IN THE
INDIANA COURT OF APPEALS

3 APPELLATE CASE NO. 69A05-0909-CV-0542

4
5
6 IN RE: THE MARRIAGE OF) APPEAL FROM THE RIPLEY
7 [REDACTED] BREWINGTON) CIRCUIT COURT
8 and) TRIAL COURT CAUSE NO.
9 DANIEL BREWINGTON) 69C01-0701-DR-0007
10) BEFORE THE HONORABLE
JAMES D. HUMPHREY, Special Judge

11 TRANSCRIPT OF EVIDENCE

12 Volume 2 of 6

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14
15 **FILED**

2009
Brigitte Bradford
RIPLEY COUNTY COURTS

16
17
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LUANNE TURNER
Official Court Reporter

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 Q. But you said it - - there was an extensive interview. You interviewed
3 the respondent extensively on that?

4 A. Yes.

5 Q. But what did you - - how did you base that upon - - was there a need
6 to - - for extensive interview when there had been no evidence of
7 manic behavior and such a high dose of ritalin, wouldn't that have
8 been indicative of not being bi-polar?

9 A. That's - - that's why I interviewed you about that.

10 Q. Why would, then - - do you have any idea why the petitioner would
11 say that somebody was bi-polar who isn't?

12 A. Because she experience you as extremely moody and, uh, changeable.

13 Q. Did you have any - - at the time of the evaluation did you have any
14 experience with that?

15 A. With what?

16 Q. Extremely moody, changeable - - did you ever observe any of that in
17 the course of the evaluation?

18 A. With you?

19 Q. With the respondent, yes, with myself?

20 A. No.

21 Q. You stated that you didn't need - - you thought your report was
22 complete because - - and that was a reason not to pursue the
23 respondent's brother, Matt Brewington. What - - how did you come
24 to that determination that you didn't need any more information,
25 given that you didn't - - that you don't have - - you didn't have the

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 medical records, you didn't interview any participants, there were no
3 participants from respondent's family?

4 A. Based on the review of the collateral information I had, my interviews
5 with you, your psychological test results, the parent-child
6 observations with you and the children, as well as the home visit.

7 Q. On the consistency scales on the MMPI - - MCMI 3, it states that -
8 that you said that - - that - - let me see, the exact quote - - 'on this
9 instrument, Dan displayed a tendency to avoid disclosure.'

10 A. Yes.

11 Q. Were there any reasons why the validity scales might have been off
12 on that?

13 A. Well, in psychological testing, what you look at is that the person was
14 trying to disclose openly about themselves or if they were trying to be
15 guarded and defensive. There was a tendency in your profile on that
16 particular scale to not, perhaps, be as open as you had been on some
17 of the other assessments.

18 Q. On the Taylor Johnson temperament assessment profile, is this - -
19 there are only two pages to this?

20 A. I can't see that from here.

21 Q. There are only two pages to that?

22 A. Yes.

23 Q. Uh, it says here, just from a layman's standpoint, that every - - it
24 seems that every trait major has a - - is in either the acceptable or
25 excellent range in the psychological test for the Taylor Johnson

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 temperament assessment profile, except in pulsivity. Does - - what
3 did - - Why did - - why didn't - - why don't you - - did you fail to
4 report - - why did you fail to report that the respondent scored, you
5 know, say, in the excellent range in excessive responsive or
6 sympathetic scales?

7 A. Because when we do an evaluation, we're looking for the areas of
8 conflict, we're looking for the areas of psychological disturbance
9 issues that could impact any outcome in a legal proceeding or in a
10 clinical setting. So we're not addressing all the positives of a person,
11 we're looking for the areas of concern.

12 Q. But you haven't experienced any - - other than this what we keep
13 referring to as psychological testing. At the time of the evaluation
14 here, you didn't see anything - - any kind of abnormal behavior,
15 anything that seemed like the respondent wasn't able to be a good
16 parent or a proper parent or a custodial parent? Was there anything
17 that - -

18 A. In terms of being a parent to the children, during the process of the
19 evaluation, as I testified to earlier, I did not find anything significant
20 in how you interacted with the children or how they interacted with
21 you. This is more along the lines of the parental conflict between the
22 two parents and, uh, the difficulty, in my opinion, in my experience,
23 with you jumping around from topic to topic, not remembering things
24 you said, and feeling as though you didn't have a chance to express
25 your concerns, when, in fact, you had ample opportunity, I felt.

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 Q. Could that have been because of the anxiety provoking nature of the
3 evaluation that I might have skipped around or forgot or -- you know,
4 forgot if I had addressed something, or because of the voluminous
5 nature of everything that was presented?

6 A. That's possible, and to compensate for that, as I do with my clients,
7 in general, who have anxiety, I'm very attentive and I'm very -- I
8 listen and I allow them to speak, and with time, their own thought and
9 speech tends to calm themselves down and you seem to have
10 difficulty doing that.

11 Q. Would you think, your professional opinion, if somebody had accused
12 somebody of being bi-polar disorder, when it's obviously not true,
13 would that be something that would anger the other parent in a
14 custody matter?

15 A. Possibly.

16 Q. Did I -- did the respondent, at any point, lash out or attack the
17 petitioner during the session?

18 A. Uh, not to my recollection.

19 Q. Did the respondent say -- did the respondent say anything that you
20 found to be, uh -- uh, like -- Did the respondent seem to attack --
21 to attack the petitioner, in terms of name calling, false accusations,
22 anything of that nature?

23 A. To me?

24 Q. Yes.

25 A. Uh, not to my recollection.

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 Q. So you didn't observe any kind of harassing or threatening behavior
3 during interview sessions?

4 A. No.

5 Q. The petitioner -- On the consistency index on the Taylor -- or I'm
6 sorry, not the Taylor, but the MMPI -- I'm sorry -- the MMPI, it
7 says the consistency index, the bottom endorsement indicates there
8 was a reason to question whether he has endorsed the items in a
9 consistent manner. You're aware of that?

10 A. Yes, I am.

11 Q. It says that the following potential reasons for his inconsistent
12 (indiscernible) endorsement should be reviewed, one of them being
13 interference to psychiatric or neurological disturbance.

14 A. Yes.

15 Q. Could that be a reason why the consistency index was a little low?

16 A. That's possible, but my clinical opinion, not probable in your case.

17 Q. Then it says, after the reason has been identified and the problem
18 corrected, the MMPI could be readministered. Did you ever consider
19 readministering the MMPI?

20 A. To you?

21 Q. Yes.

22 A. No.

23 Q. Even though it said there that, you know -- even though the test
24 recommended it?

25 A. The test didn't recommend it. It said it's a possibility and it could be.

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 Q. But it says it could be readministered?

3 A. It could be.

4 Q. Okay.

5 A. But not recommended.

6 Q. Did -- is it appropriate to interview -- interview the collateral --
7 conduct collateral interviews with children around -- the collateral
8 interview with -- interviews with the participants, collateral
9 interviews with maternal grandparents --

10 A. Within reason, yes.

11 Q. Were the children around when you interviewed the maternal
12 grandparents?

13 A. I believe they were out in the yard. I remember one occasion where,
14 I believe, [REDACTED] came into the kitchen where we were sitting in the
15 house on one occasion, but then went back out there. It was warm
16 outside.

17 Q. But did you interview them at the home visit?

18 A. Please?

19 Q. Did you interview them at the home visit or at the office?

20 A. No. No, not at the home visit.

21 Q. So, you conducted -- you interviewed the maternal grandparents in
22 your office?

23 A. Yes.

24 Q. So, uh, do you think -- you think you could conduct the same kind
25 of interview, given the nature of the questions you needed to ask, that

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 you put to Sue Brewington, would it be - - would it be fair to conduct
3 the interview with the paternal grandmother while the children were
4 around?

5 A. I would go in another room. I would ask you if I could step into
6 another room, if that were the case.

7 Q. What if the children were to want to see grandma or act up or
8 something or have to go to the bathroom or pass through the room or
9 something like that? Could that have caused a problem?

10 A. No. I would have made sure that there was no conversation that
11 would be detrimental to them at that moment in time and then resume
12 as they passed on.

13 Q. So, in the - - you told the Kentucky Board of Examiners that the sole
14 purpose of the home interviews were just for a brief home visit and -
15 - a brief home visit and to observe - - to observe the children
16 interacting with the parties.

17 A. Yes.

18 Q. But you're claiming that you set up an interview with Sue
19 Brewington?

20 A. I wanted to meet your mother and just get to know her, see about her
21 coming to the office for an interview, as I did the maternal
22 grandparents.

23 Q. But you never made a request for her to come into the office?

24 A. I did. I asked that you ask her to call me and set up an appointment.

25 Q. Did you do that before the filing of the evaluation?

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 A. Before the final evaluation, yes, I did.

3 Q. So you said -- you're claiming that now that you told me to have her
4 call you and set up a session before the report was filed?

5 A. Yes. I'm not claiming that. I -- I am --

6 Q. You're stating that?

7 A. That is --

8 Q. But when that didn't happen, then you're claiming that we agreed that
9 she would be interviewed at the -- at the -- at the marital residence
10 in Indiana, in respondent's house in Indiana?

11 A. No, no. I wanted to meet your mother, because I knew that she was
12 around you and the children, get to meet her, have her also come into
13 my office for a more formal interview. When you told me that she
14 should be here, at the home, I waited, and you said, 'I don't know
15 where she's at,' and one of your later correspondence, you asked me
16 why I didn't call and ask how your mother was doing, if I -- that
17 something could have happened to your mother. So there was a clear
18 effort on my behalf, in my opinion, to make sure that I had contact
19 with your mother, but when she didn't call the office for the
20 appointment, I felt that she was apparently not, uh -- I don't know --
21 interested, willing, I don't know, to have her interview.

22 Q. Did you -- did you contact Sue Brewington?

23 A. I don't recall that -- I -- I did not contact her. My secretary may
24 have, at that time. It's possible that she might have called to see if
25 she wanted an interview time. I don't recall --

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 Q. That's not in the evaluation, the attempted phone call.

3 A. Okay. Then apparently my secretary did not call, but again, I asked
4 you to have her call.

5 Q. Your contention - - your contention is that the respondent has severe
6 ADD, is forgetful, you said that there are potential dangers in the yard
7 and things of that nature and mistakenly showed up for the wrong
8 appointment, and you're putting that person in charge of scheduling
9 appointments for you, instead of contacting her?

10 A. Sir, if a parent - - potential parent is unable to do that, then their
11 parenting skills, in general, should be questioned, as well.

12 Q. Is it possible that you didn't even - - that you didn't try to contact Sue
13 Brewington?

14 A. No, that's not possible, because I attempted to contact her by having
15 you have her at the home when I arrived and then I told you to please
16 have her call my office and we'll set something up there.

17 Q. Then what was - - what was the respondent's - - was the respondent
18 nervous or anxious or concerned that Sue Brewington never showed
19 up?

20 A. During the home visit, you said, 'I'm not sure where she's at.' You
21 seemed concerned that she hadn't arrived.

22 Q. Yes. But did you - - So you state - - did you request Sue
23 Brewington to be in your office at - -

24 COURT: I'm gonna - -

25 MS. LOECHEL: I believe asked and answered.

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 COURT: -- stop this. This has been gone over ten times.
3 It's time to move on to something else. Okay?

4 Q. In the MMPI of respondent, it says that - - that he can be sensitive to
5 real or imagined criticisms and act defensively, as such. Could that
6 play a significant role in the communication problems between the
7 respondent and the petitioner?

8 A. Yes.

9 Q. Can that play - - does that have the ability to play a role in
10 communicating or getting along with the children later on?

11 A. It's possible.

12 MS. LOECHEL: I believe this was asked and answered. I
13 withdraw.

14 COURT: Withdrawn. Let's move on.

15 Q. Is there anything - - was there anything that you saw that the
16 respondent's attention deficit disorder would cause conflict with the
17 children?

18 A. Uh, it's possible, given the nature of the diagnosis and the
19 medications necessary to address it. It's possible.

20 Q. But otherwise, you didn't see anything that - - you didn't make any
21 comments, that wasn't a concern of your's?

22 A. Well, again, what I saw at the home visit and your comment that
23 'we're very destructive; the girls and I are very destructive and the
24 house is this clean because my mom came to help us clean it up,'
25 when, in my opinion, the house was still quite a mess and the issues

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 that I testified to previously.

3 Q. So what you had testified, that it's a pretty good chance that
4 respondent is responsible for his children, as they have not got hurt or
5 caused them any injuries, anything, while there?

6 A. Well, during the evaluation process, again, I did not see anything
7 directly like that that had occurred.

8 Q. Uh, you testified that, uh - - that the petitioner suffered from
9 depression. Why didn't you include that in your evaluation?

10 A. She did report being on an anti-depressant.

11 Q. But you didn't mention it in the evaluation that she suffered from
12 depression or had been treated for depression?

13 A. On page eight, it says that [REDACTED] saw [REDACTED] from 1/04
14 until 2/05 and again on 11/06 for support, she is prescribed [REDACTED]
15 and then [REDACTED] for fourteen months, both of which are anti-
16 depressants. So I do say that.

17 Q. There are anti-depressants, but that doesn't - - isn't it true that people
18 who don't suffer from depression take that medication for other
19 reasons?

20 A. That's possible.

21 Q. So just because she took anti-depressants doesn't - - that's not
22 saying that she's depressed - - or that she suffers or is being treated
23 for depression - - I mean, she could be taking them for something
24 else?

25 A. That's possible.

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 Q. So is there information in the - - so you - - so Ms. Brewington is - -
3 had been treated for depression or suffers from depression, yet you
4 seem to exclude it from the evaluation?

5 A. No, that's not accurate. I did not experience her as being depressed.
6 She had been treated for depression, as I stated, with [REDACTED] and
7 [REDACTED].

8 Q. But in the mental health history, you didn't put that - - you didn't
9 write that part?

10 A. I wrote that she was treated with [REDACTED] and [REDACTED], which are anti-
11 depressants.

12 Q. Yes. But your report - - your reports are to be written for, you know,
13 quote/unquote laymen, who is not a psychological expert, and other
14 than that mention, you know, there's no - - other than that, there's
15 no mention of depression in the evaluation. In terms of - - In terms
16 of all the quotes in here, are these exact quotes that you put in
17 quotation marks of respondent?

18 A. I try to make them as exact as I write them down, yes.

19 Q. So, they're not - - there's probably a good possibility that it's not an
20 exact quote? That it might not be portrayed as - -

21 A. I think they're - - when I take notes, I try to take exact notes and if
22 I feel an exact quote is appropriate, I try to make it exact as I can, in
23 the course of an interview.

24 Q. Well, on page eight - - near the bottom of page eight, you - - you put
25 in quotation marks a series of sentences, broken sentences, that

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 consist of thirty or forty words that portray the respondent not being
3 able to verbally communicate. Was that an exact quote?

4 A. They were paraphrased quotes, as I wrote them down as you were
5 talking, and I wrote these down. I quoted them the best I could in
6 keeping up with the verbiage.

7 Q. Is there any reason why - - it seems that you used a lot more
8 quotation marks when responding - - or in describing the respondent
9 than the petitioner.

10 A. Yes.

11 Q. In terms of the exact - - you know, it says that the respondent says,
12 'you walked out, dot, dot, dot (indiscernible) dot, dot, dot, take your
13 depression meds.' Would somebody reading that have a - - would
14 somebody reading that think that the respondent couldn't speak in
15 complete sentences? Could that be misleading to the Court?

16 A. I don't think so, no. I think the Court can interpret that reading and
17 understand that these are phrases that were stated.

18 COURT: Excuse me. One clarification I want to make.
19 The Court has not received this report into
20 evidence. Are the parties intending to
21 introduce this report into evidence here today?

22 MS. LOECHEL: I'm intending to introduce it when I come back,
23 given Mr. Brewington's extensive testimony
24 that he's had Dr. Connor go through.

25 COURT: The reason I ask is, there's been several

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2 references made to page numbers and . . . go
3 ahead.

4 Q. In reference to the 911 call you referred to, you wrote that there was
5 a 911 call made by the petitioner where the police stated that they felt
6 she may have been using the children against their father, and
7 petitioner stated that the officer did apparently say that; however, the
8 officer did not talk to her about the incident.

9 A. Yes.

10 Q. Uh, are you - - does that - - does that cause any concern that the
11 responding officer, the sheriff - - the current Sheriff of Ripley
12 County, would show up and not - - respond to a domestic dispute call
13 and not question the person who did it or is there - - or would it be
14 a concern that - -

15 MS. LOECHEL: I'm going to objection as far as speculation.

16 Q. - - she didn't give a - - she didn't give a - -

17 COURT: Okay, stop. We have an objection. State your
18 objection.

19 MS. LOECHEL: I object, as far as speculation, as far as why the
20 current sheriff of Ripley County would do
21 anything.

22 COURT: Objection sustained.

23 Q. Uh, do you think - - do you think that, uh - - do you think that - - is
24 there a possibility that when the petitioner stated the officer did
25 apparently state that the respondent was using the children against the

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2 father, and the petitioner said that the officer didn't asked her about
3 the incident, wouldn't that be cause for concern that there might be
4 something bigger there, other than - - do you think the petitioner
5 could have been withholding her side of the story or not telling - - not
6 giving an active portrayal of the story?

7 A. I can't answer that.

8 Q. So, you state - - is there - - is there anything - - is there anything that -
9 - Would you ever, if somebody called the police in a situation like
10 that, that involved children, wouldn't it be worthy of some kind of
11 investigation or further in depth analysis of it?

12 A. Child Protective Services would have been involved, had the Sheriff's
13 Department felt it was necessary to contact them.

14 Q. So there wasn't any?

15 A. Not to my knowledge.

16 Q. Okay. And the petitioner did say that the officer told her that she
17 was using the children against the father?

18 MS. LOECHEL: I'm going to object. Asked and answered.

19 COURT: Sustained.

20 Q. What did you write the petitioner stated - -

21 MS. LOECHEL: Objection.

22 Q. - - in response to the 911 call?

23 MS. LOECHEL: Objection. I believe this was asked and
24 answered already, again. Isn't this the same
25 question?

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2 COURT: How's this a different question?

3 RESPONDENT: What's that?

4 COURT: How is this a different question?

5 RESPONDNET: Withdraw.

6 COURT: Move on.

7 Q. Have you - - have you ever had any eval - - have you ever
8 conducted any evaluations where, like, one side of the family may
9 conspire to hurt the other side of the family, like relatives, friends?

10 MS. LOECHEL: I'm going to object, as to relevancy, with
11 respect that this evaluation is the only one that's
12 important.

13 COURT: Objection sustained.

14 RESPONDENT: May I explain the relevancy of it?

15 COURT: I can tell you by the question, it's not relevant.
16 Let's ask another one.

17 Q. All right. Uh, is it possible that the petitioner and her family could be
18 conspiring to hurt the respondent and, you know, coming up with a
19 story or allegations to hurt his chances of getting custody of the
20 children?

21 A. In this particular case, I don't think so. I think that has more to do
22 with your tendency toward paranoia.

23 Q. But is it possible?

24 A. I guess anything is possible.

25 Q. So anything's possible. Is it possible that the whole situation

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2 regarding the release of confidential records could have been a
3 misunderstanding to the respondent, given that there was - - there
4 was, uh - - that there was numerous explanations, conflicting
5 explanations of why you could or could not release the case file.
6 Could it have been a misunderstanding?

7 A. No, I do not believe that, given your voluminous writings and letters.
8 I believe we estimated approximately fifty letters or what have you
9 that were sent to us. I don't think that's possible. I think it, again,
10 has more to do with your delusional type of thinking, that all these
11 people are somehow involved in protecting me or conspiracy in
12 reference - - I'm not finished - -

13 Q. But that's - - that's not the question - -

14 COURT: Let him finish the answer.

15 A. References to racketeering and these are very grandiose type
16 delusional statements that seem to be more appropriate to this case.

17 Q. Uh, being a layman, and not a psychologist, you - - on March 11th you
18 stated, 'we cannot release a copy of the case file without Ms.
19 Brewington's consent.' On March 26th, you said you'd be happy to
20 release it, but you - - it was verified on - -

21 MS. LOECHEL: Objection. Asked and answered.

22 COURT: Objection sustained. This was gone over about
23 three hours ago. Let's move on.

24 RESPONDENT: What - -

25 COURT: Move on to another subject; I'm sustaining the

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2 objection. You've asked it, it's been answered.

3 Let's move on.

4 RESPONDENT: That was the question.

5 COURT: Move on to another subject area now.

6 Q. Since you stated that - - you stated that the respondent can't
7 comprehend the laws regarding confidentiality, but since you gave
8 varying statements regarding the laws, being able to, not being able
9 to, couldn't it be that the respondent simply doesn't - - would
10 misunderstand that? Is it possible that the respondent could perceive
11 your letters as confusing, in which you state that you could release it,
12 then you couldn't, you could, could not, regarding release?

13 A. I don't - -

14 Q. I don't understand, you know - -

15 A. I believe that you very clearly understood the court's order that you
16 were not to have the file, only the evaluation. I believe that you
17 clearly understood that.

18 Q. Do you have a copy of the order?

19 A. From Judge Taul?

20 Q. Yeah.

21 A. Yes, somewhere in this.

22 Q. Judge Taul - - do you know the date of that order?

23 A. I don't - - I - -

24 MS. LOECHEL: I would ask that the Judge take notice of any
25 court record that's been in the proceeding here.

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2 COURT: I'll take judicial notice of the entire file, folks.

3 Q. But was there a court order saying that Daniel Brewington was not to
4 have that file?

5 A. At some point, it's my understanding that there was a ruling that you
6 were only to have the evaluation, not the case file.

7 Q. Are you - - are you in - - are you in possession of a protective
8 order stating that you're not to release that to the respondent?

9 MS. LOECHEL: I'm going to object, as the orders are in the
10 record.

11 COURT: The objection is sustained. I'm taking judicial
12 notice of the entire file. Let's move on to
13 another area.

14 Q. Did you ask Judge Taul if the respondent was entitled to a copy of the
15 case file?

16 A. I wrote Judge Taul a letter asking him if - - I forget the exact wording
17 of the letter - - but if he were to - - if he was supposed to have it, I
18 think, but I can't recall that clearly.

19 COURT: Can I ask a question? What does any difference
20 does any of this line of questioning make
21 regarding the ultimate decisions the Court's to
22 make here today, regarding custody, visitation,
23 property division?

24 RESPONDENT: Because the Court's stated in it's order that it
25 would take into account the evidence presented

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2 in Dr. Connor's December 22nd letter in
3 determining the respondent's custodial - - or
4 visitation rights, or what have you, and
5 respondent is trying to establish - - is trying to
6 figure out what exactly the policies are, because
7 it's not very clear if the respondent has the
8 ability or the right - -

9 COURT: This line of questioning is irrelevant. Let's
10 move on to something else.

11 RESPONDENT: All right.

12 Q. Are you - - in the evaluation, there was a concern of the respondent
13 that the petitioner didn't accept her responsibility for conflict in the
14 relationship - - or accept responsibility for her contribution to conflict
15 in the relationship. Do you remember exactly - - do you remember
16 what her response to that was?

17 A. No, you'd have to point me to where you're reading, specifically.

18 MS. LOECHEL: Wouldn't it be easier just to mark and enter this
19 into evidence and the Court can take notice of
20 all the information in that?

21 RESPONDENT: No objection.

22 COURT: Okay. So what are the parties agreeing to here,
23 to introduce the report itself?

24 MS. LOECHEL: Are we agreeing to just admit the custody report
25 so that the court can - -

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2 RESPONDENT: Well, no, it's hearsay, because there's no - - I
3 don't have the case file. I believe it's on the
4 additional concerns.

5 I'll withdraw my question now for now.

6 Q. It states that there's an incident whereby one of the children had - -
7 one of the children was taken to - - had to be taken to the pediatrician
8 for an apparent asthma attack. It said that - - you wrote that [REDACTED]
9 said that she would be there in ten minutes, and said 'Dan hurried the
10 girls to the pediatrician so that he could sign them in. [REDACTED]
11 believes that this is an attempt by Dan to show his interest in having -
12 - having and being the primary care provider for the girls, when
13 historically he has not done so.' Wouldn't it appear that Mr.
14 Brewington was trying to get medical care for his children?

15 A. Yes.

16 Q. And isn't - - wouldn't it be a little selfish to - - for somebody to want
17 to withhold medical attention - - immediate medical attention for a
18 breathing party for a child, because they want to sign the person in,
19 didn't want to wait for - - if they want the other party to - - want the
20 other parent to wait for them to get there?

21 A. Yes.

22 Q. So, and the fact that the petitioner wanted to delay medical treatment
23 for - -

24 MS. LOECHEL: I'm going to object, as far as he's asking Dr.
25 Connor to speculate as to what my client's - -

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2 my client's reasoning would have been.

3 COURT: Overruled.

4 Q. In your opinion, does it appear that the petitioner put her - - put
5 herself in front of the children, because she wanted the respondent to
6 wait for medical attention?

7 A. That wasn't my impression of it. She - - She felt like you - - my
8 impression of her comment there was that she didn't want you to wait
9 'til she got there so she could get there first. She felt that you were
10 trying to rush in an extraordinary manner in order to sign them in. It
11 was no competitive factor that she wanted to get their first, in my
12 interpretation of her response.

13 Q. So it could be that the respondent is just concerned about the
14 youngest child's well-being and trying to get medical attention that
15 it was - - Are you saying it's an act of selfishness for the
16 respondent to hurry the child to a physician as fast as possible?

17 A. No, no. As I testified, just thirty seconds or so previously, that I
18 think that was the proper thing for you to do, to get the child the
19 medical attention they needed.

20 Q. Okay. And on, uh - - regarding the - - the guns, did you see any
21 guns laying around the house?

22 A. No.

23 Q. And you did observe a gun safe?

24 A. Yes.

25 Q. Did the petitioner provide you with any documentation that the

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2 respondent had applied for a conceal carry permit?

3 A. No, you told me you did.

4 Q. Well, it states that [REDACTED] also expressed concern that Dan applied
5 for a concealed weapon permit.

6 A. Yes, and you told me that you did. You said you had a tenant that
7 you were having some problems with that sold you the gun, I believe.

8 Q. That I - - that I was having problems with?

9 A. Or a tenant - - I forget how you described it. It's in the report. You
10 had a tenant who sold you the gun.

11 Q. But it wasn't any kind of violent behavior or it wasn't anything - -

12 A. That was not my impression.

13 Q. Okay. But it - - who brought up the conceal carry permit?

14 A. I believe she did, the mother.

15 Q. Did she provide you any documentation on that?

16 A. I believe there is a document in my file about the permit, yes.

17 Q. Well, I provided you with one in the file - -

18 A. Okay, then that's what - -

19 Q. - - that has the date, which you didn't correct. You wrote that Dan
20 stated he applied for the gun permit on 11/06.

21 A. Okay.

22 Q. But it was actually - - it was 1/21 of the following year.

23 A. Okay.

24 Q. Why would - - why would you write - - why did you write that - -
25 how did - - excuse me, withdraw. How many - - how many - - how

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2 could there be so many mistakes in the custody evaluation?

3 A. I don't think that there are that many mistakes. There are some. No
4 doubt there are some in an evaluation of this length. There will be
5 some minor mistakes, but I think the totality of the final opinion,
6 though, is based on information I feel is accurate.

7 Q. Is, uh - - it's not - - it's not - - you failed - - failing to put in the
8 full medical - - or mental health history, alcohol related - - alcohol
9 related automobile accidents, things of that sort of nature, is that a
10 minor error that had an impact on possible history or parenting or
11 responsibility?

12 A. That information is in the addendum. And again, I do not feel that
13 there is information that is inaccurate or that would alter my final
14 opinion that joint custody is not appropriate in this case.

15 Q. Who confused the names of the children when the children were - -
16 you had the wrong names of the children?

17 A. That's possible that I did as I was editing the report.

18 Q. In the observations, the parent-child observations, it states that the
19 petitioner - - the petitioner and her mother over-reacted to a
20 (indiscernible) that wasn't even an injury. Dr. Sara Jones-Connor
21 said that it wasn't - - wasn't that major.

22 A. Yes.

23 Q. Did - - does that demonstrate that the petitioner could over-react in
24 situations?

25 A. That's possible.

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2 Q. Something as minor as that, is it possible that she may make a poor
3 decision in serious medical treatment?

4 A. Not necessarily.

5 Q. But it's possible?

6 A. As I said before, anything is possible with - -

7 Q. But during that minor injury, did she take care of the situation
8 herself?

9 A. I believe she did.

10 Q. It says in the evaluation that the maternal grandmother had heard and
11 went into the bathroom to check out and see if - -

12 A. Okay.

13 Q. Did petitioner state anything about the - - about the respondent not
14 picking the children up?

15 A. I'm sorry?

16 Q. Did the petitioner ever say anything about respondent not picking up
17 the children or refusing to take the children or not exercising him
18 parenting responsibility?

19 A. No, other than she felt like they might stay with the grandmother
20 more than - - or your mother more than - -

21 Q. Did she provide you any proof of that?

22 A. No, that was her statement.

23 Q. In a letter to the Kentucky Board of Examiners, you stated that a lot
24 of the opinions and - - the opinions of yours - - or many of the
25 statements in the evaluation were, in fact, statements or opinions of

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2 the petitioner regarding attention deficit disorder.

3 A. Correct.

4 Q. Is that true?

5 A. Yes.

6 Q. Does she have any training - - were you aware of any specific training
7 that she may have in terms of treating or education or anything having
8 to do with attention deficit disorder?

9 A. No.

10 Q. Is she a medical doctor?

11 A. No.

12 Q. Then why would you - - why would you consult with the petitioner
13 and her opinions on attention deficit disorder if she's not a mental
14 health professional?

15 A. I did not.

16 Q. What did you - - you stated in your letter to the Kentucky Board of
17 Examiners that many of the statements about ritalin dosage and
18 attention deficit disorder was based on the petitioner's accounts?

19 A. Her experience of you. I did not consult with her about ADHD.
20 These were her concerns about you.

21 Q. Now, it's - - but it is possible that she might have interpreted the
22 situation or matters or had problems communicating or maybe her
23 opinions were slighted about the severity of the respondent's attention
24 deficit disorder due to her obsessive compulsive disorder or
25 depression?

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2 A. It's possible, but not probable, given the information and my
3 experience with you.

4 Q. So, are you aware that the law states that respondent is entitled to the
5 case file or a copy of - -

6 MS. LOECHEL: I'm going to object. We've already - -

7 COURT: Objection sustained. Let's move on to
8 something else.

9 Q. Did you under - - do you think that the respondent loves his
10 children?

11 A. Yes.

12 Q. But somebody who - - did you - - have you heard of any violent
13 behavior - - has the - - Did the petitioner state that the respondent
14 harasses his work, that the respondent harassed her family? Did the
15 respondent actively do - - I mean, aside from rhetorical statements - -
16 has the respondent ever made any attempts to harass the family?

17 A. Uh, in terms of giving a letter to the mother's therapist, copying her
18 diary, as she felt, that's an aggressive act. Pushing her, as you said - -
19 stated that you did, is an aggressive act. Calling her a bitch is an
20 aggressive act, as you stated you did. Punching the doors is an act of
21 intimidation that we often see in domestic violence, which you stated
22 you did. So, yes.

23 Q. But there hasn't been any sorts of domestic violence and due to all the
24 conflict, wouldn't you - - and over the course of two years and there
25 hasn't been any restraining orders or domestic violence and no

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2 incidents of harassing behavior, given that there hasn't been anything
3 of that nature?

4 A. Well, I don't know exactly what's happened in the two years since
5 I've been out of the case, if there has been harassment or difficulties
6 with communication. You seem to have a pattern of intimidation with
7 people if you don't get what you want and then you try to manipulate
8 things the way you would like them. I think just as a pattern of
9 behavior, thought, that we see in people who can be overly aggressive
10 at times, such as punching doors or pushing a woman.

11 Q. Did the petitioner say that she physically pushed the respondent or
12 restrained the respondent from leaving the home?

13 A. Uh, you stopped her from leaving one time, by blocking her car,
14 which is also an act of aggression.

15 Q. What time was that at?

16 A. It was around two o'clock, I believe, in the morning.

17 Q. In the morning?

18 A. Two a.m., I believe.

19 Q. And was she taking the children?

20 A. She was taking one of the children, yes.

21 Q. And was the weather bad

22 A. I don't recall, but regardless, a woman has the right to leave the
23 home, if she so chooses.

24 Q. But what if the mother's leaving is putting the children in danger?

25 A. That would be her decision and not your's.

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2 Q. What if - - what if the situation was imagined or perceived, that she
3 brought the conflict on herself?

4 A. Again, that is her decision and not your's.

5 Q. So, is it - - is it - - is it the other parent's responsibility to do
6 something to protect his children when it's not aggressive, it's not - -
7 and it's just an act - - withdraw. In a situation like that, what would
8 be the appropriate course of action if somebody was emotionally
9 hysterical and leaving in bad weather with the children and - -

10 MS. LOECHEL: I'm going to object, as far as the characteristic
11 as - -

12 COURT: Objection sustained.

13 Q. Depression or - - if depression or obsessive compulsive disorder
14 isn't maintained or treated, can it manifest itself and become worse?

15 A. Yes.

16 Q. Has the respondent - - or I'm sorry - - has the petitioner had a steady

17 
18 or has it been kind of on and off?

19 A. I don't know what's been going on the last couple years. When I
20 evaluated the mother, she seemed to be more stable, she seemed to
21 have insight into her - - the psychological issues that she had and was
22 more aware of her own self in this regard, which indicates a degree
23 of stability, in my opinion.

24 Q. Could it be possible that she was wrong?

25 A. As I said before, anything is possible, but it's my clinical opinion.

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2 Q. But, you said she had a better view of things, yet she could react to an
3 imaginary things?

4 A. At times she might.

5 Q. So if she could react to imaginary things, wouldn't it be -- withdraw.
6 What was the date that your office -- how many times did your office
7 try to . . . In terms of the movies -- you made references to the
8 movies. What -- what is -- withdraw. Did you threaten legal
9 action against the respondent?

10 A. As your writings increased and the number of faxes and letters that
11 you sent to our office, you even came by our office -- as recent as
12 yesterday, you came by our office, I believe it was -- and I did
13 become concerned about you, given your profile, given your tendency
14 to be intimidating, given the amount of information that you've put
15 on the internet, and the slanderous manner of your writings, I did
16 become concerned and thought that I perhaps needed a restraining
17 order or an emergency protective order to, uh -- because I am not
18 clear just how dangerous you can be.

19 Q. But you -- nowhere have you ever said that any of this behavior is
20 dangerous to the children?

21 A. Mr. Brewington, in my course -- in my career as a clinical
22 psychologist, I certainly review many, many documents of people
23 who have committed horrendous acts of violence and crime. Some
24 of the writings that you do and the manner in the way you go about
25 it are not that different from some of the people who actually do

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2 commit acts of violence and you have a history of acting violent with
3 your ex-wife and I think that's concerning. So yes, given your profile
4 and the information available to me, I - - and the fact that you do have
5 a license to carry a concealed weapon, I do want to be attentive to that
6 possibility and protect myself.

7 Q. How many times did - - was there intimidation or violent acts against
8 the petitioner and the respondent?

9 A. Well, you blocked her car, you called her a bitch, at least once,
10 according to you, you hit her - - you pushed her, I mean - - I
11 apologize. You pushed her.

12 Q. Strike that.

13 A. I apologized. I said pushed. And you also punched the door on two
14 occasions, is what you told me. So those are acts that I think can be
15 considered acts of aggression.

16 Q. Did the petitioner tell you - - give you any financial information - -
17 Petitioner said that the respondent wasn't financially responsible.
18 Did the petitioner give you any information about her financial
19 responsibilities or obligations in terms of debt?

20 A. I don't recall that. I typically don't deal with finances.

21 MS. LOECHEL: I'm going to object, as far as relevancy.

22 COURT: The objection's sustained. I see no relevance
23 through this witness. Proceed.

24 Q. To scheme and plot - - what did the respondent mean - - or the
25 petitioner mean by scheme and plot? Did she give you any

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2 explanation of that?

3 A. Yes. I received an anonymous letter that was during - -

4 Q. The petitioner - - the petitioner said - -

5 A. I'd like to finish my - -

6 COURT: Let him finish the - -

7 RESPONDENT: Well, that's not the - - that's not the - -

8 COURT: Let him - - Let him - -

9 RESPONDENT: - - that's not the - - not the question I asked - -

10 COURT: Sir, quiet. Let him finish the answer. Okay?
11 You've asked the question, now let him answer
12 it.

13 RESPONDENT: That's not what I asked him.

14 COURT: Let him finish the answer to your question.

15 A. I received an anonymous letter shortly after the evaluation was
16 forwarded to the court that was very threatening, about releasing all
17 types of documents to various - -

18 RESPONDENT: Objection. Irrelevant.

19 COURT: Overruled.

20 A. - - various agencies, my father's scholarship fund at Thomas Moore
21 College, different agencies in the State of Kentucky, newspapers and
22 so on and so forth, and uh, in asking different people if they knew
23 anything about it, one of which was Mr. Brewington, he neither
24 denied it or acknowledged it. And uh - - uh, it was concerning
25 because it was very consistent with the types of writings that he does

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2 on the internet and other documents - -

3 RESPONDENT: Objection. He's not - - He's not an analyst of
4 handwriting.

5 COURT: Objection's overruled.

6 A. And I think that the telling issue was when I showed this letter to the
7 mother - - and she did not realize that it was not signed - - she read
8 the letter and when she finished reading the letter, she said, 'this is
9 Dan, this is what he does.' And I said, 'well, how do you know it's
10 him?' And she goes, 'well, this is . . .' I said, 'it's not signed,' and
11 she was very surprised, and I have a copy of the letter. She was very
12 surprised that it was unsigned. And so, again, when I asked Mr.
13 Brewington if he knew anything about this, he neither denied writing
14 the letter, nor did he acknowledge writing the letter, which caused me
15 concern, because again, this was shortly after the evaluation and he
16 made insinuations about having secret tape recordings and that he
17 would - - he would release the tape recordings to various newspapers
18 - -

19 RESPONDENT: Objection.

20 COURT: Objection's overruled.

21 RESPONDENT: Objection that he's - - he's accusing - -

22 COURT: You have made your objection - -

23 RESPONDENT: There's no evidence that the respondent wrote
24 it.

25 COURT: - - I have overruled it. I will take the objection

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2 into consideration to the weight, if any, to give
3 to it.

4 Q. When did you ask the respondent if he wrote that?

5 A. It was in a written letter to you. I don't remember the date.

6 Q. Did you hear any explanation about where you received it and how
7 it came about?

8 A. No, I did not. I asked you if you knew anything about this.

9 Q. Was - - was the evaluation over, in your mind, at that point?

10 A. Yes.

11 Q. Then what was your purpose to ask - - you know, to send the letter to
12 the respondent?

13 A. Your profile.

14 Q. But you actually said the evaluation was over - -

15 A. Yes.

16 Q. Why would you continue to explore something?

17 A. Because based on what I knew about you at the time, and your
18 psychological profile, I felt that this is something that you could
19 possibly do.

20 Q. Is there - - has anybody ever been upset or disappointed with a
21 custody - - child custody evaluation?

22 A. Yes.

23 Q. So, it could have been anybody?

24 A. Could have been.

25 Q. So - - and then why would you show that to the petitioner?

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2 A. Because, again, I felt, given your profile, you are the type of person
3 who would do something like this, and I think over time all the other
4 writings that you have done have supported my hypothesis.

5 Q. Okay. So you don't know who wrote that?

6 A. I believe you did, but I do not know for sure.

7 Q. But you don't know?

8 A. That's correct.

9 Q. You wrote that - - you sent that, and you didn't give any kind of
10 information, it says, please review the attached document, if you
11 know anything about this, please respond via fax and - -

12 MS. LOECHEL: I'm going to object, as I don't know how this
13 letter has anything to do with the relevancy of
14 determining the custody of the children at this
15 point. We've been on it for - -

16 COURT: Well, the issue was raised by Mr. Brewington,
17 himself, when he asked questions about how he
18 could potentially be dangerous. He asked that
19 question of Dr. Connor.

20 MS. LOECHEL: Yeah, okay.

21 COURT: And that's why the questioning is continued.
22 Go ahead.

23 Q. We would have been able to pass through this if I would have got the
24 case file. Did you - - you wrote to please review the attached
25 document, do you know anything about this, please respond via fax.

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2 What - - you know, what were you seeking? Why didn't you give
3 any kind of, like, background why you were sending something like
4 this? Did that appear to be intimidating from somebody or, you
5 know, could be intimidating to somebody, if you got that from the
6 custody evaluator?

7 A. It's a very straightforward question, did you know anything about
8 that, and if you experience that as intimidating, that's possible that
9 you may have, but again, after my experience as a psychologist over
10 the years and dealing with many different types of personalities and
11 thinking about the types of cases I had in my practice at that time, you
12 were one of the people who I felt could potentially write such a letter.

13 Q. You wrote that - - you wrote that statement on April 1st, and that was
14 approximately - - you faxed that approximately ten minutes after you
15 wrote to the Judge stating that furthermore you were concerned with
16 Mr. Brewington's intentions regarding the case file, because it's not
17 only his confidential information, but Ms. Brewington's. What - -
18 what concerns did you have at that point?

19 A. That you would use the information to cause harm to Ms.
20 Brewington.

21 Q. What, uh - - what happened from the time of - - what made you
22 come to that conclusion from the time of March 26th to April 1st that
23 gave you the impression that the respondent would misuse
24 information - -

25 MS. LOECHEL: I'm going to object, as I think we've done this

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2 before. I think this has already been asked and
3 answered.

4 RESPONDENT: No, that hasn't.

5 COURT: All right. Ask this question and then let's move
6 on.

7 Q. From the time of March 26th to April 1st, what transpired that made
8 you think that the respondent may misuse the information?

9 A. Again, your profile. You're the type of person who has a profile that
10 you would be manipulative, you would try to intimidate, you're - -

11 Q. Well, why - -

12 COURT: Let him answer - -

13 Q. - - why did you answer - -

14 COURT: Let - - let him answer the question. You
15 wanted an answer; we're going to get an
16 answer.

17 RESPONDENT: He's not answering.

18 COURT: Yes, he is. Be quiet and let him answer it.

19 A. You're psychometric test indicate that you have a high degree of
20 narcissism and - - which is the self-centeredness, so that would lead
21 one to, I think, rationally consider the possibility that this is how you
22 operate.

23 Q. Okay. On the 26th, you said you'd happy to release it, so you didn't
24 have any concerns. What transpired between the 26th to the 1st to
25 raise these concerns, because you said - - you didn't give any kind of

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2 indications that you were - - that you were concerned on the 26th, yet
3 by April 1st - -

4 A. I - -

5 Q. What transpired in that time to make you be concerned?

6 A. I honor court orders and I honor a client's right to privacy. If I had
7 those mechanisms in place, whether the client's consent, I would be
8 happy to release that file. If I had a court order, I would be happy to
9 release the file. But short of that, I think it would be very detrimental,
10 given the way you operate, to release that information. I thought this
11 would be a matter for the court to decide.

12 Q. Do you know it's not proper to give ex-parte - - to give out ex-parte
13 evidence to a court of law?

14 A. Do I know it's what?

15 MS. LOECHEL: I'm going to object. Dr. Connor is not an
16 attorney.

17 RESPONDENT: What - -

18 COURT: Are you referring to what your accusations are
19 against Judge Taul?

20 RESPONDENT: Well, not - -

21 COURT: Are you making - - are you raising this
22 regarding your accusations against Judge Taul?
23 Yes or no.

24 RESPONDENT: I'm just - - I'm just asking - -

25 COURT: Yes or no - - is that where you're going with

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2 this?

3 RESPONDENT: No.

4 COURT: Okay. So where are you going with it?

5 RESPONDENT: I'm just asking if he's aware of it.

6 COURT: How's it relevant then?

7 RESPONDENT: It's relevant in terms of - - It's relevant in
8 terms of the ability to establish if he's
9 conducted an unbiased evaluation.

10 COURT: No. Objection sustained. Move on to another
11 area.

12 Q. Did you - - did you give any kind of consideration to the - - or what
13 accommodations did you make - - give the respondent to
14 accommodate for his attention deficit disorder, in administering,
15 assessing, you know, scaling the tests?

16 A. I explained to you in the initial session how the tests operate, how to
17 take the test, where you - - showed you were you would be taking the
18 test, and all this information was given to you. At no time did you
19 say, well, I need any type of accommodation. Children in school or
20 adults who have ADHD do not all need special accommodations.
21 Had you needed that, then I would believe that you would have told
22 me that.

23 Q. Did the person scoring the test have any idea however this came
24 about - - is there any indication that attention deficit disorder - - or
25 that the person had attention deficit disorder?

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2 A. The scoring of the test is simply data entry.

3 Q. Data entry?

4 A. They enter into a computer program. It's just data entry. It's not - -
5 they don't score - - clinically score it.

6 Q. Oh, okay. So it's very possible that somebody who has attention
7 deficit disorder just missed a circle somewhere and - - on the - -
8 standard - - by a scantron, or what have you, somebody could have
9 messed up on one circle and then given, to which he's messed up, the
10 psychological program - - is that a possibility? Somebody might
11 have problems sitting and concentrating - -

12 A. Do you mean you? I'm sorry. Go ahead.

13 Q. If somebody had problems focusing and concentrating, isn't it
14 possible that they could have just marked the wrong - - marked the
15 wrong zero, wouldn't it be likely that they would have a higher
16 probability of a mis-mark than somebody who didn't have attention
17 deficit disorder?

18 A. That's possible that that would occur, maybe, or on a few items. You
19 know, on the one test there's five hundred and sixty-seven items. So
20 it's doubtful that it would be that many. On the MCMI there's a
21 hundred and eighty-five items. So, I mean, there's a possibility that
22 that might have occurred a few times, but again, with that possibility
23 it's doubtful, in my opinion, that you would have done that.

24 Q. Do you have a - - what is your, uh - - do you have any professional
25 training in administering psychological tests to people to fall into

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2 such a high range of attention deficit disorder?

3 A. There is not specialized training in administering specific
4 psychometric tests, such as these, to people with high incidents of
5 attention deficit disorder. These are tests that are administered to
6 people, whether they're paranoid schizophrenics, bi-polar, ADHD,
7 different personality disorders, a wide range of clinical syndromes.
8 You take into account the person's pre-existing diagnosis, if there is
9 one, which was taken into account in your case.

10 Q. You stated that there was phases of mania. If somebody - - If
11 somebody, uh - - or if somebody took such a high dose of ritalin,
12 wouldn't that have a good probability of impacting a more consistent
13 pattern of manic personality?

14 A. If a person is bi-polar, based on my clinical experience as a
15 psychologist, and take a stimulant medication and are in a manic
16 phase, they could become more manic.

17 Q. But you stated that there was - - that the testing stated that there was
18 phases of mania. That would likely apply to the respondent, given the
19 - -

20 A. Can you show me where you're reading, please? As I testified
21 earlier, I did not believe that you have bi-polar disorder.

22 Q. Oh, I'm sorry. It states is rather restless and manic-like existence.
23 Was there - - were there signs of manic behavior when you met with -
24 -

25 A. I said manic-like existence. I didn't say mania. I said restless. You

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 seem to have a lot of restless, fidgety, your thoughts would go very
3 rapid, they seemed to change, you seemed disorganized with some of
4 your thoughts. Your way of communication was sometimes, in my
5 experience as a psychologist, somewhat confusing.

6 Q. But that's consistent with attention deficit disorder?

7 A. Yes.

8 Q. On the psychological testing, can traits of attention deficit disorder
9 sometimes be confused with traits of other psychological disorders?

10 A. It's possible.

11 Q. So these tests might not be accurate?

12 A. In your case, I believe that they are accurate, in my clinical opinion.

13 Q. But the testing could establish something different - -

14 A. No.

15 Q. - - if the tests were re-administered? If the re-administered, could it
16 be possible that it would show something different?

17 A. Well, my concern in re-administering the test to you at this stage is,
18 I think, your manipulative nature would attempt to manipulate the
19 test. You came in and you took these tests, you took them in the
20 office, and I believe that they are an accurate reflection of your
21 personality.

22 Q. The test on petitioner, the Taylor Johnson temperament assessment,
23 on the TJTA - -

24 A. Yes.

25 Q. (Indiscernible) the respondent in a very guarded manner?

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 A. Yes.

3 Q. Is that test valid?

4 A. I believe it is, yes.

5 Q. She scored a 9 out of 10, with 10 being the highest degree of
6 guardedness?

7 A. Yes. I believe that she - - that - - what that tells me is that she can
8 be guarded and sometimes defensive, which is reflected in some of
9 her other psychological tests, as well.

10 Q. But, uh - - but on the validity scale, is there any - - is there any
11 question of the validity of that test?

12 A. Not in my clinical opinion, no.

13 Q. Is - - because on the - - it states that, uh, with the respondent, you -
14 - on this - - on the, uh - - and on the MCMI 3, you wrote, 'on this
15 instrument, Dan displayed a tendency to avoid self-closure, yet in
16 spite of this attempt', are you saying that respondent tried to throw
17 off the test?

18 A. I don't think it was conscious deceit. I think it's what we call
19 impression management, where you might try to manage the
20 impression of how you come across.

21 Q. But it come attention deficit disorder, like you state in, uh - - like is
22 stated in the MMPI 2, that it could be re-administered once it's
23 determined why - -

24 A. Sir, that is nothing but a - - it generates hypothesis. It's up to the
25 clinician to interpret the data, based on his or her experience with the

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 person. So I disagree with that.

3 Q. In regards to - - in regards to your methods of determining ADHD,
4 what medical reference or - -

5 MS. LOECHEL: I'm going to object with respect to the - -

6 Q. - - not medical reference, uh, psychological review - -

7 COURT: We have an objection.

8 MS. LOECHEL: I'm going to object with respect to the
9 characterization that Dr. Connor's determining
10 ADHD. Mr. Brewington is the one who told
11 Dr. Connor that he had ADHD.

12 COURT: Objection sustained. We've already been over
13 that issue. How many additional questions do
14 you have for the doctor, sir?

15 RESPONDENT: Just a few more.

16 COURT: How much time do you need?

17 RESPONDENT: Eight more minutes.

18 COURT: Okay.

19 Q. You stated that - - you stated in your notes that you observed me - -
20 you observed the respondent for a long amount of time and you stated
21 that the respondent didn't - - that the respondent didn't take any
22 breaks, talked excessively and that you came to some kind of
23 discrimination the severity of the attention deficit disorder due to just
24 listening to somebody talk for a long time. Is there any kind of
25 written reference to that in the American Psychological - - you know,

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 any psychological journal that just somebody's ability to talk or
3 ramble is the way to diagnose attention deficit disorder or determine
4 the severity of it?

5 A. No. You told me you had attention deficit disorder. In one of your
6 writings, you reference that you are in the upper two percent in terms
7 of severity. The amount of medications that you're on, as I look at
8 the references, appears to be quite high. So that information,
9 combined with my clinical experience and observation of you, led me
10 to believe that you're probably accurate, you are correct, you have
11 ADHD. Is that the only method of diagnosing ADHD, is listening to
12 someone? No, because there are some other psychiatric disorders that
13 could perhaps come into play here, such as a thought disorder or some
14 type of personality disorder, which I also believe you have some of.

15 Q. So, and somebody with - - everybody with the top two percent of
16 deficit disorder, do they have personality traits that are - - are they all
17 the same, are they all physically hyperactive? I mean, in your
18 opinion, is it possible for somebody who suffers debilitating attention
19 deficit disorder to represent themselves in a manner like this and have
20 some sort of - -

21 MS. LOECHEL: I'm going to object, because that's a question
22 for the court and not a question for the doctor.

23 COURT: Objection sustained.

24 Q. In closing, do you think that the children, given the fact that they
25 spend equal time with each parent, could suffer some emotional

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 trauma by reducing or eliminating the amount of time that they have
3 with their father or their daily scheduled - - daily routine?

4 A. I do.

5 Q. And do you think that since there's no examples of abuse, neglect, the
6 children are not wanting their father or their mother, either way, do
7 you think there would be any reason why all efforts shouldn't be
8 made to insure that both parents play an active role, if possible?

9 A. I think our recommendation indicates that the children do love you
10 and that you love the children. There is a bond there and that the time
11 that we recommend, we believe would sustain that bond. The issues,
12 again, as I've stated previously, is that to have joint custody with you,
13 I think, would be an extreme challenge and I think the prognosis is
14 very poor, even with treatment.

15 Q. You stated that - - With this being said, you said you believe that
16 the petitioner should be the primary resident and the children should
17 have time with their father during the times that their mother works,
18 if Dan can arrange his schedule accordingly, we believe that this
19 would be of benefit to the children, so you stated that it would be
20 beneficial to the children for the respondent to be as big a part as
21 possible, it seems, and then you go on to say, 'we see no reason why
22 the schedule should not remain intact at this time.' And then you go
23 on to say that minimizing the time would in fact sustain their existing
24 bond. How can the bond of a one year old and a parent be sustained
25 by minimizing the time they have?

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 A. Well, again, I think with - - I don't know your work schedule or if
3 you're working at this time. I don't know the mother's work
4 schedule. But we recommended, perhaps, a parenting coordinator or
5 mediator or some type to look at the schedule, because we do believe
6 that the children enjoy their relationship with you. As they get older
7 and start to school, this would become more of a problem, then,
8 because they would need to be in school.

9 Q. Uh, but there's - - but you don't - - if it's plausible, you don't see any
10 reason why the time should be minimized, that it could, in fact, be
11 worse for the children if - - strike that. Just one last question.
12 Indiana time guidelines state that - - the parenting time guidelines
13 state - -

14 A. I'm sorry. I didn't hear what you said.

15 Q. The Indiana Parenting Time Guidelines state that frequency versus
16 duration is important in raising young children.

17 A. Right.

18 Q. Why wouldn't that apply to your evaluation report, given that at the
19 time of release the youngest daughter was one year old, and you state
20 that minimizing the time would, in fact, sustain the existing bond,
21 when the State of Indiana, in effect, stated that, you know, frequency
22 is more important than not interrupting the schedule?

23 A. Because I do not feel that you all can have joint custody, given the
24 difficulty that you have between you. I believe that the work
25 schedules have to be factored into this to really determine the

1 **PETITIONER'S WITNESS - EDWARD CONNOR (CROSS)**

2 parenting time that would be appropriate for the children.

3 Q. But if it could be worked out, then, as equal time as possible, then it
4 would be the best scenario?

5 A. I believe that the mother would be the better primary residential
6 parent.

7 Q. But if it could be worked out that, uh, sharing - - you know, as equal
8 time as possible, that would be beneficial to the children?

9 A. I don't agree with that, because sharing equal time requires a lot of
10 cooperation, negotiation, clean communication, and I don't think
11 that's possible between you and Ms. Brewington, so therefore, I think
12 there needs to be a primary residential parent and a sole custodian.
13 And when the mother's working, if the children can be with their
14 father, then I think that's fine.

15 Q. So that means that, you know, if there's a need for childcare, if
16 there's the opportunity, then there wouldn't be any - - you don't see
17 any problems with dad being - -

18 A. Provided the children aren't in some type of pre-school or things like
19 this, because children do benefit from that, as well.

20 Q. Even if the respondent takes the children to pre-school? I mean, is
21 there a problem with that?

22 A. No, I don't - -

23 RESPONDENT: I have no further questions. I'm done.

24 COURT: Ms. Loechel, are you looking at any extensive
25 re-direct?

1 **PETITIONER'S WITNESS - EDWARD CONNOR (RE-DIRECT)**

2 MS. LOECHEL: No. Just real quick. I'd like to mark this as an
3 exhibit.

4 RESPONDENT: Objection, hearsay.

5 MS. LOECHEL: I haven't asked to admit it, yet.

6 RESPONDENT: Oh, I'm sorry.

7 **RE-DIRECT EXAMINATION**

8 **QUESTIONS BY MS. LOECHEL:**

9 Q. Dr. Connor, what I've marked as Petitioner's Exhibit 39, is what I
10 have as the confidential custody evaluation - -

11 A. Yes.

12 Q. Other than a little scribble that I have on page three, that I'd like the
13 Court to disregard, and a little scribble on page thirty, that I'd like the
14 Court to disregard, if that's fine, is that a copy of the confidential
15 custodial evaluation?

16 A. Yes, it is.

17 Q. And, uh, as we've been - - this is the one that you've testified to
18 extensively from questions from both me, as well as Mr. Brewington,
19 is that correct?

20 A. Correct.

21 MS. LOECHEL: I'd like to move this into evidence.

22 RESPONDENT: Objection. Hearsay.

23 COURT: Overruled. Show it's admitted.

24 **WHEREUPON, PETITIONER'S EXHIBIT 39 WAS ADMITTED INTO**
25 **EVIDENCE**

1 **PETITIONER'S WITNESS - EDWARD CONNOR (RE-DIRECT)**

2 Q. And I also have marked as Exhibit 40 a copy of the addendum.
3 Would you look at that, please?

4 A. Yes, it is.

5 Q. Is that your addendum?

6 A. Yes, it is.

7 Q. And again, this is what we've testified to with questions from myself,
8 as well as Mr. Brewington, is that correct?

9 A. Correct.

10 MS. LOECHEL: I'd like to move 40 into evidence, please.

11 RESPONDENT: Objection. Hearsay.

12 COURT: Overruled. Show it's admitted.

13 **WHEREUPON, PETITIONER'S EXHIBIT 40 WAS ADMITTED INTO**
14 **EVIDENCE.**

15 Q. I also have marked as Exhibit 41 - - could you look through this?
16 This is a copy of the [REDACTED] letter. Does this appear to be
17 the letter that you were provided by Ms. Brewington in the
18 evaluation, that Mr. Brewington has then brought up multiple
19 questions for, as well?

20 A. Yes.

21 Q. And with respect to that, too, on page one of it, is that where that he
22 also informs [REDACTED] in that case that he's in the top two
23 percent of ADHD cases?

24 A. Yes.

25 MS. LOECHEL: I'd like to move that into evidence, please.

1 **PETITIONER'S WITNESS - EDWARD CONNOR (RE-DIRECT)**

2 RESPONDENT: Objection. I'm not sure if the evidence is
3 complete. I don't have a copy of that actual
4 form, because of the extensive nature and it was
5 a - - it was a whole packet of information with,
6 uh - -

7 MS. LOECHEL: Mr. Brewington referred to it in his questioning
8 of Dr. Connor.

9 RESPONDENT: Yes, but I'm not sure if she's submitting it or - -

10 COURT: Dr. Connor, are you indicating this appears to
11 be a complete copy of that letter?

12 A. Yes, sir, it does.

13 COURT: Show it's admitted.

14 **WHEREUPON, PETITIONER'S EXHIBIT 41 WAS ADMITTED INTO**
15 **EVIDENCE**

16 COURT: Anything else?

17 MS. LOECHEL: I have nothing further.

18 RESPONDENT: Objection. Dr. Connor did not review very
19 many pages of that, so he's not aware if all of
20 the pages exist. He hasn't compared that with
21 what he has and I haven't been provided with a
22 copy of that, that extensive document, in that
23 form.

24 COURT: You've made your objection. Dr. Connor has
25 indicated he's aware of it's contents - -

1 **PETITIONER'S WITNESS - EDWARD CONNOR (RE-DIRECT)**

2 A. Yes, sir.

3 COURT: It appears to be complete - -

4 A. Yes, sir.

5 COURT: It's overruled. Any other questions?

6 RESPONDENT: No, that's it.

7 COURT: Doctor, you're excused.

8 A. Thank you.

9 COURT: How much more time are we going to need to
10 get this matter completed?

11 MS. LOECHEL: I have Ms. Brewington to finish her testimony,
12 which is just about over. I'd say a half an hour
13 at most. And I also have Ms. Brewington, Mr.
14 Brewington's mother, subpoenaed here today,
15 as well.

16 COURT: Okay. Well, folks, we are not going to be able
17 to complete today. We're going to reschedule
18 for completion and my jury trial is not going to
19 go next week, so we're going to reschedule for
20 completion next week.

21 MS. LOECHEL: Okay.

22 COURT: And the dates that I'm going to give you - - I'm
23 scheduling two days for completion, because we
24 are going to get this case done next week. June
25 the 2nd, we will begin at 9:30 a.m. June the 3rd,