

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT, IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA  
UNIFIED FAMILY COURT  
CASE NO.: 2017-013616-FC-04

Michelle Watts O/B/O  
Jacob Gantine,

Petitioner,

and

Michael J.M. Gantine,

Respondent.

HEARING BEFORE: Honorable Marcia B. Caballero  
DATE: June 20, 2017  
TIME: 1:58 p.m. - 5:44 p.m.  
LOCATION: Miami-Dade County Children's Courthouse  
155 Northwest 3rd Street  
Miami, FL 33128  
REPORTER: Patricia J. Feucht, RPR  
Stenograph Shorthand Reporter and  
Notary Public, State of Florida  
at Large.

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1 A P P E A R A N C E S:

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12 ALSO PRESENT: MICHELLE WATTS and MICHAEL GANTINE  
13  
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1 P R O C E E D I N G S

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2  
3 THE COURT: Please be seated. So are you ready  
4 to proceed?  
5 MS. DIENSTAG: Yes, Your Honor. I would like to  
6 have opening argument.  
7 THE COURT: Okay. Go ahead with petitions.  
8 MS. FORTUNATO: Yes, ma'am. Before we get  
9 started, I want to make sure that under 61.517, this  
10 Court has contacted the Illinois Court.  
11 THE COURT: Yes, I did. I spoke to the judge  
12 yesterday. We tried to connect last week, Thursday,  
13 Friday. We weren't able to because of our hearings,  
14 but we finally spoke yesterday.  
15 MS. FORTUNATO: Okay. Great.  
16 THE COURT: So he's informed me well on the  
17 status of matters over there. I understand that there  
18 was going to be a hearing, that the mother had  
19 withdrawn her motion. It was not heard. And I'm  
20 supposed to call him back today or tomorrow after this  
21 hearing to let him know what happened, the outcome of  
22 this hearing.  
23 MS. FORTUNATO: Okay. Thank you, Your Honor.  
24 I'm going to waive my opening and proceed whenever  
25 you're ready.

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1 THE CLERK: Excuse me, Judge. Did you call the  
 2 case number?  
 3 THE COURT: Oh, no. Let's do that.  
 4 THE CLERK: Case No. 2017-13378-FC-04 and also  
 5 2017-013616-FC-04.  
 6 THE COURT: Thank you. And if you can announce  
 7 for the record, because they'll be calling us to ask  
 8 us to tell you to do that. So if you would do that,  
 9 please.  
 10 MS. FORTUNATO: Melody Ridgley Fortunato on  
 11 behalf of the mother, who's present.  
 12 THE COURT: Thank you.  
 13 MS. DIENSTAG: Cynthia Dienstag on behalf of the  
 14 respondent, Michael Gantine, who is present to my  
 15 left.  
 16 THE COURT: Thank you.  
 17 MS. DIENSTAG: The timeline of events relative to  
 18 this case, April 20th, 2015, the mother requested a  
 19 permanent domestic violence injunction in DuPage  
 20 County, which is in Illinois. The mother was ordered  
 21 to -- it was denied. The mother was ordered to work  
 22 with the father on a reunification plan.  
 23 On April 20th, 2015, a guardian ad litem, Thomas  
 24 Kenny, who is the subject of my motion to request that  
 25 you listen to his testimony via telephone -- and he

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1 has -- I have supplemented it that he's -- Mr. Kenny,  
 2 who is an attorney licensed to practice in Illinois,  
 3 is in hearing. But he's available to speak to you,  
 4 and he has been the guardian ad litem of the child  
 5 since 2015.  
 6 THE COURT: Well, I've read all the transcripts.  
 7 I've reviewed the dockets. I've reviewed the orders.  
 8 I know what his testimony was, so I know what his  
 9 involvement has been. I know what his recommendations  
 10 were in the other hearing.  
 11 MS. DIENSTAG: A therapist was appointed by the  
 12 Court, Mark Goldstein, which was assigned by the  
 13 Illinois Court to assist in the reunification process.  
 14 Although the mother attempted to hire a psychologist  
 15 privately to testify, that was not agreed to by the  
 16 father. The Court didn't appoint that psychologist.  
 17 I think she's going to try to do the same thing here.  
 18 There was a court-appointed psychologist, Mark  
 19 Goldstein, who also testified consistent with the  
 20 information that I'm providing the Court.  
 21 Between August and December of 2015, the mother  
 22 missed three different court hearings in the state of  
 23 Illinois. And sometime between August and December of  
 24 2015, she obtained a new birth certificate through the  
 25 child through the health department of Indiana,

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1 claiming that the child was born in Indiana with the  
 2 services of a midwife, although the child was actually  
 3 born in West Palm Beach. After obtaining the birth  
 4 certificate, she enrolled the child under an alias in  
 5 the state of Washington. There is an ongoing forgery  
 6 investigation based on that birth certificate, case  
 7 No. 17-02552.  
 8 On January 8th, 2016, Judge Else of Illinois  
 9 issued a warrant for the arrest of the mother and held  
 10 her in civil contempt. The father requested for the  
 11 Court to transfer custody to him and relocation of the  
 12 child, and the motions were granted in January of  
 13 2016. On February, again, of 2016, the motions were  
 14 granted. And on March 18th, 2016, the judge entered  
 15 another order clarifying that all law enforcement  
 16 officers were ordered to locate the child and transfer  
 17 possession to the father.  
 18 On May 18th, 2016, the father filed a missing  
 19 child report. As a result of that report and months  
 20 and months of joint work between the Seattle,  
 21 Washington, and Bellevue Police Department and the  
 22 Illinois DuPage County Sheriff's Office, they finally  
 23 found the child 18 months later.  
 24 On January 30th, 2017, the mother, having already  
 25 been advised of the investigation and the court

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1 orders, instead of going back to Illinois and doing  
 2 whatever she was going to do to vacate those orders,  
 3 she files another ex parte temporary order for  
 4 protection in the state of Washington.  
 5 THE COURT: And right before that, I know in  
 6 January -- I have a timeline as well that I've done.  
 7 January 27th, the child was actually picked up and  
 8 returned to the father.  
 9 MS. DIENSTAG: Right. The mother purportedly  
 10 gave, again, the Court false information that she --  
 11 under a temporary injunction. On February 6th after  
 12 obtaining the ex parte order from Washington, the  
 13 mother came to Florida and obtained a pickup order  
 14 from a Miami judge and took the child back to  
 15 Washington.  
 16 On February 13th after the judge heard arguments  
 17 in Washington, the judge removed the child from the  
 18 mother on an order of protection and ordered the  
 19 mother to return the child back to the father. The  
 20 Court declined to exercise jurisdiction over the  
 21 child, because Illinois retained exclusive  
 22 jurisdiction.  
 23 On April 7th, a conference was held between the  
 24 Washington and Illinois Court after the mother  
 25 requested the Washington Court exercise jurisdiction.

<p style="text-align: right;">Page 9</p> <p>1 We're seeing a pattern here of, again, what happened  2 in Miami. The Illinois Court expressly reserved and  3 retained its exclusive and continuing jurisdiction  4 over the parties, and Illinois stated its desire to  5 retain jurisdiction.  6 On May 23rd -- and this is where we're getting  7 close to why we're here in Miami -- the judge in  8 Washington denied a request for the order for  9 protection from the mother; therefore, the order that  10 she had that caused the pickup order here had been  11 dismissed already by May 23rd. And you're going to  12 see the time in which she filed, which is so  13 important, which is why, clearly, there's fraud upon  14 the court.  15 THE COURT: She was sanctioned also.  16 MS. DIENSTAG: The judge also -- not only did she  17 deny with very strong findings and sanctioning the  18 mother, but the judge also entered sanctions finding  19 that the pleadings were meritless and, based on the  20 testimony and the arguments of counsel, found that the  21 mother was attempting to frustrate the enforcement of  22 law enforcement officers and made specific findings  23 about the allegations that the mother made about the  24 father.  25 On May 30th, 2017, the mother again committed</p>	<p style="text-align: right;">Page 11</p> <p>1 says: "Since reuniting with the petitioner, he has  2 disclosed" -- that's what the mother is saying that  3 the son said when she kidnapped him back. He had  4 disclosed to his mother that he constantly prayed over  5 the three-month period in hopes that she or the police  6 were coming for him.  7 He also has displayed anxious behaviors, easily  8 scared by abrupt noises, and is extremely clingy to  9 his mother. Based on the aforementioned incidents,  10 the petitioner/mother is seeking an injunction to  11 restrain the respondent from further contact. The  12 petitioner/mother is also requesting custody.  13 Now, again, on the four corners of this document,  14 I hardly think those allegations would prevail on a  15 motion to dismiss based upon that it's not reasonable  16 fear, nor would it be the basis for granting exclusive  17 jurisdiction under an emergency basis.  18 But we're still not past that. The mother also,  19 after May 30th --- what she did is that -- and I don't  20 know if Your Honor has seen it, but it's very, very  21 important. I know that you talked to the judge. But  22 she files an emergency motion, because there was  23 supposed to be a hearing in Illinois on June 19th in  24 which she was seeking to now set aside everything.  25 And she was going to then ask that -- you know, the</p>
<p style="text-align: right;">Page 10</p> <p>1 fraud upon the Florida Court in seeking to exercise  2 emergency jurisdiction. And why I said this last  3 time, if you look at the May 31st petition for  4 injunction, it says on the last line: "The petitioner  5 states that" -- this is in the injunction filed by the  6 mother in Florida. "The petitioner states that the  7 respondent is vindictive and abusive. She fears for  8 the safety and the welfare of their child. She is  9 requesting an injunction to restrain the respondent  10 from contact and custody of their child," and again  11 files one of the five DCF investigations she has  12 previously filed.  13 But she was a little worried that she was on  14 shaky ground. So if it wasn't enough fraud, what  15 happened on June 2nd is she files another petition  16 here so that the Florida Court could retain emergency  17 jurisdiction, as she thought. And she filed another  18 petition, but this time on behalf of the minor child.  19 And we could -- what she does in the first  20 several paragraphs is reiterate what we already know  21 and was already argued in Illinois and already argued  22 in Washington. And what she's asking the Court to do  23 and the whole basis for this emergency jurisdiction is  24 the last paragraph of the second protection for  25 domestic violence injunction in Florida, where it</p>	<p style="text-align: right;">Page 12</p> <p>1 move to strike and get her child back.  2 She files an emergency motion to cancel that  3 hearing saying that you told her she had to be here so  4 she couldn't be there and that Dade County granted her  5 100 percent custody and that we had an extensive  6 hearing.  7 So now when she has a chance to do what she told  8 the Court that should have happened and that has been  9 pending since the beginning of 2016, she withdraws her  10 petition and files an emergency motion, also  11 committing fraud saying that you -- you know, which is  12 what she tried to do with you where she said you told  13 her she has to stay here.  14 And you specifically at the end of that hearing  15 told the mother she doesn't have to stay here in  16 Miami-Dade County. Only the child does. She then,  17 walking out of the court, signs a verified motion  18 saying that she has to be here to take care of her  19 child, so she can't be there to go before the Illinois  20 Court.  21 But if that's not even enough, so now  22 everything -- and now she withdrew all her petitions  23 to set everything aside. So now we truly have a writ  24 of habeas corpus granting my client custody of that  25 child, and there are no pleadings pending in the court</p>

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1 of exclusive jurisdiction that would differ from those  
 2 court orders by the own hands of the mother.  
 3 But if that wasn't enough, being a bad week, on  
 4 May 31st, 2017, in Washington, I guess, I can only  
 5 infer that the mother's attorney, Monica Chin, files  
 6 her notice of intent to withdraw.  
 7 MS. FORTUNATO: Objection, Your Honor. If she  
 8 can only infer --  
 9 THE COURT: I know the status of the case.  
 10 MS. DIENSTAG: Right. On May 31st, 2017, the  
 11 attorney representing the mother in Washington files  
 12 her notice of intent to withdraw. So I have witnesses  
 13 here. You know, I haven't seen anything from DCF that  
 14 would indicate that there are -- there's been nothing  
 15 filed of abuse allegations.  
 16 THE COURT: I need to -- I'd like to now take  
 17 over. I gave you an opportunity to give me what you  
 18 felt was your timeline. I've gone through all of  
 19 these pleadings. I have my own timeline written out,  
 20 which has in essence everything you stated. I did  
 21 speak, as I stated to mom's counsel, to Judge Else  
 22 yesterday extensively.  
 23 I also had the opportunity -- I had been trying  
 24 to speak to the CPI since last week. She had to get  
 25 an authorization from her supervisor to be able to

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1 speak to me, because normally, they just send us the  
 2 report. But she has 60 days to write her report.  
 3 It's only been a couple of weeks, so she doesn't have  
 4 it finished. But I was able to speak to her today.  
 5 They gave her authorization to speak with me.  
 6 So I spoke to her this morning, and she informed  
 7 me that she has no concerns. It's still an open  
 8 investigation, but she doesn't find -- she hasn't  
 9 found any evidence whatsoever. No signs of neglect or  
 10 child abuse. The child was examined on Thursday by  
 11 CPT, and there were no recommendations made  
 12 whatsoever. No findings made by the CPT investigator.  
 13 So she intends to file her notice of closing out  
 14 with no findings, but she is also now looking into the  
 15 whole situation. So I don't know if there will be a  
 16 dependency case or not at this time, because I did  
 17 advise her about the status. I told her about the  
 18 case that's now before me and that I had spoken to the  
 19 judge in Illinois who has jurisdiction over the child  
 20 under those -- that action over there. And I  
 21 explained to her that there is an ongoing case over  
 22 there and that the mother has filed pleadings and that  
 23 they're litigating still over the custody of his child  
 24 in Illinois.  
 25 So she's aware of that. I don't know if that

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1 will take her in a different direction. But at this  
 2 point, I told her if you have no concerns for the  
 3 father, then I don't think you really need to go into  
 4 dependency. But that's your call, because DCF makes  
 5 those decisions. So I just want to inform you before  
 6 we present any evidence on these two petitions.  
 7 Now, is it the petitioner's wish to continue?  
 8 She wants to proceed with these two petitions?  
 9 MS. FORTUNATO: Yes, ma'am.  
 10 THE COURT: All right. So it's your burden. I'm  
 11 going to give you an opportunity to take more  
 12 testimony.  
 13 MS. DIENSTAG: And, Your Honor, I just want to  
 14 state that Judge Whiteshaw (phonetic) of Washington  
 15 is also available and would, I'm sure, reiterate what  
 16 Judge Else had told the Court.  
 17 THE COURT: I tried to speak to Commissioner  
 18 Hillman and Judge Thorp, I believe is her name.  
 19 MS. DIENSTAG: Yes, Your Honor.  
 20 THE COURT: And I was told that I had to wait for  
 21 the senior judge or administrative judge of the family  
 22 division. I wasn't able to speak to him, but I've  
 23 seen the pleadings. I've seen the orders. I'm  
 24 familiar with the order Judge Thorp entered, which is  
 25 very detailed as to what has transpired for her to

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1 reach her decision regarding jurisdiction.  
 2 I also -- I'm familiar with Commissioner  
 3 Hillman's order of May 23rd where he delineates why he  
 4 felt also that there was no jurisdiction and that the  
 5 mom had not met her obligations with regards to her  
 6 claim for domestic violence against the father and  
 7 dismissed her petition there and why he found that she  
 8 should be sanctioned. So I'm well-informed and ready  
 9 to proceed.  
 10 MS. DIENSTAG: Thank you, Your Honor, very much.  
 11 THE COURT: So I'm going to turn it over to  
 12 Ms. Fortunato.  
 13 MS. FORTUNATO: My first witness is Dr. Hooper.  
 14 THE COURT: Okay.  
 15 MS. DIENSTAG: Your Honor, we object to this  
 16 witness. Last night, opposing counsel, after the  
 17 close of business, sent a subpoena on notice of --  
 18 well, sorry. I don't want to misstate. I have it  
 19 here, because I printed it this morning after I got  
 20 out of court. A subpoena for hearing, for trial,  
 21 Elizabeth B. Hooper, PsyD.  
 22 So I have no idea who that person was. So when I  
 23 got to the office about an hour ago, I started  
 24 researching who that is and found out that she's a  
 25 psychologist. So immediately, I wrote and we called

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1 Ms. Hooper to find out if she was somehow associated.  
 2 Because the mother had indicated that there was going  
 3 to be a psychologist from DCF, so I wanted to see the  
 4 nature of Ms. Hooper and whether or not she was  
 5 related somehow to the investigation. Ms. Hooper did  
 6 not respond to me. She did not respond to my client.  
 7 She has no authority by DCF, by my client, or me to  
 8 see the child or to have anything to do with the  
 9 child.  
 10 I now upon -- for the first time when opposing --  
 11 I met opposing counsel right before the hearing. She  
 12 indicates to me that she's a private psychologist.  
 13 And so she's going to elicit testimony, and it would  
 14 be fretful to think that opposing counsel would have  
 15 had anything to do with cooperating and having the  
 16 child seen without court order by a psychologist or  
 17 evaluated without the permission of the father or the  
 18 Court. And so I would feel that there would be  
 19 absolutely no basis for this person to testify, and I  
 20 would find it hard to believe opposing counsel would  
 21 even seek to introduce her as a witness.  
 22 MS. FORTUNATO: Good afternoon, Your Honor.  
 23 THE COURT: Good afternoon.  
 24 MS. FORTUNATO: Dr. Hooper is here to testify.  
 25 She is a psychologist, a PsyD. She examined the

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1 child. She tested the child, and she also reported  
 2 information to Department of Children and Family  
 3 Services, as she's required. This is not family  
 4 court. This is domestic violence court.  
 5 I also have the child available to testify if the  
 6 Court should want the child to testify. Again, this  
 7 is not family court, so we don't need the usual  
 8 parameters of the family court rules. But he is also  
 9 available if necessary, but she needs to testify as to  
 10 her findings and what she did in this case.  
 11 MS. DIENSTAG: Your Honor, I move to strike. But  
 12 I would like counsel to clarify that the therapist has  
 13 seen the child since the last hearing for the first  
 14 time.  
 15 THE COURT: Is that true? When did this  
 16 therapist get involved?  
 17 MS. FORTUNATO: I don't know. She saw him then.  
 18 MS. DIENSTAG: She couldn't have seen him before  
 19 then.  
 20 MS. FORTUNATO: 6/7/2017.  
 21 THE COURT: So that's, I think, before --  
 22 MS. DIENSTAG: After the filing of both petitions  
 23 for injunction.  
 24 THE COURT: Yeah. We were here 6/9, so that's  
 25 two days before the hearing that we had.

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1 MS. DIENSTAG: Right. But it was after the  
 2 filing of the petitions. And she is either -- she's  
 3 not a fact witness, and she's also not -- she can't  
 4 testify as an expert, because she's never been  
 5 disclosed. Nor is she related to the DCF, nor has my  
 6 client given her permission to see the child, treat  
 7 the child, or evaluate the child. And neither has the  
 8 Court given permission for a psychologist to evaluate  
 9 the child.  
 10 MS. FORTUNATO: There is no trial order. This is  
 11 not family court. This is domestic violence court,  
 12 and the rules are different. And if we want to bring  
 13 an expert in to testify on domestic violence, it's  
 14 within our right to do so.  
 15 THE COURT: But you have to disclose it.  
 16 MS. FORTUNATO: No.  
 17 THE COURT: Yes.  
 18 MS. FORTUNATO: There's no trial order. Under  
 19 what authority do we have to disclose it? There is no  
 20 trial order. I don't know their witnesses sitting out  
 21 there either. Neither one of us has disclosed any  
 22 witnesses in this case. None at all.  
 23 And the rule -- your court doesn't have any rules  
 24 on disclosing any witnesses prior to domestic violence  
 25 hearings. We don't have that. We haven't received

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1 any order that anything has to be disclosed such as a  
 2 trial order where you have to disclose your experts.  
 3 You have to disclose your trial exhibits and things  
 4 like that. We don't have that. That wasn't ordered,  
 5 so we're not in violation of any order. She's our  
 6 expert, which we're entitled to bring forward to this  
 7 Court under the domestic violence rules.  
 8 MS. DIENSTAG: Your Honor, first of all, with  
 9 regards to Florida statutes, Florida statutes apply to  
 10 domestic violence cases. And so if she's an expert  
 11 witness, what is she an expert witness relating to?  
 12 THE COURT: Civil rules of procedure.  
 13 MS. DIENSTAG: Either she's a fact witness or an  
 14 expert witness. The Court doesn't need to know about  
 15 what domestic violence is. So her testifying as an  
 16 expert of domestic violence, we're not here on the  
 17 issue of domestic violence. We're here on the issue  
 18 of the child. And if opposing counsel is going to  
 19 have her testify on an evaluation that she undertook  
 20 of the child, then she's not acting as an expert  
 21 witness. And you did not order this child be  
 22 evaluated.  
 23 MS. FORTUNATO: Under what rule and what  
 24 authority? That's family law rules. You're confusing  
 25 the rules. This is domestic violence court, and we do

1 not have a trial order.  
 2 THE COURT: But the rules of procedure apply to  
 3 domestic violence court as well.  
 4 MS. FORTUNATO: What procedure? Have her give us  
 5 the rule. There is no rule that we have to disclose  
 6 witnesses before any domestic violence hearing. None  
 7 whatsoever.  
 8 MS. DIENSTAG: The rules and the law say that  
 9 when a child is going to be evaluated --  
 10 MS. FORTUNATO: What rule? What law?  
 11 THE COURT: Don't speak over each other, so we  
 12 can have a clear record. You have a court reporter  
 13 here.  
 14 MS. DIENSTAG: I had no notice of an intent to  
 15 have the child evaluated. Had I been notified that  
 16 the child was going to be taken without the consent of  
 17 the father to be seen by a psychologist or without the  
 18 consent of the Court, then I would have moved to  
 19 strike. But I had been given no notification of an  
 20 intent to call a psychologist who would be called as a  
 21 fact witness who has first seen the child after the  
 22 petitions for domestic violence were filed.  
 23 So if she is a fact witness, she has nothing to  
 24 say that would verify what the mother alleged in her  
 25 petitions that occurred by June 2nd. Everything

1 hearing. Not one.  
 2 MS. DIENSTAG: Your Honor, it would not -- first  
 3 of all, it's either a fact or it's an expert.  
 4 THE COURT: Well, she says that she's not a fact  
 5 witness.  
 6 MS. DIENSTAG: So I would like opposing counsel  
 7 to indicate the nature of the expert testimony that  
 8 the witness will opine.  
 9 THE COURT: Okay. Yes. If you could proffer to  
 10 the Court what this expert is going to do.  
 11 MS. FORTUNATO: She has evaluated the minor child  
 12 with testing to determine trauma related to the child  
 13 and child abuse. She's also investigated this through  
 14 the previous physicians or psychologists that have  
 15 treated the minor child in Illinois and Washington.  
 16 She's gone through a significant amount of lengthy  
 17 history of abuse and what's happened in this case.  
 18 She, evaluating the child, found certain  
 19 conditions of the child; that there's certain  
 20 recommendations that she makes with regard to this  
 21 child and what he needs to do to reunify with this  
 22 child; that there's a significant history of domestic  
 23 violence. There's a significant history of abuse to  
 24 the child, and this child is experiencing the trauma  
 25 at this very moment. And there's certain

1 within the petitions for domestic violence, she said  
 2 occurred prior to June 2nd. If this fact witness  
 3 never saw the child until June 7th, then she's not  
 4 only -- she has no relevant testimony to the  
 5 allegations and the petitions before the Court. And  
 6 the Florida statutes do apply with regards to the  
 7 rules of utilizing psychologists for purposes of  
 8 evaluation of minor children.  
 9 MS. FORTUNATO: Expert witness, she is. No one  
 10 said she was a fact witness. She's an expert witness  
 11 in this case for our side. There's no rules that we  
 12 have to disclose it on a domestic violence hearing in  
 13 domestic violence court. There's no rule. There's no  
 14 procedural rule through the county. There's no  
 15 statutory rule. And under the court rules, there is  
 16 none.  
 17 In fact, I can also bring the child in here.  
 18 Because that's outside the family law rules to  
 19 testify, because this is on behalf of the minor child.  
 20 It does not prevent us from getting a psychological  
 21 evaluation of the child. It does not prevent us from  
 22 bringing an expert witness in here to testify on this  
 23 child being evaluated. This is a whole different ball  
 24 game. There's not one rule that says I have to  
 25 disclose an expert witness prior to an injunction

1 recommendations that she makes to make this transition  
 2 better for this child and so that the Court can act in  
 3 the best interests of the child.  
 4 MS. DIENSTAG: Again, Your Honor, anything that  
 5 the --  
 6 MS. FORTUNATO: If I could not be interrupted. I  
 7 have a report that she has done. It's 12 pages long.  
 8 So it gives the overall of what she's done, if the  
 9 Court would be inclined to look at that.  
 10 MS. DIENSTAG: Your Honor, this would be based on  
 11 hearsay. First of all, we're moving forward on a  
 12 petition for injunction that was filed on May 31st and  
 13 June 2nd. The allegations as contained in the  
 14 petition are very clear as to the allegations of the  
 15 mother as to what she is filing on behalf of herself  
 16 and the child. None of those are included within  
 17 the -- none of that would have been the basis of any  
 18 investigation or report that somebody who never met  
 19 the child or the mother before June 7th would be able  
 20 to testify about that didn't include the majority of  
 21 which would be hearsay.  
 22 And opposing counsel has already indicated that  
 23 she relied on hearsay in order to reach her  
 24 conclusions. Not the least of which, how can you do  
 25 an evaluation that makes determinations in the best

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<p>1 interests of the child if you've never even spoken to                  2 the father or the guardian ad litem or the judges or                  3 the lawyers or anyone else involved in this case?                  4 MS. FORTUNATO: The expert certainly has the                  5 ability under the rules and under the laws with regard                  6 to an expert to speak to psychologists, look at                  7 evaluations that have previously been done, look at                  8 the allegations of domestic violence or child abuse,                  9 and form an opinion of which they are permitted to                  10 provide to this Court. And they can certainly rely on                  11 those types of statements.                  12 MS. DIENSTAG: This is not an expert. This is a                  13 fact witness.                  14 THE COURT: The problem I have with this person                  15 testifying, the basis of whatever her findings are                  16 going to be and whatever she wants to testify is based                  17 on what the child has said. That's hearsay. You're                  18 saying the child can be brought in, but the child                  19 cannot be brought in. It's very clear.                  20 And I'm looking at the injunction. It says on                  21 the very first page: "Children are not permitted to                  22 testify unless a motion is filed pursuant to Florida                  23 law, Rules of Procedure 12.407, and an order allowing                  24 the testimony is granted prior to the hearing." That                  25 has not happened here, so the child is not going to be</p>	<p>1 certainly testify as to the tests that she made, the                  2 opinions she formed based on the evaluation that she                  3 has done in this case.                  4 Otherwise, if the Court would go with that                  5 theory, no psychologist would be able to testify.                  6 Because that's part of what psychology is or                  7 psychiatry. They interview people. That's part of                  8 what they do. They test people, and all of this comes                  9 out. And because they're an expert, they're permitted                  10 to use this. She's permitted to talk to Dr. Rivas,                  11 who treated this child in another state.                  12 THE COURT: It's hearsay. What the child is                  13 saying -- yes. There are cases, that's true. But the                  14 Court appoints an expert, or the parents each want to                  15 have an expert. The Court understands. And they have                  16 either a court order that says that child hearsay will                  17 come in and that the statements made to the expert, a                  18 psychologist or psychiatrist, are admissible. But we                  19 haven't had that here. There's been no motion filed.                  20 This has not been addressed by the Court.                  21 MS. FORTUNATO: We're not required to do that,                  22 Your Honor. This is not family court. This is                  23 domestic violence court.                  24 THE COURT: I know it is.                  25 MS. FORTUNATO: So we don't have the same trial</p>
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<p>1 brought in here and testify. And anything he said to                  2 her is hearsay, and it's not permissible.                  3 MS. FORTUNATO: Yes, it is. When you're dealing                  4 with an expert, that's how -- let's say you have an                  5 expert psychologist come in. They interview people.                  6 That's part of their evaluation. They test people,                  7 and they rely on statements.                  8 When you do, for example -- I'm trying to think                  9 of a test. The Rorschach test. You're relying on                  10 what this person says, so you're -- actually, the                  11 doctor is giving an opinion technically based on                  12 hearsay, but the expert is permitted to do so. The                  13 expert is permitted to talk to a client --                  14 MS. DIENSTAG: She's not an expert in this case.                  15 This is a fact witness.                  16 MS. FORTUNATO: This is an expert witness for the                  17 mother, period.                  18 MS. DIENSTAG: First of all --                  19 MS. FORTUNATO: This is not a fact witness.                  20 THE COURT: Ms. Dienstag, stop speaking over her,                  21 because we don't have a clear record. Whenever you do                  22 that, it's garbled. They cannot transcribe what                  23 you're saying, so your objection is not even made. So                  24 let her finish, and then you speak.                  25 MS. FORTUNATO: We have an expert that can</p>	<p>1 orders and things of that nature that we normally do.                  2 This is a 15-day-out hearing. Things go very quickly                  3 in domestic violence court. And we need an expert,                  4 obviously. And the expert -- if you give me five                  5 minutes, I'll pull the case that tells you that we can                  6 have an expert testify to that.                  7 MS. DIENSTAG: Your Honor, I want to make very                  8 clear that this is a hearing too on my motion to                  9 vacate, and we're here in unified family court.                  10 There's been two -- there's a pending --                  11 THE COURT: There's three cases.                  12 MS. DIENSTAG: Right. Three cases pending. So                  13 the Florida statute applying to domestic violence,                  14 Your Honor, is correct. It would be hearsay. This is                  15 a fact witness. It's not an expert.                  16 THE COURT: Let her pull her case. Do you have                  17 another witness that you would call?                  18 MS. FORTUNATO: The mother.                  19 THE COURT: The mother and the psychologist?                  20 MS. FORTUNATO: Yes.                  21 THE COURT: Do you want to go ahead and pull the                  22 case?                  23 MS. DIENSTAG: And I just have to make the Court                  24 aware I have to be before Judge Trawick at 3:45.                  25 THE COURT: Okay.</p>

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1 MS. DIENSTAG: While opposing counsel is  
 2 researching, I just want to make it clear for the  
 3 record that this psychologist was not present at the  
 4 prior hearing.  
 5 THE COURT: You're looking for a case that says  
 6 that expert witnesses can be used in domestic violence  
 7 cases without notice?  
 8 MS. FORTUNATO: No. On the hearsay issue.  
 9 THE COURT: Oh, the hearsay.  
 10 MS. FORTUNATO: Yeah. I'm just having a  
 11 little -- I can't get logged on here, so I'm using my  
 12 phone to log in. It's a little slow here.  
 13 MS. DIENSTAG: Your Honor, I think for the many  
 14 reasons that you and I have indicated, we both  
 15 announced that we're ready to proceed. And I believe  
 16 that for all the reasons stated, opposing counsel  
 17 should proceed with her client. And especially since  
 18 we're moving forward on the petition for injunction.  
 19 And the witness, if necessary, was not here at  
 20 the last hearing on the petition for domestic violence  
 21 injunction. And it does not require expert witness  
 22 testimony based upon the allegations as included  
 23 within the petition and anything that could  
 24 possibly -- which is not relevant would be hearsay.  
 25 And also, that it's not credible, nor is it expert in

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1 that no one gave permission for this child to be  
 2 evaluated, nor was the father -- did he have any part  
 3 of this investigation or evaluation.  
 4 And although the Court doesn't have the  
 5 jurisdiction to sanction, it would be another reason  
 6 that the family court should sanction the mother,  
 7 because this is noticed and my motion to vacate in the  
 8 family division that the mother, without leave of  
 9 court or without permission of the father, did so.  
 10 MS. FORTUNATO: "Linn v. Fossum, M.D." That  
 11 is --  
 12 THE COURT: Linn versus?  
 13 MS. FORTUNATO: Fossum, F-o-s-s-u-m. 894 So. 2d  
 14 974.  
 15 THE COURT: Is that a Third DCA case?  
 16 MS. FORTUNATO: It is First DCA. I can look and  
 17 see what cases they have in here. But it says:  
 18 "90.704, Florida Statutes. The purpose of this  
 19 section is to enable experts to reach their opinions  
 20 and explain them in the manner in which they would in  
 21 their own offices and laboratories. Section 904  
 22 enables a party to present an expert opinion that is  
 23 based in part on hearsay statements, even if the  
 24 statement would not be admissible in evidence in its  
 25 own right.

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1 "If experts in a particular discipline  
 2 customarily rely on hearsay to some extent in  
 3 formulating a professional opinion, then it would be  
 4 proper to allow an expert witness in that discipline  
 5 to render an opinion that's based in part on hearsay."  
 6 MS. DIENSTAG: And that's the point. In what  
 7 discipline? If she's an expert, what is she an expert  
 8 in? We are not needing expert testimony. This is a  
 9 petition for domestic violence in which, based on the  
 10 facts, the mother says that the child said that he  
 11 prayed for the -- you know, once she picked up the  
 12 child in 2017 that he prayed that someone would show  
 13 up over the last three months.  
 14 This is not -- the document, the petition for  
 15 injunction is not, you know, the subject of expert  
 16 testimony. Because she has to prove that the child  
 17 feared for his safety on that day when she picked him  
 18 up.  
 19 She also -- she is not alleging anything that is  
 20 new. Based on the four corners of the document, it's  
 21 not the subject of expert testimony. It would only be  
 22 hearsay. You know, can she say that the son said on  
 23 that day that he prayed someone would come and pick me  
 24 up? We've already had DCF investigate that he's not  
 25 skinny, so we can forget that one. What is she going

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1 to testify to? This is not expert testimony.  
 2 MS. FORTUNATO: Your Honor, we haven't had any  
 3 evidence from the Department of Children and Family  
 4 Services yet. The Court spoke to them. They  
 5 proffered what they thought they were going to do.  
 6 Their investigation isn't complete at this time, and  
 7 so we don't know -- and they're not here to testify.  
 8 They're not here to be cross-examined either. So I'm  
 9 not sure why we're off on that tangent, but the point  
 10 is I gave you the case that says hearsay is permitted  
 11 by an expert.  
 12 MS. DIENSTAG: She's not an expert. She hasn't  
 13 been appointed as an expert. She hasn't been court  
 14 ordered as an expert.  
 15 THE COURT: Well, they have to lay a foundation  
 16 to show that she's an expert, and then I have to -- if  
 17 they do that and they lay the foundation, I can accept  
 18 the person as an expert. That's normally how it's --  
 19 MS. DIENSTAG: But she has to be an expert on  
 20 this child. She can't -- expert testimony would say  
 21 I'm a forensic accountant, and I testify about  
 22 imputing income. That's just the basis, the subject  
 23 of expert testimony. You can't have an expert witness  
 24 on a domestic violence petition where the allegations  
 25 do not lend themselves to expert testimony. Nothing



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1 that this witness could say could be anything other  
 2 than fact testimony.  
 3 THE COURT: Let's proceed with your client's  
 4 testimony as to her allegations in the petition.  
 5 Because frankly, I read these allegations, and I'm  
 6 going to give her an opportunity to testify as to both  
 7 of her petitions and why she's personally in fear for  
 8 her safety and why she's in fear for the safety of her  
 9 child and is therefore asking for permanent  
 10 injunctions for herself and for her child. I'll give  
 11 her an opportunity to testify, and then we can  
 12 readdress after she testifies the issue of the  
 13 psychologist. So let's get her testimony first.  
 14 If you could please take the witness stand.  
 15 Because you need to be somewhere else, and we don't  
 16 have all day. And I have an emergency hearing also at  
 17 3:00, so I may have to recess for a few minutes.  
 18 THE CLERK: Please raise your right hand. Do you  
 19 swear or affirm the testimony you're about to give to  
 20 the court will be the truth?  
 21 THE WITNESS: I do.  
 22 MICHELLE WATTS,  
 23 having first been duly sworn, was examined and  
 24 testified as follows:  
 25 THE CLERK: State your name.

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1 THE WITNESS: Michelle Watts.  
 2 DIRECT EXAMINATION  
 3 BY MS. FORTUNATO:  
 4 **Q. Good afternoon. Your name is?**  
 5 A. Michelle Watts.  
 6 **Q. And, Ms. Watts, did you file injunctions for**  
 7 **protection against domestic violence on behalf of**  
 8 **yourself and your child?**  
 9 A. I did.  
 10 **Q. And why did you do that initially, and what date?**  
 11 A. I did it on May 31st and as well as June 2nd.  
 12 **Q. And why did you do that?**  
 13 A. For two reasons. Because Jacob, our son, was  
 14 taken from me. And when I picked him up, he immediately  
 15 told me the things that had happened to him.  
 16 **Q. And were you concerned for his safety?**  
 17 A. Absolutely.  
 18 **Q. Now, why were you concerned about his safety?**  
 19 A. It's been an ongoing thing since he was born.  
 20 **Q. Can you tell us about that, please?**  
 21 A. There's been --  
 22 **Q. Start from the beginning, and tell the judge what**  
 23 **has happened in this case.**  
 24 A. A lot. A lot, Your Honor.  
 25 **Q. So let's start with 2009.**

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1 A. 2009. Jacob was born in 2008. Visits started in  
 2 2009. The very first visit was in October of 2009. He  
 3 was 16 months old. When I -- when he was returned to my  
 4 care, my son came back with cuts and nicks on the back  
 5 of his head, with a bruise under his eye. He wasn't  
 6 sleeping well. He was skinny.  
 7 I took him immediately to a pediatrician. And  
 8 since that time, for most of the visits, he has returned  
 9 back to me with injuries. At that time, he was not able  
 10 to tell me what was going on. But by the time he was  
 11 two, he started to tell me that he was being hit and  
 12 struck in the head.  
 13 **Q. And has the Court found that he's been a victim**  
 14 **of abuse in the past?**  
 15 MS. DIENSTAG: Objection, Judge, as to the form  
 16 of the question.  
 17 THE COURT: I'll sustain it.  
 18 You can rephrase the question.  
 19 BY MS. FORTUNATO:  
 20 **Q. Have you reported abuse to anyone?**  
 21 A. I haven't reported. Because there's constantly  
 22 been a fear that I've had. Any time I do anything like  
 23 now, I'm lied upon. Either I'm threatened to be sent to  
 24 jail or threatened through the court system, through --  
 25 **Q. Who threatens you?**

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1 A. The father.  
 2 **Q. And how does he threaten you?**  
 3 A. He either sends police to my home, or he files  
 4 contempt actions, or he files pickup orders. It's been  
 5 nonstop.  
 6 **Q. Since 2009?**  
 7 A. Since 2009.  
 8 **Q. And in 2010, did you get an injunction in**  
 9 **Illinois?**  
 10 A. I did.  
 11 **Q. And what happened then?**  
 12 A. The judge granted an emergency order of  
 13 protection. And we had a hearing, and it was extended.  
 14 **Q. And was that when Florida transferred**  
 15 **jurisdiction to the state of Illinois for purposes of**  
 16 **the restraining order?**  
 17 A. No.  
 18 **Q. You got it before then?**  
 19 A. Florida transferred it in 2012 due to a second  
 20 order of protection.  
 21 **Q. And so what happened to the first order of**  
 22 **protection in 2010?**  
 23 A. In 2010, the judge spoke to the judge in Florida.  
 24 The judge in Florida issued a supervised visitation  
 25 order. There were more visits after that where Jacob

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1 came back to me with injuries. Due to that, I went back  
 2 to my home state court. And there was an order of  
 3 protection entered where, at that time, Florida  
 4 transferred jurisdiction.  
 5 **Q. Do you have photographs of how he was returned to**  
 6 **you?**  
 7 A. I do.  
 8 **Q. Where are those photographs?**  
 9 A. They're in that stack.  
 10 **Q. Can you pull out the photos where the injuries**  
 11 **from prior to this, the history --**  
 12 MS. DIENSTAG: Objection. Relevance. The only  
 13 photographs that would be relevant to this injunction  
 14 would be as it relates to the allegations contained  
 15 within the petition. And so anything like when he was  
 16 two or one or three would be irrelevant.  
 17 THE COURT: Well, she does allege in this  
 18 petition on behalf of the child that she had a  
 19 no-contact order from Illinois for about four years.  
 20 MS. DIENSTAG: No, she didn't.  
 21 THE COURT: That's what she's alleging. I'm just  
 22 saying that's what's here, so I'm going to allow this  
 23 line of testimony.  
 24 BY MS. FORTUNATO:  
 25 **Q. How long did you have an injunction?**

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1 A. For almost four years.  
 2 **Q. And which injunction was that?**  
 3 A. It was granted by Judge Thomas Dudgeon, and it  
 4 was issued in October of 2011. And it was a two-year  
 5 plenary order, and it expired on April 20th, 2015.  
 6 **Q. And did that ever get extended?**  
 7 A. Yes. It got extended after two years.  
 8 **Q. And how long did it get extended for?**  
 9 A. Until April 20th of 2015.  
 10 **Q. I'm going to show you -- is this the --**  
 11 MS. DIENSTAG: May I see what counsel is showing  
 12 the witness?  
 13 THE COURT: Yes.  
 14 BY MS. FORTUNATO:  
 15 **Q. Is that your son?**  
 16 A. Yes.  
 17 **Q. And did you take that picture?**  
 18 A. Yes.  
 19 **Q. And what injury does he have on him?**  
 20 A. In this picture, this is where his head was  
 21 shaved and there was a bruise under his eye.  
 22 **Q. And where is the bruise on that photograph?**  
 23 A. Right here.  
 24 **Q. And these photographs with the hair, is that --**  
 25 MS. DIENSTAG: May I see the --

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1 MS. FORTUNATO: Just a second. I'm going to give  
 2 you all of them.  
 3 BY MS. FORTUNATO:  
 4 **Q. Is that the back of the hair that you're talking**  
 5 **about?**  
 6 A. Yes.  
 7 MS. FORTUNATO: I would like to enter these into  
 8 evidence.  
 9 THE COURT: Any objection? She wants to enter  
 10 these photos into evidence.  
 11 MS. DIENSTAG: The two photographs? You want  
 12 these two?  
 13 MS. FORTUNATO: Yeah.  
 14 MS. DIENSTAG: I have no objection. But, again,  
 15 under the relevance. It says 2009 at 10:56 p.m. So  
 16 to the extent that...  
 17 THE COURT: I'll give some leeway.  
 18 MS. DIENSTAG: For what they're worth.  
 19 THE COURT: You're going to enter this as a  
 20 composite, right?  
 21 MS. FORTUNATO: Yes, ma'am.  
 22 THE COURT: They'll be Petitioner's 1.  
 23 THE CLERK: Are we placing it under both case  
 24 numbers, Judge?  
 25 THE COURT: No. This is under the O/B/O, which

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1 is 2017-13616.  
 2 THE CLERK: Okay. Marked as Exhibit 1.  
 3 (Petitioner's Exhibit 1 was admitted into  
 4 evidence.)  
 5 BY MS. FORTUNATO:  
 6 **Q. Did you have photographs from the second visit**  
 7 **with the father?**  
 8 MS. DIENSTAG: Objection as to form indicating  
 9 second visit with the father. What do you mean?  
 10 THE COURT: I'll sustain as to that.  
 11 BY MS. FORTUNATO:  
 12 **Q. I put two pictures in front of you. Can you**  
 13 **describe to the Court what they are?**  
 14 A. He was returned to me at this time with a huge  
 15 bruise and injury on his nose. When I inquired about  
 16 it, I was told he ran into a couch.  
 17 **Q. And when did this occur?**  
 18 A. This happened after the -- or during the second  
 19 visit when I picked him up that day at the airport.  
 20 MS. FORTUNATO: I would like to enter this as the  
 21 next exhibit.  
 22 THE COURT: Any objection?  
 23 MS. DIENSTAG: The same, relevance. But no  
 24 objection as to 2009.  
 25 THE COURT: Petitioner's Composite Exhibit 2.

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1 (Petitioner's Composite Exhibit 2 was  
 2 admitted into evidence.)  
 3 BY MS. FORTUNATO:  
 4 **Q. I'm going to show you another set of photographs.  
 5 Can you identify those?**  
 6 A. Yes. This is after the third visit.  
 7 **Q. And what injuries did he have on him then?**  
 8 A. He had an injury under his eye. And in the  
 9 middle of his forehead, there was a large bump.  
 10 **Q. I'll show you another one. Was that a different  
 11 time? Same time?**  
 12 A. About a day or two later.  
 13 MS. FORTUNATO: I would like to offer this as our  
 14 next exhibit.  
 15 THE COURT: Any objection?  
 16 MS. DIENSTAG: Same. Relevance. 2010. But no  
 17 objection.  
 18 (Petitioner's Exhibit 3 was admitted into  
 19 evidence.)  
 20 BY MS. FORTUNATO:  
 21 **Q. Now, during this visitation, there's obviously  
 22 findings by the Court that there's been a history of  
 23 abuse to Jacob in Illinois and that the Illinois Court  
 24 sought to -- did the Illinois Court protect him from  
 25 that?**

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1 MS. DIENSTAG: Objection. Leading.  
 2 THE COURT: Sustained.  
 3 BY MS. FORTUNATO:  
 4 **Q. What did the Illinois Court do to protect Jacob  
 5 from further child abuse?**  
 6 MS. DIENSTAG: Objection as to the form of the  
 7 question. The best evidence is the court orders. I  
 8 have no objection to any of these court orders being  
 9 introduced into evidence.  
 10 THE COURT: I'll overrule it.  
 11 BY MS. FORTUNATO:  
 12 **Q. Go ahead and answer.**  
 13 A. They issued a no-contact order.  
 14 **Q. Did they put any safety measures in place?**  
 15 A. Yes.  
 16 **Q. When did they issue that no-contact order?**  
 17 A. In October of 2011.  
 18 **Q. And how long was that in place?**  
 19 A. For almost four years. Until April 20th of 2015.  
 20 **Q. And what type of parameters did the Court use to  
 21 prevent any further harm to the child?**  
 22 A. It was no contact. Then they gave the option for  
 23 the father to get a psychological evaluation if he  
 24 wanted to pursue supervised visits.  
 25 **Q. Did he ever do that?**

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1 A. No.  
 2 **Q. Has he ever undergone a psychological evaluation?**  
 3 A. No.  
 4 **Q. How many times has that --**  
 5 A. Not to my knowledge.  
 6 **Q. How many times was that ordered in Illinois?**  
 7 A. Twice.  
 8 **Q. And had he ever gone?**  
 9 A. Not to my knowledge.  
 10 **Q. Now, in 2014, you also had a family court order?**  
 11 MS. DIENSTAG: Objection as to the form of the  
 12 question as to what order.  
 13 BY MS. FORTUNATO:  
 14 **Q. Do you have a family court order in Illinois with  
 15 regard to your minor child and yourself?**  
 16 A. April 20th, 2015.  
 17 **Q. And what happened then?**  
 18 A. There was a reunification order.  
 19 **Q. And what happened with that order?**  
 20 A. With that order, we were both to obtain a  
 21 psychologist in each state. And I was living in  
 22 Illinois, so I was to obtain one in Illinois. And he  
 23 was to obtain one in Florida.  
 24 **Q. Now, how many times, to your knowledge, has  
 25 Mr. Gantine gone into court and obtained a pickup order**

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1 **or custody order and that -- or how many times has he  
 2 gone and done that? We'll start with that.**  
 3 A. Twice. Three times. I'm sorry.  
 4 **Q. How many pickup orders did he get in Florida?**  
 5 A. Two.  
 6 **Q. And what happened with those pickup orders?**  
 7 A. They were both vacated.  
 8 **Q. And they were vacated why? Do you remember?**  
 9 A. Based on lies to the Court.  
 10 **Q. So after they heard the evidence, they vacated  
 11 and returned the child to you?**  
 12 A. Yes, correct.  
 13 **Q. Now, let's go up to when the child was taken from  
 14 Illinois. What happened with that?**  
 15 A. When he came and picked him up in Washington?  
 16 **Q. Yes.**  
 17 A. I was at home one day. I heard a knock on the  
 18 door. There was no forewarning or anything. I didn't  
 19 know nothing.  
 20 **Q. Did you ever get served with any petitions for  
 21 modification?**  
 22 A. No.  
 23 **Q. Did you get any notice from the Illinois court  
 24 that there were hearings involving you and your son?**  
 25 A. No.

1 Q. Did they notify your lawyers, that you know of?

2 A. No.

3 Q. Did you ever receive anything with regard to  
4 custody?

5 A. No.

6 Q. When was the first time you learned that  
7 Mr. Gantine had obtained custody of the child in  
8 Illinois?

9 A. January 27th of this year.

10 Q. And what happened on that day?

11 A. The police knocked on my door. I answered the  
12 door, and they told me that my son was taken from  
13 school.

14 Q. Did they tell you why?

15 A. They presented me with an order. They also  
16 showed me a warrant and contempt, and they said -- when  
17 I explained the story to them, they said that -- could I  
18 get to court on Monday? Because they came on Friday.  
19 They said, oh, that's a lot of evidence. And so they  
20 told me that basically that the father had been looking  
21 for me. And through that missing person report, he was  
22 able to go ahead and get Jacob.

23 Q. Now, during the time that he filed a missing  
24 person report, had he been in contact with you?

25 A. No.

1 Q. And there were no contacts with Illinois

2 whatsoever between you, the child, and Mr. Gantine?

3 A. No.

4 Q. And when was the last time you were in the state  
5 of Illinois? When you were residing there, when did you  
6 last reside there?

7 A. November of 2015.

8 Q. And after that time, did Mr. Gantine know you  
9 were no longer in the state of Illinois?

10 A. I'm not sure if he did or not.

11 Q. And where did you go after that?

12 A. I moved to Washington.

13 Q. And is there any reason you moved to Washington?

14 A. A couple reasons. There was a job opportunity  
15 there, but I'll be honest. Everything that Jacob had  
16 been through and him healing from that, I didn't want  
17 him to go through anything else again. So I did. I  
18 took off, and I didn't provide any forwarding  
19 information. I did not.

20 Q. And why did you leave?

21 A. To protect him and myself. But primarily him.  
22 He's my main concern.

23 Q. Why?

24 A. Because of the abuse that he's been subjected to.

25 Q. And did the Court in Broward County find that he

1 Q. Was there a restraining order in place?

2 A. No.

3 Q. Had he been in contact with the child?

4 A. No.

5 Q. Did he obtain his psych eval, as previously  
6 ordered, by that time?

7 A. Not to my knowledge.

8 Q. And what happened next?

9 A. After they took Jacob?

10 Q. Yes.

11 A. I didn't know where he was. I called all over in  
12 Illinois to try to find an attorney that weekend. I got  
13 an attorney. We both called everywhere, even the  
14 guardian ad litem, to find him. He didn't know exactly  
15 where -- if they were in Miami, where they were.

16 Q. Now, did you or Mr. Gantine continue to reside in  
17 Illinois at that time?

18 A. No.

19 Q. When did he get that order?

20 A. In January -- or in February of 2016.

21 Q. Now, did you reside in Illinois at that time?

22 A. No.

23 Q. Did Mr. Gantine reside in Illinois at that time,  
24 to your knowledge?

25 A. No.

1 had been abused as well?

2 A. They found neglect, endangerment.

3 Q. When he was in Broward County doing visitation,  
4 what did the Court find he had done wrong with regard to  
5 that?

6 MS. DIENSTAG: Objection as to the form of the  
7 question. Hearsay. The best evidence is the court  
8 file and the orders, and I have no objection to the  
9 entire Broward County court file coming into evidence.

10 MS. FORTUNATO: I believe she already has asked  
11 you before to take judicial notice --

12 THE COURT: I have judicial notice of the whole  
13 file.

14 BY MS. FORTUNATO:

15 Q. So what happened?

16 A. He left him at the age of two unattended alone in  
17 a car and a home and lied to the police about it.

18 Q. Then the judge required him to have supervised  
19 visitation?

20 MS. DIENSTAG: Objection. Leading.

21 THE COURT: Sustained.

22 BY MS. FORTUNATO:

23 Q. What did the judge require after the judge heard  
24 that evidence?

25 A. An adult to always be present at supervised

1 visitation.

2 **Q. Now, when jurisdiction was changed to Illinois,**  
3 **was there a time that he exercised time-sharing in the**  
4 **state of Illinois?**

5 A. Yes.

6 **Q. When was that?**

7 A. August of 2011. I'm sorry. 2010 was the first  
8 Illinois visit.

9 **Q. And when he came back from visits, did he have**  
10 **any injuries on him?**

11 A. Yes.

12 **Q. Describe the injuries that he had on him.**

13 MS. DIENSTAG: What year?

14 THE COURT: August 2010.

15 THE WITNESS: I don't know. It was some kind of,  
16 like, burn marks behind his ear. I couldn't tell  
17 exactly what they were, but there were abrasions along  
18 the back of his ear.

19 BY MS. FORTUNATO:

20 **Q. Did he see a therapist in Illinois?**

21 A. Yes.

22 **Q. Who was the therapist?**

23 A. Dr. Nancy Rivas.

24 **Q. Do you remember what her recommendation was?**

25 MS. DIENSTAG: Objection. Hearsay.

1 MS. DIENSTAG: Goldstein.

2 THE WITNESS: Yes, I did.

3 BY MS. FORTUNATO:

4 **Q. Is that for something different?**

5 A. No. It was for the reunification. I met with  
6 him three times, and Jacob met with him twice.

7 **Q. And did the father meet with him?**

8 A. He was to obtain a psychologist in Florida, and  
9 he never did that.

10 **Q. And what about Dr. Rivas? What was her role?**

11 A. She basically had many sessions with Jacob from  
12 the time he was 16 months up until -- I'm sorry --  
13 18 months up until about five years old.

14 **Q. Now, prior to this happening -- this happened in**  
15 **January 2017 when he was taken from school?**

16 A. Yes.

17 **Q. Since that time, to your knowledge, did the**  
18 **father bring him to the state of Florida?**

19 A. Yes.

20 **Q. Now, had you requested on several occasions to**  
21 **find the location of the minor child?**

22 A. Yes.

23 **Q. How long was it before you figured out where the**  
24 **child was?**

25 A. This last stint, that was three months.

1 MS. FORTUNATO: It's in the Illinois court file.

2 MS. DIENSTAG: No, it isn't.

3 MS. FORTUNATO: Yes, it is.

4 MS. DIENSTAG: No, it isn't. Then, bring it. I  
5 have no objection to the entire Illinois court file,  
6 but her testifying on what a report says would be  
7 hearsay.

8 THE COURT: The report is part of the file in  
9 Illinois?

10 MS. FORTUNATO: Yes.

11 THE COURT: Do you have the report?

12 MS. FORTUNATO: I have the transcripts.

13 THE COURT: I don't have the transcripts from  
14 Illinois. Or not the transcripts. The docket.

15 MS. FORTUNATO: Right. I have them.

16 THE COURT: I'm sorry. I do have the docket from  
17 Illinois. I take that back.

18 MS. DIENSTAG: It was Mark Goldstein.

19 THE COURT: When was this done?

20 MS. DIENSTAG: Thomas Kenny and Mark Goldstein  
21 were the assigned Illinois court -- Mark Goldstein was  
22 the therapist assigned by the Illinois Court to assist  
23 in the reunification process.

24 BY MS. FORTUNATO:

25 **Q. Did you ever see this -- what's that last name?**

1 **Q. When we were here in January, we were before the**  
2 **Court in Miami, right?**

3 A. Correct.

4 **Q. And the father provided an address, right?**

5 A. Correct.

6 **Q. And he advised the Court that that was where he**  
7 **resided?**

8 A. Correct.

9 **Q. And that same address was provided to the**  
10 **Illinois Court, right?**

11 A. I'm not sure.

12 **Q. When you looked for the child, did the father**  
13 **live there at the Miami address he provided to the Miami**  
14 **judge?**

15 A. No. The address in the Illinois docket was  
16 different than what the PI found to be the address here.

17 **Q. How did you go about finding where he actually**  
18 **lived in the state of Florida?**

19 A. I had to get a private investigator.

20 **Q. And how long did it take to find the child?**

21 A. This last time, it took three months.

22 **Q. And did they find him at the residence that he**  
23 **had provided to the Court, the residential address that**  
24 **he provided to the Court?**

25 A. No.

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1 **Q. It was a different address?**  
 2 A. Yes.  
 3 **Q. And had you requested to know the whereabouts of**  
 4 **the minor child?**  
 5 A. Yes.  
 6 **Q. And was that ever provided to you?**  
 7 A. No.  
 8 **Q. Now, did this cause you any concern?**  
 9 A. Yes.  
 10 **Q. Why?**  
 11 A. I've raised Jacob since he was born by myself,  
 12 and there was no reason for me to keep him away from  
 13 this child. But when this child is returned to me,  
 14 he's -- for six out of eight visits, he's returned with  
 15 injuries. And this is crazy. It's insane. There is no  
 16 motive for me to do what I'm doing other than his  
 17 safety, and so that's why.  
 18 **Q. When you found Jacob, you obtained an injunction**  
 19 **for protection against domestic violence?**  
 20 A. Yes.  
 21 **Q. Did you also obtain a pickup order?**  
 22 A. Yes. Upon the advice of my attorney in Illinois.  
 23 **Q. When you were reunited with Jacob, did you notice**  
 24 **anything different about him?**  
 25 A. Yes.

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1 **Q. What did you notice different?**  
 2 A. Kind of a repeat of the same in the sense of with  
 3 the sleeping. Very angry with me in the sense of  
 4 asking, what happened? Who was this person? He hadn't  
 5 seen him in six years. He had told me that his father  
 6 said a lot of things.  
 7 **Q. When you said that he hadn't seen him in six**  
 8 **years, he hadn't seen his father in six years?**  
 9 A. He hadn't seen him in six years. He didn't know  
 10 he was his dad. He didn't know who he was. And so he  
 11 was -- how could you leave me, Mommy? And I didn't want  
 12 to explain everything.  
 13 **Q. And what's the reason he didn't see him for six**  
 14 **years?**  
 15 A. Part of it was the no-contact order, and part of  
 16 it was he just didn't visit.  
 17 **Q. After the order expired, he didn't do anything**  
 18 **to do visitation?**  
 19 A. Prior to the order and during the order, he  
 20 didn't get the psych or the -- he didn't pursue the  
 21 supervised visits. And then after it...  
 22 **Q. And when you picked him up, describe his physical**  
 23 **condition.**  
 24 A. He was underweight at that time too. This was in  
 25 February of 2017. But no injuries, thank God. Not a

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1 report that anything happened as far as physical. That  
 2 wasn't until this time.  
 3 **Q. So that was the first time in February of 2017?**  
 4 A. Yes.  
 5 **Q. Can you explain what happened in Illinois and**  
 6 **Washington to have the child returned?**  
 7 A. Yes. It's been a nightmare. In Washington, the  
 8 GAL testified by phone that I didn't get permission from  
 9 the Court to leave; therefore, the Court in Washington  
 10 couldn't take jurisdiction. So he was able to get a  
 11 writ and bring him back to Florida. Again, the same  
 12 process repeated. He wasn't at the address he was at  
 13 back in January. I didn't know where he was, and this  
 14 went on for three months.  
 15 **Q. And had you provided a telephone so that you**  
 16 **could speak to your child?**  
 17 A. Yes.  
 18 **Q. And what happened with that telephone?**  
 19 A. Discarded immediately when he took him.  
 20 **Q. And he didn't tell you where he was taking the**  
 21 **child?**  
 22 A. No.  
 23 **Q. And when you picked him up, what else did you**  
 24 **observe about your son?**  
 25 A. This last time or the first?

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1 **Q. When did you pick him up the last time? Let's go**  
 2 **back to that.**  
 3 A. I picked him up on February the 9th.  
 4 **Q. Now, you picked him up February 9th. You went to**  
 5 **Washington. They reversed that?**  
 6 A. Correct.  
 7 **Q. When was the next time?**  
 8 A. He left on February 17th, and then I picked him  
 9 up again on May 30th of this year.  
 10 **Q. And for that time period, you had no idea where**  
 11 **your child was?**  
 12 A. No.  
 13 **Q. And when you picked him up that second time, did**  
 14 **you notice a difference in your son?**  
 15 A. Oh, yeah.  
 16 **Q. What did you observe?**  
 17 A. Crazy. He's lost tons of weight.  
 18 **Q. How much weight did he lose?**  
 19 A. I can't -- I'm not a doctor, but I would guess  
 20 like 20 pounds. I mean, you can see his ribs.  
 21 **Q. And what did he look like before that?**  
 22 A. Totally different.  
 23 **Q. And did you notice any bruises on him?**  
 24 A. Yes.  
 25 **Q. Where did you see bruises?**

1 A. On his right arm, upper right arm.  
 2 **Q. Is this your son?**  
 3 A. Yes.  
 4 **Q. Are these the photos you took of him?**  
 5 MS. DIENSTAG: Can I see the pictures?  
 6 MS. FORTUNATO: Yes. I'm bringing them now.  
 7 BY MS. FORTUNATO:  
 8 **Q. Can you describe those photos, please? Go ahead.**  
 9 A. Yes. He's underweight --  
 10 MS. DIENSTAG: May I please have a date on the  
 11 photo?  
 12 THE WITNESS: It's on my phone.  
 13 MS. DIENSTAG: Excuse me?  
 14 BY MS. FORTUNATO:  
 15 **Q. What date did you take the photos?**  
 16 A. May 31st.  
 17 MS. DIENSTAG: Of what year?  
 18 THE WITNESS: Of this year.  
 19 BY MS. FORTUNATO:  
 20 **Q. And what's different about his physical  
 21 appearance than it was three months prior to that?**  
 22 A. Skinny all in his face, his back. You can feel  
 23 his bones. The front of him, you can see his ribs. He  
 24 said that he was starving all the time, and he didn't  
 25 eat much.

1 this day.  
 2 **Q. And can you tell us the circumstances of what he  
 3 told you?**  
 4 MS. DIENSTAG: Objection. Hearsay.  
 5 THE COURT: Sustained.  
 6 BY MS. FORTUNATO:  
 7 **Q. How did he come to tell you that? Immediately  
 8 when he told you that, what was going on?**  
 9 A. Right when the police brought him to me, I was  
 10 sitting in my car or sitting in the car. He got in the  
 11 back seat. First, we hugged each other. He got in the  
 12 back seat, and he said, Mommy --  
 13 MS. DIENSTAG: Objection. Hearsay.  
 14 THE COURT: You can't testify as to what the  
 15 child said, because that's hearsay. He's not here. I  
 16 can't examine his demeanor. Okay?  
 17 BY MS. FORTUNATO:  
 18 **Q. Was he excited at the time?**  
 19 A. Yes.  
 20 **Q. And did he make any statements in his excitement?**  
 21 A. Not in that regard, no.  
 22 **Q. In his excitement, did he make any statements  
 23 about abuse?**  
 24 A. Not at that time.  
 25 **Q. Was there another time he was excited and talking**

1 MS. DIENSTAG: Objection. Hearsay.  
 2 THE COURT: Sustained. I'll strike that.  
 3 BY MS. FORTUNATO:  
 4 **Q. Did he have any marks on his body?**  
 5 A. Yes.  
 6 **Q. What did he have on his body?**  
 7 A. He had a bruise on his upper right arm.  
 8 **Q. Is that reflected in the photograph?**  
 9 A. No. Or yes, it is.  
 10 MS. DIENSTAG: I have no objection to these being  
 11 entered into evidence. I've only had two. What's the  
 12 third? Oh, this is the third?  
 13 MS. FORTUNATO: Yes.  
 14 MS. DIENSTAG: No objection.  
 15 THE COURT: Okay.  
 16 (Petitioner's Exhibit 4 was admitted into  
 17 evidence.)  
 18 BY MS. FORTUNATO:  
 19 **Q. Did you see any other marks on him?**  
 20 A. No.  
 21 **Q. Did you have concerns about your son being  
 22 abused?**  
 23 A. Yes.  
 24 **Q. Why?**  
 25 A. From what he told me and what he still says to

1 **to you?**  
 2 A. He wasn't excited. He was in the back seat of  
 3 the car the day of pickup, and he made a statement --  
 4 MS. DIENSTAG: Objection. Hearsay.  
 5 THE COURT: Sustained.  
 6 BY MS. FORTUNATO:  
 7 **Q. What was the circumstance of him in the car?**  
 8 A. I had just picked him up.  
 9 **Q. And was he excited to see you?**  
 10 A. Yes.  
 11 **Q. And what did he say?**  
 12 A. I can say what he said?  
 13 MS. DIENSTAG: Objection. Hearsay.  
 14 THE COURT: I'm going to sustain that objection.  
 15 You asked her previously if he was excited. She said  
 16 he was.  
 17 MS. FORTUNATO: When he got in the car.  
 18 THE COURT: Right.  
 19 BY MS. FORTUNATO:  
 20 **Q. Was there another time he was -- did he make any  
 21 other statements as to being abused?**  
 22 A. Yes.  
 23 **Q. When was that, and what were the circumstances?  
 24 Don't tell me what he said. Just tell me the  
 25 circumstances.**

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1 A. The circumstances were we were back at the hotel.  
 2 And he had stated to me that --  
 3 **Q. What was happening at the hotel at the time?**  
 4 A. We were in the bathroom, and we were brushing his  
 5 teeth and just talking about what had been going on the  
 6 last couple --  
 7 **Q. And was he talking about his feelings?**  
 8 A. Yes.  
 9 **Q. And what did he say?**  
 10 MS. DIENSTAG: Objection. Hearsay.  
 11 MS. FORTUNATO: State of mind.  
 12 MS. DIENSTAG: No. State of mind is not  
 13 relevant, and it's not an exception.  
 14 THE COURT: No, it is.  
 15 MS. FORTUNATO: It's the state of mind of the  
 16 child.  
 17 THE COURT: I'm going to sustain the objection.  
 18 BY MS. FORTUNATO:  
 19 **Q. Did he have any concerns for safety?**  
 20 A. Yes.  
 21 **Q. Now, back when you guys were doing supervised**  
 22 **time-sharing, were you also stalked by the father?**  
 23 A. Yes.  
 24 **Q. Did you find things in his backpack?**  
 25 A. Yes.

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1 **Q. What did you find?**  
 2 A. Tracking devices.  
 3 **Q. And were those reported to the police?**  
 4 A. Yes.  
 5 **Q. And you have photographs of them here?**  
 6 A. (Nodding head.)  
 7 **Q. Did you find those items in his backpack?**  
 8 A. Yes.  
 9 MS. DIENSTAG: Do you have the time frame? When  
 10 was this?  
 11 BY MS. FORTUNATO:  
 12 **Q. When was it?**  
 13 A. Visit five and visit seven. Visit five was  
 14 August of 2010, and visit seven was December of 2010.  
 15 MS. DIENSTAG: This is for 2010? Is that what  
 16 she just said?  
 17 THE COURT: Yes. Fifth visit and seventh visit  
 18 with the father. Fifth visit, August 2010. Seventh  
 19 visit, December 2010.  
 20 BY MS. FORTUNATO:  
 21 **Q. Now, what else did you observe about the child**  
 22 **when you picked him up?**  
 23 A. At these visits?  
 24 **Q. No. When you picked him up in May of this year.**  
 25 A. I noticed that he was very clingy, very afraid

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1 for me to leave the room to even go to the bathroom.  
 2 Whenever there was a noise outside of the door, he would  
 3 say -- well, I can't say what he said.  
 4 **Q. Were you concerned about his mental health?**  
 5 A. Yes.  
 6 **Q. And did you meet with a psychologist to review**  
 7 **his mental health?**  
 8 A. Yes.  
 9 **Q. Now, and after you met with the psychologist, did**  
 10 **she meet with your son as well?**  
 11 MS. DIENSTAG: Objection. Which psychologist and  
 12 when? When are we talking about?  
 13 BY MS. FORTUNATO:  
 14 **Q. Go ahead. Her name is what?**  
 15 A. Dr. Hooper.  
 16 **Q. And that's --**  
 17 MS. DIENSTAG: We're talking about the one that's  
 18 just excluded that met after June 7?  
 19 THE COURT: Right. She's eliciting testimony  
 20 from her with regards to this expert that they want to  
 21 bring forward.  
 22 BY MS. FORTUNATO:  
 23 **Q. And did she examine him?**  
 24 A. Yes.  
 25 **Q. And after the examination, do you know any**

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1 **reports to Department of Children and Family Services?**  
 2 A. Yes.  
 3 **Q. And she also wrote a report and examined your son**  
 4 **in this case?**  
 5 A. Yes.  
 6 **Q. And did she make any findings that you know of?**  
 7 A. I don't know.  
 8 **Q. And have you talked to DCF, Department of**  
 9 **Children and Family Services?**  
 10 A. Yes.  
 11 **Q. When did you last speak to them?**  
 12 A. Yesterday.  
 13 **Q. Now, can you still explain to the Court why you**  
 14 **have a fear that your son is at risk with Mr. Gantine at**  
 15 **the present time?**  
 16 A. Because for most of the visits, he returns with  
 17 injuries. I'm never informed of what happens. Once my  
 18 son began talking, he told me he was struck at the age  
 19 of two. Now that he's nine, he's telling me all kinds  
 20 of outrageous things in regards to that. The fact that  
 21 there's no remorse. There's never, you know, I'm sorry  
 22 or I'm going to get help or make a change.  
 23 Instead, I'm lied upon. I'm looked upon as this  
 24 bad person. I've never had any problems with the law or  
 25 people until dealing with this. This is not my



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1 character. I'm just trying to fight for my child, and  
 2 this just hasn't ended. This has been going on since he  
 3 was born.  
 4 And it's insanity, because it's -- he keeps  
 5 getting returned with injuries, but yet there's no  
 6 repercussions. There's no change. And at this age, the  
 7 fact that I didn't expect for him to return to me like  
 8 this and tell me all the things that he has.  
 9 And it just seems like -- I don't know. Like,  
 10 I'm not a psychologist. I don't know why this keeps  
 11 happening, and there's no remorse. There's no -- you  
 12 know, this is his child, that he doesn't care. This is  
 13 his own flesh and blood. You would think he would care.  
 14 **Q. To your knowledge, has Mr. Gantine ever attempted**  
 15 **suicide?**  
 16 A. Yes.  
 17 **Q. How many times?**  
 18 A. Multiple.  
 19 **Q. And was he ever Baker Acted, to your knowledge?**  
 20 A. Yes.  
 21 **Q. And after that happened, did he get any**  
 22 **psychological treatment?**  
 23 A. Yes.  
 24 **Q. And do you know his status as of today?**  
 25 A. I don't.

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1 **Q. And are you concerned that -- when you guys were**  
 2 **together, did he inflict any abuse upon you?**  
 3 MS. DIENSTAG: Objection. Relevance, and we  
 4 haven't established the time frame. When was the last  
 5 time they were together?  
 6 THE COURT: She has filed a petition for  
 7 injunction too, so it is relevant. So overruled. But  
 8 the time frame, if you can establish a time frame.  
 9 THE WITNESS: The last time that we were together  
 10 was briefly -- or during the pregnancy, and I left at  
 11 seven months.  
 12 BY MS. FORTUNATO:  
 13 **Q. What kind of things did he do to you?**  
 14 MS. DIENSTAG: Objection. Relevance, and what  
 15 time frame? What year are we talking about?  
 16 THE COURT: Any acts of domestic violence between  
 17 them is relevant. I have to consider them by statute.  
 18 MS. DIENSTAG: If we can have a time frame.  
 19 BY MS. FORTUNATO:  
 20 **Q. What's the time frame?**  
 21 A. So that was in 2007. So from -- I lived with him  
 22 from November of 2007 until March of 2008.  
 23 **Q. And during the time you lived together, was there**  
 24 **any abuse?**  
 25 A. Yes.

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1 **Q. What type of physical abuse?**  
 2 A. Mostly confinement, grabbing, those types of  
 3 things.  
 4 **Q. And after that, you separated, right?**  
 5 A. Mm-hmm.  
 6 **Q. And what type of abuse has been occurring since**  
 7 **then?**  
 8 A. After we separated, he continually threatened  
 9 suicide if I wouldn't return.  
 10 **Q. Did he make threats about your son?**  
 11 A. Yes. Constantly to this day.  
 12 **Q. What type of threats did he make?**  
 13 A. I'm going to take him from you. This is probably  
 14 the 50th time.  
 15 **Q. And he was able to be successful by not giving**  
 16 **you notice of the last action in court, right?**  
 17 MS. DIENSTAG: Objection.  
 18 THE COURT: Sustained.  
 19 BY MS. FORTUNATO:  
 20 **Q. And do you still have a fear --**  
 21 A. Yes.  
 22 **Q. -- of Mr. Gantine? Why?**  
 23 A. Because he has not changed. There's no remorse.  
 24 There's no care. Instead, I'm being lied upon.  
 25 **Q. Has he continued the same behavior that he has in**

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1 **the past?**  
 2 A. Yes.  
 3 **Q. With regard to the threats to take the child?**  
 4 A. Yes.  
 5 **Q. And did he conceal the child?**  
 6 A. Yes. I wasn't even allowed to know what school  
 7 he was at, and I've raised him since birth.  
 8 MS. FORTUNATO: No further questions, Your Honor.  
 9 THE COURT: Okay. Any cross?  
 10 CROSS-EXAMINATION  
 11 BY MS. DIENSTAG:  
 12 **Q. Ms. Watts, talking about excitement, are you**  
 13 **familiar with the Bellevue Police Department report that**  
 14 **was done on January 27th, 2017, when they finally found**  
 15 **your son in Washington?**  
 16 A. Yes.  
 17 **Q. And did you read in that report that: "When I**  
 18 **told Jacob's father" --**  
 19 MS. FORTUNATO: Objection. Hearsay.  
 20 THE COURT: One moment.  
 21 MS. FORTUNATO: Objection. Hearsay statement  
 22 from these officers.  
 23 THE COURT: Is this the statement that the police  
 24 officer --  
 25 MS. DIENSTAG: I asked her if she's familiar with

1 the statement that --

2 THE COURT: I think it's part of the order.

3 MS. DIENSTAG: "He lit up and started" --

4 MS. FORTUNATO: Objection, Your Honor. It's not  
5 part of -- that's a police report she's reading from.

6 THE COURT: What I'm saying is that this is part  
7 of what I've already taken judicial notice of. I  
8 believe this is part of the transcripts.

9 MS. DIENSTAG: Yes, Your Honor.

10 MS. FORTUNATO: No. This is a police report  
11 she's reading from. She can read it from the  
12 transcript if she has it.

13 THE COURT: Oh, okay.

14 BY MS. DIENSTAG:

15 **Q. So you said that you're familiar with the police**  
16 **report. In the police report, did it indicate that your**  
17 **son was excited?**

18 A. Yes.

19 **Q. And was he so excited that he lit up and he**  
20 **started clapping his hands when he was able to see his**  
21 **father?**

22 MS. FORTUNATO: Objection. Hearsay. She would  
23 have no knowledge of that. That's based on police  
24 reports. Hearsay statement.

25 MS. DIENSTAG: She was standing there.

1 MS. FORTUNATO: Yes, ma'am.

2 THE COURT: So you're not going to be -- your  
3 attorney is instructing you that since you are under  
4 investigation for fraud in connection with this birth  
5 certificate, she's instructing you not to respond to  
6 that question. Okay?

7 THE WITNESS: (Nodding head.)

8 BY MS. DIENSTAG:

9 **Q. Have you ever called your son Jacob Tyler Ryan?**

10 MS. FORTUNATO: Objection. Same objection.  
11 Fifth Amendment privilege.

12 BY MS. DIENSTAG:

13 **Q. Did you ever enroll your child in a Washington**  
14 **school based upon a birth certificate where your child**  
15 **was named Jacob Tyler Ryan?**

16 MS. FORTUNATO: Objection. Fifth Amendment  
17 privilege.

18 BY MS. DIENSTAG:

19 **Q. Did you indicate that your son, Jacob Tyler Ryan,**  
20 **was born someplace other than West Palm Beach?**

21 MS. FORTUNATO: Objection. Fifth Amendment  
22 privilege.

23 BY MS. DIENSTAG:

24 **Q. Where was your son born?**

25 A. West Palm Beach.

1 THE WITNESS: I was not standing there.

2 MS. FORTUNATO: No, she wasn't there.

3 THE COURT: I'm going to sustain. I'm going to  
4 strike that. But, again, this is part of the factual  
5 findings that were entered by Commissioner Hillman on  
6 May 23rd. I have it.

7 THE WITNESS: He was clapping because he thought  
8 it was his stepfather. That's the only father he's  
9 ever known.

10 BY MS. DIENSTAG:

11 **Q. And maybe because he was a little confused that**  
12 **he thought his name was Ryan because -- is this the**  
13 **birth certificate that you had done in --**

14 MS. FORTUNATO: I need to see that, please.

15 BY MS. DIENSTAG:

16 **Q. -- Indiana indicating that your son's name was**  
17 **Ryan?**

18 MS. FORTUNATO: Objection. I'm going to -- Fifth  
19 Amendment, because Mr. Gantine has contacted the  
20 police department. She got a call the other day.  
21 She's now under investigation for a birth certificate  
22 fraud, because he just called it in. So she can't  
23 testify to it.

24 THE COURT: All right. So she's pleading the  
25 Fifth? Are you pleading the Fifth?

1 **Q. Ma'am, all the orders that you've indicated,**  
2 **please provide me a copy of any order that restricts**  
3 **Mr. Gantine, other than in Miami, from you or your**  
4 **child.**

5 MS. FORTUNATO: Objection.

6 BY MS. DIENSTAG:

7 **Q. Do you have with you in this very important**  
8 **hearing any of the orders that you testified that said**  
9 **that he was not allowed to be near you for four years?**

10 MS. FORTUNATO: Objection.

11 BY MS. DIENSTAG:

12 **Q. Do you have a copy of that order?**

13 THE COURT: Let me hear the objection.

14 MS. FORTUNATO: Objection. Your Honor, you said  
15 you have all the court files. You've taken judicial  
16 notice. Clearly, my client doesn't have all the  
17 orders on the stand.

18 MS. DIENSTAG: I'm asking her. She gets to  
19 answer. Does she have a copy of that order? Because  
20 I'm not aware of any such order. Does she have a copy  
21 of that order?

22 THE WITNESS: Yes, I do.

23 BY MS. DIENSTAG:

24 **Q. Do you have it here?**

25 A. Yes.

1 **Q. Can you please ask your --**  
 2 MS. FORTUNATO: Withdrawn.  
 3 THE COURT: Okay. You may go to the table and  
 4 get your copy. First, hand it to your counsel. You  
 5 may go to the table. Do you have the order? Oh,  
 6 she's still looking.  
 7 While she's looking, Counsel, these photos were  
 8 not admitted into evidence. Are these also --  
 9 MS. FORTUNATO: We would ask to admit them. Yes,  
 10 please.  
 11 THE COURT: Any objection to these photos of  
 12 items that she testified to that she found in the  
 13 child's backpack? Ms. Dienstag, any objection to  
 14 these?  
 15 MS. DIENSTAG: No.  
 16 THE CLERK: Petitioner's 5.  
 17 (Petitioner's Exhibit 5 was admitted into  
 18 evidence.)  
 19 BY MS. DIENSTAG:  
 20 **Q. You're handing me the Illinois file, right?**  
 21 A. Yeah.  
 22 **Q. But there's no other file other than the one that**  
 23 **you just withdrew your petition on, 09F -- that same**  
 24 **case? All these orders are in the same Illinois file?**  
 25 A. Correct.

1 **harassment and abuse, have you provided that information**  
 2 **and told this information to the DCF investigators?**  
 3 A. No.  
 4 **Q. And why not?**  
 5 A. I just focused on Jacob. I didn't talk about  
 6 myself.  
 7 **Q. And have you provided DCF with all of the**  
 8 **evidence and allegations with regards to Jacob to DCF?**  
 9 A. Not everything, no.  
 10 **Q. Well, what else is there?**  
 11 A. There's a lot. I haven't gone over each visit  
 12 from visits one through eight. I just focused on the  
 13 last two. And I told them that for the visits one  
 14 through eight that for six of them, he returned with  
 15 injuries. But I didn't specifically go over everything  
 16 with them.  
 17 **Q. And why not?**  
 18 A. The question -- they didn't ask that question.  
 19 **Q. And so all these pictures of Jacob, you**  
 20 **introduced those into evidence in Illinois too, correct?**  
 21 A. Yes.  
 22 **Q. And so the judge in Illinois saw all those**  
 23 **pictures?**  
 24 A. Yes.  
 25 **Q. And these pictures, is this what your son looks**

1 **Q. There's no other Illinois file other than that**  
 2 **one?**  
 3 A. No.  
 4 **Q. So we would agree that the court file that Judge**  
 5 **Caballero has taken judicial notice of is the only**  
 6 **Illinois court file?**  
 7 A. Yes.  
 8 **Q. And you have no other domestic violence**  
 9 **injunctions pending, or were any others entered?**  
 10 A. No.  
 11 **Q. And you said that you are in fear of your safety.**  
 12 **Do you have any emails, tapes, letters, or evidence of**  
 13 **abuse between you and Mr. Gantine from 2008 to 2017?**  
 14 A. Yes.  
 15 **Q. And what do you have with you?**  
 16 A. With me, I have emails and -- I have to think for  
 17 a minute.  
 18 THE COURT: I'm sorry. What was the last...  
 19 THE WITNESS: Emails.  
 20 THE COURT: That's it?  
 21 THE WITNESS: Yes.  
 22 THE COURT: Oh, I thought you had said something  
 23 else. Okay.  
 24 BY MS. DIENSTAG:  
 25 **Q. And with regards to your allegations of**

1 **like today?**  
 2 A. Some of them, yes.  
 3 **Q. And do you think in any of them, he looks**  
 4 **severely underweight?**  
 5 A. In some of them, yes.  
 6 **Q. And is this all pictures of your son?**  
 7 A. Yes.  
 8 MS. DIENSTAG: We would like to introduce these  
 9 pictures.  
 10 MS. FORTUNATO: Objection. Self-serving, and you  
 11 have to introduce them with your witness.  
 12 MS. DIENSTAG: Well, it goes to the issue of that  
 13 she feels that the child --  
 14 THE COURT: Don't publish them to me. She's  
 15 objecting. Is your client going to testify?  
 16 MS. DIENSTAG: Yeah. It can go in through him.  
 17 THE COURT: You can question him about it.  
 18 BY MS. DIENSTAG:  
 19 **Q. You not only were represented by counsel in**  
 20 **Illinois, but you were represented by counsel in**  
 21 **Washington as well?**  
 22 A. Not the entire duration, no.  
 23 **Q. But were you recently represented in Washington**  
 24 **by counsel?**  
 25 A. Yes.

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1 **Q. And so you litigated in Washington represented by**  
 2 **counsel, correct?**  
 3 A. At what time period?  
 4 **Q. Recently.**  
 5 A. Yes.  
 6 **Q. You litigated in Illinois represented by counsel**  
 7 **recently; is that correct?**  
 8 A. Yes.  
 9 **Q. And you litigated in Broward County represented**  
 10 **by counsel recently; is that correct?**  
 11 A. Yes.  
 12 **Q. And is this a copy of your counsel's notice of**  
 13 **intent to withdraw in the Washington case that was filed**  
 14 **on May 31st, 2017?**  
 15 A. I haven't seen it. But she and I have a very  
 16 good relationship.  
 17 **Q. You don't have a good relationship with her?**  
 18 A. No, I do.  
 19 **Q. Oh, you do. Well, you don't know that she has**  
 20 **withdrawn?**  
 21 A. Oh, yes. She's told me.  
 22 MS. FORTUNATO: Objection. Relevance.  
 23 THE COURT: I'll sustain it.  
 24 BY MS. DIENSTAG:  
 25 **Q. Oh, she told you she's withdrawn?**

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1 THE COURT: I've sustained the objection as to  
 2 relevance.  
 3 THE WITNESS: There was no need --  
 4 THE COURT: There's no question pending.  
 5 THE WITNESS: Sorry.  
 6 BY MS. DIENSTAG:  
 7 **Q. Is that her notice of intent to withdraw?**  
 8 MS. FORTUNATO: Objection. Again, she's -- it  
 9 was sustained. Objection. Relevance.  
 10 THE COURT: I mean, as to the notice? You're  
 11 showing her a notice. I think you asked her if she  
 12 had seen it, and she said no.  
 13 MS. DIENSTAG: She said no.  
 14 BY MS. DIENSTAG:  
 15 **Q. But you're aware that she's seeking to withdraw,**  
 16 **yes?**  
 17 A. Yes. We talked about it.  
 18 **Q. And does your son have a guardian ad litem?**  
 19 A. Yes.  
 20 **Q. And was he appointed in April of 2015?**  
 21 A. No.  
 22 **Q. When was he appointed?**  
 23 A. December of 2014.  
 24 **Q. And since December of 2014, have you spoken to**  
 25 **Thomas Kenny?**

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1 A. Yes.  
 2 **Q. And have you spoken to him recently?**  
 3 A. No.  
 4 **Q. And why not?**  
 5 A. He has not returned my calls.  
 6 **Q. And have you asked for his assistance with**  
 7 **regards to any of the allegations that you're making**  
 8 **with regards to your son and Mr. Gantine?**  
 9 A. Recently?  
 10 **Q. Yes.**  
 11 A. No.  
 12 **Q. In the past, have you elicited his assistance**  
 13 **with regards to representing your son?**  
 14 A. Yes.  
 15 **Q. And how has that worked?**  
 16 A. It has not worked.  
 17 **Q. And with regards to injuries, other than what you**  
 18 **describe as injuries, which is depicted in the pictures**  
 19 **of your son, do you have any other evidence of injuries**  
 20 **to your son?**  
 21 A. I'm sorry. Can you repeat that?  
 22 **Q. Injuries. You said that your son was injured.**  
 23 **Do you have any other evidence of injuries that occurred**  
 24 **to your son when with his father?**  
 25 A. His testimony, the medical reports from the

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1 doctors.  
 2 **Q. Do you have those with you?**  
 3 A. Yes.  
 4 **Q. And were they introduced into evidence in**  
 5 **Illinois?**  
 6 A. No, I don't believe so.  
 7 **Q. And why not?**  
 8 A. I don't recall.  
 9 **Q. And with regards to the pictures of your son in**  
 10 **2010, he was approximately two years old, correct?**  
 11 A. Correct.  
 12 **Q. And so when your son was with you when he was two**  
 13 **years old, did he ever get, by your words, injured?**  
 14 A. Yes. From falling.  
 15 **Q. And have accidents?**  
 16 A. Nothing, like, abnormal or anything like that.  
 17 Nothing, like, on the face like this or repeat. Nothing  
 18 like that.  
 19 **Q. And so when your son was two years old, what kind**  
 20 **of accidents did he have with you?**  
 21 A. I can't even remember. Just -- he never had  
 22 injuries like this. Not that was --  
 23 **Q. Did he ever have any?**  
 24 A. -- not normal.  
 25 **Q. Did he ever have any accidents when he was two**

1 years old living with you?  
 2 A. Yeah. I mean, nothing that I can even remember.  
 3 **Q. Would you describe your son as an active**  
 4 **two-year-old boy?**  
 5 A. Sure, normal.  
 6 **Q. And did DCF interview your son since the filing**  
 7 **of the two domestic violence injunctions?**  
 8 A. Yes.  
 9 **Q. And they spoke to him?**  
 10 A. Yes.  
 11 **Q. And they -- actually, there was a physical -- you**  
 12 **know, they saw any physical appearances or anything that**  
 13 **you would be concerned about that was on his physical**  
 14 **body?**  
 15 A. Yes.  
 16 **Q. And they also, I assume, saw the weight?**  
 17 A. Well, they didn't see when he was picked up on  
 18 the 31st. When he met with the investigator, I believe  
 19 it was the 31st or the 1st. I don't know if she saw his  
 20 chest or anything like that. But I know that he came  
 21 back again, and there were pictures taken at that point.  
 22 And that was maybe a couple of days later.  
 23 **Q. So do you have any pictures of your son 20 pounds**  
 24 **heavier the month before he was with you?**  
 25 A. Yes.

1 **Q. So one is enough?**  
 2 A. Yes.  
 3 THE COURT: That will be Respondent's A.  
 4 THE CLERK: Yes.  
 5 (Respondent's Exhibit A was admitted into  
 6 evidence.)  
 7 BY MS. DIENSTAG:  
 8 **Q. Other than in court, when was the last time you**  
 9 **were physically present anywhere with Mr. Gantine? What**  
 10 **year?**  
 11 A. 2008.  
 12 **Q. And other than if there was any communication in**  
 13 **court, when was the last time there was any**  
 14 **communication between you and Mr. Gantine? In what**  
 15 **year?**  
 16 A. Communication over the phone?  
 17 **Q. Right.**  
 18 A. This year.  
 19 **Q. And when was that?**  
 20 A. That was in February of this year.  
 21 **Q. And was that with regards to the pickup of your**  
 22 **son?**  
 23 A. Mm-hmm.  
 24 THE COURT: You have to answer yes or no.  
 25 THE WITNESS: Yes.

1 **Q. And where are those pictures where he was**  
 2 **20 pounds heavier the month before?**  
 3 A. Also, I have a picture of him ten days after this  
 4 visit as well with his shirt off. This is before. This  
 5 is before, and this is before.  
 6 **Q. So when is this picture of your son?**  
 7 A. That was in January of this year.  
 8 **Q. January of this year?**  
 9 A. Mm-hmm.  
 10 **Q. And according to you, he lost 20 pounds from this**  
 11 **day until when you picked him up?**  
 12 A. I stated I don't know exactly. I'm approximating  
 13 20 pounds. It's drastic weight loss.  
 14 **Q. What he looked like then until what he looked**  
 15 **like at pickup is what caused you concern to cause the**  
 16 **emergency jurisdiction of this Court?**  
 17 A. No. It was also his testimony, what he told me.  
 18 **Q. And in part, this is what he looked like in**  
 19 **January, and you feel that there's a real concern?**  
 20 A. Absolutely.  
 21 MS. DIENSTAG: Any objection?  
 22 MS. FORTUNATO: No.  
 23 BY MS. DIENSTAG:  
 24 **Q. Is this all the same picture?**  
 25 A. Yes.

1 THE COURT: Thank you.  
 2 BY MS. DIENSTAG:  
 3 **Q. Other than in February of 2017 with regards to**  
 4 **the pickup of your son, when was the last time other**  
 5 **than in court that you had any verbal communication with**  
 6 **Mr. Gantine?**  
 7 A. I'm sorry. Can you repeat that?  
 8 **Q. Other than in February of 2017 with regards to**  
 9 **the pickup of your son, when was the last time you had**  
 10 **any verbal communication with Mr. Gantine other than in**  
 11 **court?**  
 12 A. I would have to say before I left Illinois, so in  
 13 2015.  
 14 **Q. And how many times in 2015 did you talk to**  
 15 **Mr. Gantine?**  
 16 A. I can't say exactly. They were harassing calls,  
 17 so I can't -- I don't know exactly.  
 18 **Q. And do you have any evidence of those harassing**  
 19 **calls?**  
 20 A. Yes.  
 21 **Q. And how do you have evidence of those harassing**  
 22 **calls?**  
 23 A. Well, I had the phone, but I don't have the phone  
 24 with me here in court. It's an old cell phone.  
 25 **Q. And so other than the harassing calls that you**

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1 **don't have the evidence of, do you have any other**  
 2 **evidence with you here today of harassing calls between**  
 3 **you and Mr. Gantine?**  
 4 A. I have spoof calls on my phone today, but I can't  
 5 prove it's him. But I'm getting spoof calls on my  
 6 phone.  
 7 **Q. But you don't know if it's him?**  
 8 A. I can't prove it, but I do believe it's him.  
 9 **Q. Other than the ones that you can't prove it's him**  
 10 **or the ones that you don't have on the phone, do you**  
 11 **have any evidence of a harassing call?**  
 12 A. No.  
 13 **Q. And other than Mr. Gantine or his counsel or the**  
 14 **guardian or the police advising you of your son's pickup**  
 15 **or arrest, do you have any other emails of a harassing**  
 16 **nature since 2015 between you and Mr. Gantine?**  
 17 A. No. I changed my email.  
 18 **Q. Your counsel had asked you a question of whether**  
 19 **or not Mr. Gantine participated in reunification**  
 20 **therapy. You would agree the order occurred in about**  
 21 **April of 2015, correct?**  
 22 A. Correct.  
 23 **Q. And when did you move to Washington?**  
 24 A. November of 2015.  
 25 **Q. And the period of reunification was supposed to**

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1 **last a year, correct?**  
 2 A. Correct.  
 3 **Q. And that was court ordered?**  
 4 A. Yes.  
 5 **Q. So within the time of the court-ordered**  
 6 **mediation, you moved to Washington?**  
 7 A. He did not do his part. He did not get a  
 8 psychologist. I was meeting with a psychologist, and he  
 9 did not have anyone here in Florida.  
 10 **Q. Ma'am, I asked you: Within a few months of being**  
 11 **ordered to participate in reunification therapy, did you**  
 12 **leave for Washington?**  
 13 A. I did.  
 14 **Q. And when you say that you didn't know the**  
 15 **whereabouts of Mr. Gantine, did you tell Mr. Gantine**  
 16 **that you had moved to Washington with your son?**  
 17 A. No.  
 18 **Q. And you hired Dr. Rivas, did you not?**  
 19 A. The child pediatrician had recommended after the  
 20 second visit --  
 21 **Q. No. I'm asking you if she was a private doctor.**  
 22 **She wasn't a court-ordered doctor. She was a doctor you**  
 23 **hired?**  
 24 A. If you want to say that. She was referred by the  
 25 pediatrician.

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1 **Q. And during the four years that you were -- from**  
 2 **2012 to, let's say, 2015, was Mr. Gantine aware of your**  
 3 **address?**  
 4 A. I don't know.  
 5 MS. DIENSTAG: That's all I have, Your Honor.  
 6 THE COURT: Okay. Any redirect?  
 7 MS. FORTUNATO: No, Your Honor.  
 8 THE COURT: Okay. So you can go back to the  
 9 table with your attorney.  
 10 THE WITNESS: Thank you.  
 11 (The witness stepped down.)  
 12 MS. DIENSTAG: Your Honor, at this time, I move  
 13 to dismiss the domestic violence injunctions, case  
 14 No. 2017-013378 and 2017-013616.  
 15 MS. FORTUNATO: I still have a witness, Your  
 16 Honor, that needs to testify.  
 17 THE COURT: So the witness that you're proposing,  
 18 the expert, I just don't see the relevance. You have  
 19 to -- of course, you have the right to put on your  
 20 case. But how -- this witness, as far as the mother's  
 21 petition, let's address that. She's not going to  
 22 testify. She hasn't been seeing the mother, has she?  
 23 MS. FORTUNATO: Correct.  
 24 THE COURT: So it's just as to the child?  
 25 MS. FORTUNATO: Correct.

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1 THE COURT: So was there any other witness that  
 2 you were going to call in connection with her petition  
 3 for injunction?  
 4 MS. FORTUNATO: No, Your Honor.  
 5 THE COURT: Well, she's moved for a directed  
 6 verdict. Do you have anything that you'd like to say  
 7 in response?  
 8 MS. FORTUNATO: Only, Your Honor, that she has  
 9 had -- she testified to a significant history of  
 10 domestic violence. You have taken judicial notice of  
 11 the court file and transcripts from Illinois. The  
 12 Court there in the transcript dated 9/24/2012 has gone  
 13 through a significant amount of violence with the  
 14 spoof calls, with the harassment of the mother. Other  
 15 than that, Your Honor, there is nothing else. There's  
 16 been nothing in Florida at the present time.  
 17 THE COURT: So while there may have been and  
 18 obviously the Court in Illinois did find there was a  
 19 need for protection back in 2012 -- no. It was in  
 20 2010. And it was modified and extended. And it  
 21 expired, I believe her testimony was, sometime in  
 22 2015. And I know at that time, the Court denied her  
 23 request to extend it any further.  
 24 Based on her own testimony, there really hasn't  
 25 been any contact whatsoever. There's no threat of

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1 imminent danger to her. I find that she's failed to  
 2 meet her burden as to her petition for domestic  
 3 violence injunction, and I'll grant the motion to  
 4 dismiss.  
 5 MS. DIENSTAG: Thank you.  
 6 THE COURT: Now, as to the child, you know,  
 7 hearsay, there's no question that the child -- and the  
 8 mother had proffered earlier that the child was here  
 9 to testify. The child -- the petition clearly says  
 10 that a motion has to be filed. That didn't happen.  
 11 So the issue is, then, she's relying on the statements  
 12 from this child where no motion has been filed or  
 13 presented for the child's testimony to be heard by the  
 14 Court. It's hearsay, so it would have to come under  
 15 an exception.  
 16 MS. FORTUNATO: I gave you the case law on that,  
 17 Your Honor.  
 18 THE COURT: And you did give a case. I haven't  
 19 read that case. I haven't been able to see it. I'm  
 20 relying on you as an officer of the court that that's  
 21 what it stands for.  
 22 MS. FORTUNATO: Yes, ma'am.  
 23 THE COURT: And we do receive reports from  
 24 experts in psychological evaluations as well as  
 25 psychiatric evaluations that contain statements of the

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1 person who the doctor has evaluated on a regular -- as  
 2 a regular course of business. That's what they do.  
 3 So that would be the exception. It would be that it's  
 4 a business record. She would have to be tendered as a  
 5 witness. So you would have to lay the qualifications,  
 6 because they're objecting to her testifying.  
 7 Would you like an opportunity to speak to the  
 8 witness before?  
 9 MS. DIENSTAG: No. I mean, because she's a fact  
 10 witness. She's not an expert witness, and so she  
 11 can't be called to testify. And also, she's  
 12 irrelevant. Anything she would have is hearsay, and  
 13 the Florida statutes still apply.  
 14 As much as the child can't testify, the mother  
 15 should have never taken -- she told the Court that DCF  
 16 was doing the investigation. She led us to believe  
 17 that any evaluations were being conducted by DCF, and  
 18 the Court extended this so that DCF would have the  
 19 time. You did speak to DCF. DCF had absolutely no  
 20 reason for evaluations or medical treatment and has --  
 21 THE COURT: Well, no. They did evaluate the  
 22 child.  
 23 MS. DIENSTAG: Right. I'm saying they didn't  
 24 find a need -- you know, they found nothing so far  
 25 after witnessing the child, interviewing the child,

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1 listening to the allegations of the mother. But let's  
 2 remember this is the fifth DCF investigation.  
 3 MS. FORTUNATO: I don't know what tests they did.  
 4 MS. DIENSTAG: And so there can't be an expert  
 5 witness on -- can't be tendered as an expert based  
 6 upon the petition for injunction, because the subject  
 7 matter of the petition is what the son said.  
 8 THE COURT: Right.  
 9 MS. DIENSTAG: And since the expert has not  
 10 spoken to any of the judges or the guardian or the  
 11 father and has not conducted a true evaluation as an  
 12 expert appointed by the Court, she is not an expert.  
 13 She was hired by the mother, like Dr. Rivas was, on  
 14 the same allegations that has been heard in at least  
 15 two other jurisdictions, and she is not an expert.  
 16 And, you know, under the Florida statutes, under  
 17 the rules, under the evidence code, there would be no  
 18 basis for her to testify, nor should she be allowed  
 19 to. And any of her testimony would be based on  
 20 hearsay, which would be what the mother or child told  
 21 her.  
 22 MS. FORTUNATO: Your Honor, I gave you the case  
 23 that allows an expert to use hearsay.  
 24 MS. DIENSTAG: There's no case here. There's  
 25 been no case presented.

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1 MS. FORTUNATO: That's what experts do.  
 2 THE COURT: Do you have the case?  
 3 MS. DIENSTAG: She's not an expert.  
 4 MS. FORTUNATO: I'll give it to you again.  
 5 THE COURT: I'll pull up the case so both counsel  
 6 and I can see it.  
 7 MS. DIENSTAG: What is she an expert in?  
 8 Opposing counsel hasn't even indicated. Her area of  
 9 expertise is what?  
 10 THE COURT: I already said she would have to  
 11 render -- she would have to lay the foundation for her  
 12 being admitted as an expert.  
 13 MS. DIENSTAG: This witness has not been found to  
 14 be an expert, nor could she be in this case.  
 15 THE COURT: So it's a medical malpractice case.  
 16 It's not a DV case. So in this case, a doctor uses --  
 17 relies upon hearsay statements of other doctors in his  
 18 report and in his opinion testimony. And at issue was  
 19 whether his own -- it was based in part on the  
 20 expert's own assessment of the medical condition in  
 21 question, and they found that it was properly  
 22 admitted.  
 23 MS. DIENSTAG: Right. And that's what I'm  
 24 saying. Right here, what is her area of expertise?  
 25 The issue is whether or not the son said the

1 statements that he said and that, based upon those  
2 statements, would that be abuse?

3 And so the mother has put on allegations of  
4 years -- you know, of prior allegations of things that  
5 occurred in 2010. Again, that would be nothing that  
6 the doctor could -- an expert could testify about,  
7 whether or not that would happen. That would be the  
8 truth of the matter. That's for the Court to  
9 determine.

10 There's nothing innate subject to expert  
11 testimony based upon the petition that has been filed  
12 by the mother. There's nothing she could be an expert  
13 in the subject of in this case. They're just trying  
14 to label her an expert in order to get hearsay  
15 statements in.

16 But she is a doctor that was hired a few days ago  
17 to -- that took hearsay information from the child  
18 that has no probative value whatsoever; has talked to  
19 nobody else, including the father; and is going to  
20 make recommendations that are not in an expert nature.  
21 Nor is the subject of the testimony of the petition,  
22 which makes specific allegations about what the son  
23 said when he was picked up, whether he ate, whether he  
24 slept, whether he clung to his mother, and whether or  
25 not, you know, he missed his mother.

1 was continued.

2 MS. FORTUNATO: Well, let me put it to you this  
3 way. How is it any different than anything DCF is  
4 doing?

5 MS. DIENSTAG: There's nothing that this witness  
6 could say. It's not relevant, and it's not --

7 MS. FORTUNATO: It's absolutely relevant. She  
8 evaluated the child. She has spoken to the child.  
9 That's what psychologists do.

10 MS. DIENSTAG: She shouldn't have, Judge.

11 MS. FORTUNATO: And it's about child abuse, abuse  
12 to the child. And this is the psychologist. This is  
13 what they do.

14 MS. DIENSTAG: She has no --

15 THE COURT: I think, as I stated earlier, we  
16 customarily do get reports and opinions from  
17 psychologists and psychiatrists who rely on the  
18 hearsay. Because actually, they rely on the  
19 statements made by this reporter, whoever the patient  
20 is, when they formulate their opinions as to diagnosis  
21 or make any recommendations. It is customary.

22 So even before reading this, that's what I was  
23 saying. It's very common in this profession that  
24 that's what they do. So I just -- I don't know what  
25 information she's been given. You'll have an

1 MS. FORTUNATO: Counsel has no idea --

2 MS. DIENSTAG: That is not the subject of expert  
3 testimony. That would be hearsay.

4 MS. FORTUNATO: Counsel doesn't know what she  
5 did.

6 MS. DIENSTAG: But that's what --

7 THE COURT: One at a time, please.

8 MS. DIENSTAG: That's what the petition says.

9 MS. FORTUNATO: She evaluated the child. She's  
10 spoken to the child. And, yes, she's relied on some  
11 hearsay. She's spoken to the previous therapist, but  
12 she will be the one to tell you what she's done for  
13 her evaluation.

14 MS. DIENSTAG: We're missing it. This is a  
15 petition for domestic violence. This is not a medical  
16 malpractice case --

17 MS. FORTUNATO: Well, of course it's not.

18 MS. DIENSTAG: -- in which the issue is whether  
19 or not there has been medical malpractice. The  
20 subject matter of a petition for domestic violence  
21 when the allegations are like they are is not the  
22 subject of expert testimony per the proffering of  
23 opposing counsel on the witness that just met the  
24 child on June 7th, after the last hearing in which she  
25 had -- was supposed to bring all her witnesses and it

1 opportunity to explore that with her testimony. Have  
2 you contacted Judge Trawick?

3 MS. DIENSTAG: No. And I'm probably in deep  
4 trouble. It started 15 minutes ago.

5 THE COURT: It's your case? Why don't you call.  
6 Let's recess. I'm going to bring them in. It's going  
7 to be a quick emergency motion, and you can make your  
8 call outside. We'll recess for a few minutes.

9 (A recess was taken.)

10 THE COURT: So we were addressing --

11 MS. DIENSTAG: My motion to dismiss related to  
12 the other domestic violence petition.

13 THE COURT: Right. So I'm going to deny it at  
14 this time. I'll allow you to call your witness, and  
15 we'll see.

16 MS. DIENSTAG: You're going to allow her to call  
17 the psychologist?

18 THE COURT: Yeah. We went over all of that  
19 before when I started addressing the motion to  
20 dismiss.

21 MS. DIENSTAG: Your Honor, may I voir dire the  
22 witness before she begins?

23 THE COURT: Yes, of course. Absolutely. Let's  
24 call her.  
25



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1 VOIR DIRE EXAMINATION  
 2 BY MS. DIENSTAG:  
 3 **Q. Ms. Hooper?**  
 4 A. Dr. Hooper, yes.  
 5 **Q. And have you been established as an expert**  
 6 **witness in any court in Miami-Dade County?**  
 7 A. Yes.  
 8 **Q. In what area is your expertise?**  
 9 A. Psychology, clinical psychology.  
 10 **Q. And clinical expertise is in what area of**  
 11 **clinical psychology?**  
 12 A. I've been qualified as a forensic expert.  
 13 **Q. As a forensic expert?**  
 14 A. Yes.  
 15 **Q. In what area?**  
 16 A. In competency and risk assessment.  
 17 **Q. Competency and risk assessment?**  
 18 A. Yes.  
 19 **Q. And so you have been qualified as an expert**  
 20 **witness in competency and risk assessment with regards**  
 21 **to what area?**  
 22 A. Criminal.  
 23 **Q. In the criminal court?**  
 24 A. Yes.  
 25 **Q. Have you ever been accepted as an expert witness**

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1 **in unified family court?**  
 2 A. I have not.  
 3 **Q. Have you ever been accepted as an expert witness**  
 4 **in Miami-Dade County and family court?**  
 5 A. No.  
 6 THE CLERK: Excuse me. Can the psychologist  
 7 repeat her name, please?  
 8 THE WITNESS: Elizabeth Hooper.  
 9 THE COURT: And she hasn't been sworn in, so I'm  
 10 going to have her sworn in.  
 11 MS. DIENSTAG: Well, Your Honor, I move to strike  
 12 the witness in that she's being brought before the  
 13 Court as an expert witness. She has no expertise  
 14 in --  
 15 THE COURT: Well, I'll allow her to voir dire her  
 16 or question her further to establish if she's  
 17 qualified or not. Do you have any questions?  
 18 MS. DIENSTAG: She just said that she's never  
 19 been accepted as an expert witness in family court.  
 20 She's never been accepted as an expert witness in  
 21 unified family court; that she's only been in criminal  
 22 court on risk assessment.  
 23 THE COURT: Right.  
 24 MS. DIENSTAG: And so we're here on the four  
 25 corners of the petition for domestic violence in which

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1 the issues before the Court have nothing to do with  
 2 risk assessment. And what was the other thing?  
 3 THE WITNESS: Competency.  
 4 THE COURT: Yeah. Competency to proceed to  
 5 trial.  
 6 THE WITNESS: Yes.  
 7 MS. DIENSTAG: Right. And so this witness can't  
 8 be tendered as an expert witness if she --  
 9 THE COURT: Well, I'll give her an opportunity to  
 10 question her further to see if she can be, but I'm  
 11 going to have her sworn in first.  
 12 If you raise your right hand, we'll have you  
 13 sworn in.  
 14 THE CLERK: Do you swear or affirm the testimony  
 15 you're about to give to the court will be the truth?  
 16 THE WITNESS: Yes.  
 17 DR. ELIZABETH HOOPER,  
 18 having first been duly sworn, was examined and  
 19 testified as follows:  
 20 THE CLERK: State your name.  
 21 THE WITNESS: Elizabeth Hooper.  
 22 MS. DIENSTAG: And this is on the issue of her  
 23 competency of being an expert witness?  
 24 THE COURT: I'm sorry. I can't hear you.  
 25 MS. DIENSTAG: Opposing counsel is trying to

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1 establish her as an expert witness?  
 2 THE COURT: Yes.  
 3 MS. DIENSTAG: Okay.  
 4 VOIR DIRE EXAMINATION  
 5 BY MS. FORTUNATO:  
 6 **Q. Please state your name.**  
 7 A. Elizabeth Hooper.  
 8 **Q. And, Dr. Hooper, what is your occupation?**  
 9 A. I'm a psychologist.  
 10 **Q. And where are you employed?**  
 11 A. I'm employed with Ann Monis, P.A., doing business  
 12 as Mental Health Center of Florida.  
 13 **Q. What is your present title?**  
 14 A. I am the director of training and a senior staff  
 15 psychologist.  
 16 **Q. And what position do you currently hold?**  
 17 A. I am a psychologist.  
 18 **Q. And could you describe briefly the subject matter**  
 19 **of what you do?**  
 20 A. Yes, certainly. I conduct therapy with families,  
 21 couples, individuals. I also supervise interns,  
 22 psychology interns, and postdoctoral psychology  
 23 residents. I oversee cases in the dependency system for  
 24 ChildNet, and I do evaluations for ChildNet in courts.  
 25 I do independent evaluations and ability to parent

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1 evaluations, psychological evaluations, substance use  
 2 evaluations.  
 3 **Q. And what academic degrees are held by you?**  
 4 A. I have a doctorate in psychology from Nova  
 5 Southeastern University. I have a master's in  
 6 psychology from Nova Southeastern University. I have a  
 7 master's in counseling from Chatham University, and I  
 8 have a postdoctoral master's in psychopharmacology from  
 9 Nova Southeastern University.  
 10 **Q. And are you licensed in the state of Florida?**  
 11 A. I am.  
 12 **Q. What license do you hold?**  
 13 A. Psychology.  
 14 **Q. And how long have you been licensed?**  
 15 A. I have been licensed since 2009.  
 16 **Q. And what's your length of time practicing in the**  
 17 **field?**  
 18 MS. DIENSTAG: Objection as to the form of the  
 19 question. As to what?  
 20 THE COURT: As to what?  
 21 MS. DIENSTAG: What field? She said how long  
 22 she's been licensed in the field.  
 23 THE COURT: Okay. I'll sustain it.  
 24 BY MS. FORTUNATO:  
 25 **Q. How long have you been licensed as a**

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1 **psychologist?**  
 2 A. Since 2009.  
 3 **Q. And what positions have you held since you**  
 4 **completed your formal education?**  
 5 A. Since completing my formal education, I was a  
 6 postdoctoral resident conducting neuropsychological  
 7 assessments for workers' comp and other issues in a  
 8 private practice. I worked at the Miami-Dade Public  
 9 Defender's Office in capital litigation as a mitigation  
 10 specialist. I worked at Treasure Coast Forensic  
 11 Treatment Center. That's where I did the competency and  
 12 risk assessment evaluations, and then I've worked at  
 13 Mental Health Center of Florida.  
 14 **Q. And how long have you been in your position where**  
 15 **you're employed now?**  
 16 A. Fourteen months.  
 17 **Q. And what are your specific duties with the**  
 18 **company?**  
 19 MS. DIENSTAG: Objection. Asked and answered.  
 20 She already answered.  
 21 MS. FORTUNATO: Oh, I think I did.  
 22 THE COURT: Sustained.  
 23 BY MS. FORTUNATO:  
 24 **Q. Have you taught anything in your field of**  
 25 **psychology?**

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1 A. Have I taught?  
 2 **Q. Yes.**  
 3 A. I have not held any university posts.  
 4 **Q. Have you taught anybody else? Any lectures or**  
 5 **anything like that in your field of psychology?**  
 6 A. Yes, I have. And I currently am the training  
 7 director overseeing the predoctoral psychology interns  
 8 as well as the postdoctoral residents.  
 9 **Q. And where and when do you lecture?**  
 10 A. It's at our didactic series through the practice.  
 11 **Q. And have you published any publications in**  
 12 **psychology?**  
 13 MS. DIENSTAG: Objection as to relevance as to  
 14 the specifics of the expertise. Not if she's  
 15 published in psychology generally is it relevant to  
 16 the expertise that she's being offered for.  
 17 MS. FORTUNATO: She's being offered as a  
 18 psychologist.  
 19 THE COURT: I'm going to overrule that one.  
 20 You can answer.  
 21 THE WITNESS: I have not published anything since  
 22 becoming licensed.  
 23 BY MS. FORTUNATO:  
 24 **Q. Do you have a membership in any professional**  
 25 **societies?**

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1 A. I do not.  
 2 **Q. And do you have any honors, acknowledgments, or**  
 3 **awards received by you in your field?**  
 4 A. No.  
 5 **Q. And how long have you been doing this?**  
 6 A. How long have I been a licensed psychologist?  
 7 **Q. Yes.**  
 8 MS. DIENSTAG: Objection. Asked and answered.  
 9 THE COURT: Sustained.  
 10 BY MS. FORTUNATO:  
 11 **Q. And how many times have you testified in court as**  
 12 **an expert witness?**  
 13 MS. DIENSTAG: Objection as to the form of the  
 14 question relative to the expertise that's before this  
 15 Court that she is being offered for. And she's  
 16 already asked and answered that. She's never been an  
 17 expert witness in family or in --  
 18 MS. FORTUNATO: I asked her how many times she's  
 19 testified as an expert witness.  
 20 THE COURT: I'll overrule. I'll allow her to  
 21 respond.  
 22 THE WITNESS: I have testified over 20 times.  
 23 BY MS. FORTUNATO:  
 24 **Q. And I'm going to show you a document. Is this**  
 25 **your curriculum vitae?**

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1 A. It is.  
 2 MS. FORTUNATO: I would like to admit this as an  
 3 exhibit, Your Honor.  
 4 THE COURT: Any objection?  
 5 MS. DIENSTAG: No. I'd like the Court to take  
 6 judicial notice of the areas in which Ms. Hooper  
 7 has --  
 8 THE COURT: Any objection to this being  
 9 introduced?  
 10 MS. DIENSTAG: No.  
 11 THE COURT: That will be introduced.  
 12 MS. FORTUNATO: Your Honor, pursuant to the rules  
 13 of expert witness, I am tendering her as a qualified  
 14 expert witness in the field of psychology.  
 15 THE CLERK: Petitioner's Exhibit 6.  
 16 THE COURT: Her curriculum vitae will be  
 17 Petitioner's Exhibit No. 6.  
 18 (Petitioner's Exhibit 6 was admitted into  
 19 evidence.)  
 20 THE COURT: And you're tendering her as an expert  
 21 in just psychology in general?  
 22 MS. FORTUNATO: Yes. It doesn't have to be a  
 23 specific field. It's a psychologist in testing. She  
 24 testified she did testing for ChildNet. She did  
 25 dependency cases and things of that nature.

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1 MS. DIENSTAG: That's not what the testimony  
 2 reveals.  
 3 THE COURT: No. She did testify that she does  
 4 evaluations for ChildNet.  
 5 MS. DIENSTAG: Right.  
 6 THE COURT: And that she's worked in cases,  
 7 dependency cases. But I don't know what that means.  
 8 So any further voir dire?  
 9 MS. DIENSTAG: I would just like the Court to  
 10 take judicial notice that of all the information  
 11 indicated on the résumé, not one of the things have  
 12 anything to do with domestic violence abuse. They  
 13 have to do with a correctional setting; talk about  
 14 sex, long-term care; identifying, assessing, and  
 15 litigating mental retardation; fixed test batteries --  
 16 THE COURT: Please don't read her whole  
 17 curriculum vitae. It's quite extensive.  
 18 MS. FORTUNATO: Your Honor, I'll be happy to go  
 19 into what she's done for dependency court and  
 20 ChildNet.  
 21 THE COURT: Sure. I'd like a little bit more  
 22 information. I'm sure she's an expert in her area of  
 23 psychology, especially if she's been recognized as one  
 24 previously. I just want to make sure that with what I  
 25 have to decide today and what you're tendering her for

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1 that I can qualify her as an expert.  
 2 BY MS. FORTUNATO:  
 3 **Q. Have you evaluated children?**  
 4 A. Yes.  
 5 **Q. How many times?**  
 6 A. Over 20.  
 7 THE COURT: Over how many?  
 8 THE WITNESS: Twenty.  
 9 BY MS. FORTUNATO:  
 10 **Q. And what was the purpose of these evaluations?**  
 11 A. Sometimes they're biopsychosocial evaluations.  
 12 Sometimes they were neuropsychological evaluations.  
 13 Sometimes they were general psychological evaluations.  
 14 **Q. And can you explain to the Court what you did for**  
 15 **ChildNet?**  
 16 A. Certainly. ChildNet refers to our office a  
 17 number of cases where parents or families are court  
 18 ordered to receive services in the areas of parenting  
 19 education, training, individual therapy, substance use  
 20 treatment, anger management, domestic violence for  
 21 victims treatment. They also refer a number of their  
 22 evaluations to us: substance use evaluations,  
 23 psychological evaluations, ability to parent  
 24 evaluations.  
 25 **Q. So that's what you do for ChildNet. What about**

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1 **dependency? What do you do for them?**  
 2 A. ChildNet is part of the foster care and  
 3 dependency system. That's what I was alluding to.  
 4 **Q. So those are both the same thing?**  
 5 A. Yes.  
 6 **Q. And have you prepared psychological evaluations**  
 7 **for ChildNet in dependency court as well?**  
 8 A. Yes.  
 9 **Q. And do you perform those yourself?**  
 10 A. Yes.  
 11 **Q. Do you administer tests?**  
 12 A. Yes.  
 13 **Q. And you provided the results?**  
 14 A. To the court, yes.  
 15 MS. FORTUNATO: No further questions, Your Honor.  
 16 THE COURT: So I will accept the witness as an  
 17 expert in psychology. I just wanted to ask her one  
 18 additional question.  
 19 You said the cases that are referred, some of  
 20 them include DV for victims. Have you handled any  
 21 cases for domestic violence victims?  
 22 THE WITNESS: I have supervised them. I'm also a  
 23 supervisor for the unlicensed practitioners, and so I  
 24 oversee all of their clinical work as well as their  
 25 treatment summary updates for the court and things

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1 like that.

2 THE COURT: And how many cases have you

3 supervised for domestic violence?

4 THE WITNESS: For domestic violence, probably 15.

5 THE COURT: And any of these psychological

6 evaluations that you've done for ChildNet, have they

7 involved children -- cases involving allegations of

8 abuse?

9 THE WITNESS: The ChildNet cases that I have done

10 have been adult cases.

11 THE COURT: Have you done any child abuse cases

12 where you've evaluated the child?

13 THE WITNESS: No, I have not.

14 THE COURT: Well, the issue here is really

15 whether -- you know, I have to make a determination

16 whether there's going to be a permanent injunction

17 between the father and the child based on allegations

18 of abuse. So if she's never evaluated a child for

19 child abuse allegations, I can't accept her --

20 MS. FORTUNATO: It's the same thing as domestic

21 violence, she just testified to.

22 THE COURT: Have you ever evaluated a child with

23 regards to domestic violence allegations?

24 THE WITNESS: No, I have not.

25 THE COURT: While her credentials are very

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1 impressive, I cannot accept her as an expert in this

2 area.

3 MS. DIENSTAG: Your Honor, may I proceed with

4 either the granting of my motion to dismiss or proceed

5 with my case?

6 THE COURT: Well, wait. Let's address this.

7 MS. DIENSTAG: And I commend the witness for her

8 forthrightness.

9 MS. FORTUNATO: I don't know that she has to

10 evaluate the child to be an expert. She oversees

11 them.

12 THE COURT: But she's never done it. I asked.

13 That's why I asked. So I can't accept the witness at

14 this time as an expert in this case for matters

15 pertaining to child abuse. So is the witness excused?

16 MS. FORTUNATO: If that's your ruling, Your

17 Honor.

18 THE COURT: That's my ruling. Thank you for

19 being here.

20 (The witness was excused.)

21 THE COURT: All right. So you were renewing your

22 motion?

23 MS. DIENSTAG: Oh, yes. I'm renewing my motion

24 for judgment on the pleadings and based upon a motion

25 to dismiss, based on the evidence before the Court on

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1 the second case, 2017-013616.

2 THE COURT: Well, there's allegations that the

3 child was abruptly taken into custody, and it's true

4 that that in fact did happen.

5 MS. FORTUNATO: Do I get to make an oral argument

6 first?

7 THE COURT: Of course, you may. Go right ahead.

8 MS. FORTUNATO: All right. I'm going to do the

9 jurisdiction. But I do want to bring the Court's

10 attention to 39.504, which provides: "At any time

11 after a protective investigation has been initiated

12 pursuant to part 3 of this chapter, the Court upon the

13 request of the department, law enforcement officer,

14 the state attorney, or other responsible person or

15 upon its own motion may, if there's reasonable cause,

16 issue an injunction to prevent any act of child abuse.

17 "Reasonable cause for the issuance of an

18 injunction exists if there's evidence of child abuse

19 or if there is a reasonable likelihood of such abuse

20 occurring based upon a recent overt act or failure to

21 act."

22 Right now, I know the Court has made some

23 statements about Department of Children and Family

24 Services and their potential findings, but the case is

25 not closed yet. So I'm asking that the Court maintain

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1 this injunction until the findings pursuant to 39.504

2 and maintain the injunction for protection.

3 As you see, it's a little bit of a different

4 standard than a domestic violence injunction. But

5 nonetheless, it is an injunction for the protection of

6 the child. And as we know, DCF has been wrong before.

7 And unfortunately, it has resulted in the lives of

8 children. So before this Court takes the initiative

9 and possibly dismisses this injunction, we ask that we

10 wait until we have a full investigation complete so we

11 have the opportunity to interview DCF and find out

12 what tests they did.

13 They may not have done the psychological. And a

14 lot of this information, they may or may not have, as

15 brought out in testimony. And a thorough

16 investigation has to be done. It's the child's life.

17 There's a history that she testified to about this

18 child, a history of abuse. You have taken judicial

19 notice of the pleadings. There's a consistent history

20 since 2009 of abuse of this child.

21 We're talking about three months where he was

22 ripped out of the mother's care. She comes back. She

23 finds him with a loss of weight and injuries to

24 himself, and DCF isn't even finished their

25 investigation. I don't want this to be the poster

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<p>1 child of something that happens in the future with                  2 regard to that, and I'm going to ask the Court to                  3 maintain the injunction until at least DCF has                  4 finished their investigation and concluded it pursuant                  5 to 39.504.                  6 THE COURT: Thank you. Did you want to respond?                  7 MS. DIENSTAG: Yes. Your Honor, the evidence                  8 before the Court pursuant to the law in Florida                  9 statutes is that there is no abuse. There's been no                  10 evidence of any type of abuse. The pictures presented                  11 by the mother do not fall under any realm of the                  12 possibility of abuse.                  13 The mother testified that DCF verbally witnessed                  14 the child, evaluated the child, and made no findings                  15 that there was any reason for causes or concern. The                  16 mother also testified that all of the allegations that                  17 she made before this Court were previously made before                  18 at least one court, and there were findings made by                  19 those courts and sanctions entered against the mother.                  20 There is absolutely no evidence of reasonable                  21 fear for her safety or the safety of the child, as the                  22 evidence presented. There's no evidence of domestic                  23 violence, and there is absolutely no cause for any                  24 concern, as indicated by the evidence that was                  25 presented and the discussions you had with both the</p>	<p>1 separate action. That's not separate.                  2 MS. DIENSTAG: But we're not proceeding in that                  3 court.                  4 THE COURT: The petition has to be filed under                  5 Chapter 39.                  6 MS. FORTUNATO: No. I have a case for that.                  7 THE COURT: Okay. She can file a petition under                  8 741?                  9 MS. FORTUNATO: Yes. I can pull it for you. I                  10 have it right here.                  11 MS. DIENSTAG: But there's been no petition, nor                  12 was there evidence --                  13 THE COURT: No. There's a petition under a                  14 different statute, which is the domestic violence                  15 statute that she filed a petition for injunction                  16 under, 741.30.                  17 MS. DIENSTAG: Right. And we're here on a                  18 noticed hearing on a petition for injunction                  19 protection for domestic violence. But also, there's                  20 been no evidence of any reasonable cause for the                  21 issuance of an injunction, nor has there been any                  22 evidence of child abuse or has there been any evidence                  23 of the reasonable likelihood of such abuse or has                  24 there been any evidence of an overt act or failure to                  25 act. And there's no pleading before the Court to ask</p>
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<p>1 judge in Illinois and also DCF investigators.                  2 There is not any evidence before the Court that                  3 there is any reasonable fear of the safety or the                  4 concerns, especially in light of the fact that this                  5 case has been tried at least twice and adjudicated in                  6 favor of the father. There is currently the exclusive                  7 jurisdiction of Illinois. There is no emergency                  8 before this Court or evidence of an emergency and no                  9 evidence that's been presented today that would render                  10 this Court allowing to retain jurisdiction of this                  11 child.                  12 I respectfully request, based on the evidence and                  13 the testimony before you and the information of the                  14 history of the fraud that this mother has committed in                  15 at least three states, that you dismiss the injunction                  16 as having no evidence and no cause of concern by                  17 anybody or anything and respectfully request that you                  18 enter a pickup order and require that the mother                  19 return the child to the father.                  20 THE COURT: So let me first address the                  21 Chapter 39. So Chapter 39 injunctions, that is a                  22 separate course of action that we do have under the                  23 dependency statute.                  24 MS. FORTUNATO: Your Honor, I'm sorry. I do have                  25 case law to show you it's the same court. It's not a</p>	<p>1 the Court to take jurisdiction under any other                  2 statute.                  3 THE COURT: Well, she says there's a case. Let's                  4 look at the case.                  5 MS. FORTUNATO: That's the same argument that                  6 this judge had made and dismissed the injunction. But                  7 the Court found it was under domestic violence as                  8 well, not Chapter 39.                  9 MS. DIENSTAG: This is DCF filing a petition.                  10 MS. FORTUNATO: Right.                  11 MS. DIENSTAG: DCF has already indicated to you                  12 that they have no cause for concern after --                  13 THE COURT: Let me read the case that she's                  14 provided. A petition was filed by DCF, which happens                  15 all the time in our cases, for an injunction to be                  16 entered under Chapter 39.                  17 MS. FORTUNATO: Right.                  18 THE COURT: And the Court said that they didn't                  19 have jurisdiction to enter an injunction against the                  20 boyfriend.                  21 MS. FORTUNATO: Right. This was not under -- no.                  22 That's not under 39. They filed it in the regular                  23 court. The judge thought it was under 39.                  24 MS. DIENSTAG: No.                  25 THE COURT: No. That's not what this case says.</p>

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1 MS. FORTUNATO: In this case, they filed -- the  
 2 trial court said they lacked jurisdiction to entertain  
 3 a petition for injunction to prevent the mother's  
 4 paramour from having any contact with the  
 5 seven-year-old child.  
 6 THE COURT: Look at footnote No. 2.  
 7 MS. DIENSTAG: But we're not here under  
 8 Chapter 39. We're here on a --  
 9 MS. FORTUNATO: No. Under 39, you can file a  
 10 petition for an injunction.  
 11 THE COURT: Yes, you can. You can file a  
 12 petition.  
 13 MS. FORTUNATO: The mother, the --  
 14 THE COURT: Anybody can file a petition for  
 15 injunction under Chapter 39. It says it right here.  
 16 I mean, a petition -- "any time after a protective  
 17 investigation has been initiated pursuant to part 3 of  
 18 Chapter 39, the Court, upon the request of the  
 19 department, DCF, a law enforcement officer, the state  
 20 attorney, or other responsible person or upon its own  
 21 motion may, if there is reasonable cause, issue an  
 22 injunction to prevent any act of child abuse.  
 23 "Reasonable cause for the issuance of an  
 24 injunction exists if there is evidence of child abuse  
 25 or if there's a reasonable likelihood of such abuse

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1 occurring based upon a recent overt act or failure to  
 2 act.  
 3 "The petitioner" -- this is the second part --  
 4 "seeking the injunction shall file a verified petition  
 5 or a petition along with an affidavit setting forth  
 6 the specific actions by the alleged offender from  
 7 which the child must be protected and all remedies  
 8 sought. Upon filing the petition, the Court shall set  
 9 a hearing to be held at the earliest possible time."  
 10 And we also enter temporary ex parte injunctions  
 11 under Chapter 39. We do that all the time. And what  
 12 happened in this case is the Court said that they  
 13 lacked jurisdiction over the paramour, and that's the  
 14 mistake. We can grant injunctions. It doesn't have  
 15 to be a parent. It could be a neighbor. It could be  
 16 anyone. We can enter an injunction under Chapter 39  
 17 temporarily and then have a final hearing, just like  
 18 we did today. We can have a final hearing under  
 19 Chapter 39 and determine whether it's necessary to  
 20 enter a permanent injunction.  
 21 This is not the case, where DCF had filed or  
 22 moved for an injunction under Chapter 741 and then the  
 23 Court denied the Chapter 39. They filed under  
 24 Chapter 39. And the Court denied it, because they  
 25 said they have no jurisdiction over the paramour. But

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1 that's not correct, so that's why they were reversed.  
 2 So at this time, there's no Chapter 39 petition  
 3 pending before this Court. What I have is a petition  
 4 for injunction for protection against domestic  
 5 violence under Section 741.30, wherein mom has alleged  
 6 that the child was -- I'm summarizing, because it's  
 7 like a page long. She's filing it because the  
 8 petitioner has always lived with her, and dad took the  
 9 child abruptly on two occasions this year.  
 10 Those takings, the Court here finds that they  
 11 were under order. They were under an order issued by  
 12 the Illinois Court. The father did not go to  
 13 Washington and remove the child from the mother  
 14 without any order. He did so pursuant to an order.  
 15 And it's true that Department of Children and  
 16 Families was contacted on May 31st and that there's an  
 17 investigation pending. It's true. But as I stated, I  
 18 spoke to the investigator this morning and she assured  
 19 me that the child had been evaluated by CPT. So the  
 20 Child Protective Team evaluated this child.  
 21 And she couldn't tell me whether it was  
 22 Dr. Langberg (phonetic). She didn't tell me which of  
 23 the two doctors evaluated. But she said that the  
 24 child had been evaluated, that there were no concerns,  
 25 CPT was not making any recommendations, and that there

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1 were no findings of abuse.  
 2 They still have a few weeks to render the report.  
 3 And, you know, she said they have 60 days in total,  
 4 which is true under statute. They have 60 days. So  
 5 they haven't closed out the case. I don't know if  
 6 they're going to file a dependency case based on their  
 7 investigation. They may. But I don't think it's  
 8 going to be against the father, based on what they  
 9 told me.  
 10 Now, the next allegations, again, you know,  
 11 they're based on the order of protection that was  
 12 entered by the Washington state. And she addresses  
 13 the default judgment that was entered or these orders  
 14 that were entered in Illinois giving the father the  
 15 right to take the child and says that she had no  
 16 knowledge.  
 17 But by her own testimony here today, she  
 18 testified that she did abscond with the child, she  
 19 left because she felt that that's what she had to do  
 20 to protect the child, and that she did not notify the  
 21 father. She did not notify the Court. She did not  
 22 leave a different address. So they notified based on  
 23 the information that they had, which was a PO box, I  
 24 believe, was what the record indicated.  
 25 With regards to the drastic weight loss, the only

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<p>1 photo I've seen that was introduced into evidence                  2 recently was the child posing for photos, which was                  3 Petitioner's Composite Exhibit 4. And he's smiling.                  4 And, yeah, he looks thin, but I don't know what he                  5 looked like before. He doesn't look like he's                  6 starving, or there's no indication that he's been                  7 abused in that photo.                  8 Then she goes back to the issue of the protection                  9 order from Washington. But when she filed this                  10 petition, that protection order had already been                  11 dismissed by the Court in Washington. And she had                  12 been sanctioned by the Court for the filing of the                  13 petition. So I don't think she was being truthful                  14 when she filed this petition, when she did that.                  15 Then she goes into the allegations of the                  16 respondent arriving at the school and taking him,                  17 taking the child. I've already addressed that. He                  18 had an order to take the child from the Illinois                  19 Court.                  20 Then there's no evidence as to the petitioner                  21 being isolated and kept inside his residence without                  22 enrolling him in school. None of that was introduced.                  23 There was no evidence regarding him being kept locked                  24 up in a house or any psychological abuse by the                  25 petitioner about his maternal family, his dog, his</p>	<p>1 for sanctions, attorney's fees, and costs. But right                  2 now, I'm only pursuing that the amended pickup order                  3 be vacated.                  4 MS. FORTUNATO: That's not noticed for today,                  5 Your Honor.                  6 MS. DIENSTAG: Yes, it is, Your Honor. And also,                  7 it was noticed for last time as well. And, Your                  8 Honor, it's within the jurisdiction, because that's                  9 what was referred to Your Honor.                  10 THE COURT: The motion to vacate -- so we were                  11 here -- the first day was June 9th. The respondent's                  12 motion to vacate amended order to pick up minor child,                  13 dissolve temporary injunction for protection. Yeah.                  14 It was noticed for hearing on the 9th.                  15 MS. FORTUNATO: We had that hearing.                  16 MS. DIENSTAG: But everything was continued for                  17 today.                  18 MS. FORTUNATO: No, that wasn't.                  19 THE COURT: We had a special set. Let me look at                  20 my information sheet. There's no separate notice for                  21 this motion set for today?                  22 MS. FORTUNATO: It was not set for today.                  23 MS. DIENSTAG: Your Honor, we noticed the special                  24 set on June 9th for the amended motion --                  25 THE COURT: Right. That's what I just said.</p>
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<p>1 friends. There was no evidence. Not even her                  2 testimony.                  3 And then she has allegations about the no-contact                  4 order from Illinois, but that was four years ago or                  5 more. And she states that he was given the                  6 opportunity to undergo a psychological evaluation and                  7 then petition the court, but obviously, the Illinois                  8 Court entertained the circumstances that were                  9 presented to the Court before they entered the order                  10 for the father to take the child. I think the Court                  11 was concerned about being gradual, because they                  12 ordered reunification therapy over a year. But she                  13 absconded with the child. She left, so that never                  14 took place.                  15 So, you know, I don't find that she's met her                  16 burden to establish that the child is in any imminent                  17 danger of abuse by this father, and I'm going to deny                  18 her petition on behalf of the child as well.                  19 Now, the family case, has there been any petition                  20 filed, or it's just the emergency motion?                  21 MS. DIENSTAG: I have the motion to vacate the                  22 pickup order based upon the domestic violence                  23 injunction. Motion to vacate amended order to pick up                  24 minor child; dissolve temporary injunction for                  25 protection against domestic violence with children;</p>	<p>1 MS. DIENSTAG: -- to vacate. And also, by the                  2 continuance, I believe this was set as well. But when                  3 Your Honor had entered an order continuing the                  4 hearing, it was the hearing that you continued.                  5 And as a result of the -- the only reason the                  6 pickup order was entered, it was exercising emergency                  7 jurisdiction based upon the emergency verified motion                  8 for child pickup order and also based upon the                  9 domestic violence injunction. You entered an order                  10 last hearing that neither party should take the child                  11 out of the jurisdiction of this court, and opposing                  12 counsel did not object to that order being entered at                  13 the last hearing.                  14 THE COURT: Well, that motion was set for hearing                  15 that day. And on that day, I entered an order                  16 extending both injunctions so I could contact the                  17 judges, I could review all of this material that                  18 everybody had given to me, and also, so I could                  19 contact DCF with regards to their investigation.                  20 And I entered an order in the family case that                  21 said the minor child shall not be removed from                  22 Miami-Dade -- Broward County until further order of                  23 the Court. The Court will contact DCF to determine                  24 the appropriate contact and access to the father and                  25 child prior to next hearing, and the Court reserves</p>

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1 jurisdiction to enter further orders in the best  
 2 interests of the child. So obviously, I didn't rule  
 3 on that motion, although it was set for hearing that  
 4 day, because I had to get this information.  
 5 MS. DIENSTAG: Right. And you reserved  
 6 jurisdiction to enter further orders with regards to  
 7 contact and access with the child on that day.  
 8 THE COURT: Right. Well, I must say, one of the  
 9 concerns that was expressed to me by the judge in  
 10 Illinois is that if I did not finish with the case or  
 11 if I ruled adversely to the mother that he was greatly  
 12 concerned that the mother would just flee with the  
 13 child again.  
 14 MS. FORTUNATO: She's never been before that  
 15 judge, so I don't even know how he can say that.  
 16 THE COURT: Well, that's what he said.  
 17 MS. FORTUNATO: She's never been before him.  
 18 This is all based on the father and getting this order  
 19 without notice.  
 20 MS. DIENSTAG: That's not true.  
 21 MS. FORTUNATO: And the mother has been here.  
 22 The mother did not leave.  
 23 MS. DIENSTAG: He's represented by counsel. She  
 24 withdrew her emergency motion to set aside everything.  
 25 MS. FORTUNATO: She's never been there.

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1 THE COURT: That's what he told me. He was  
 2 concerned because she had withdrawn the motions.  
 3 MS. FORTUNATO: She didn't. The lawyers withdrew  
 4 the motion.  
 5 THE COURT: For her.  
 6 MS. FORTUNATO: Right. But what I'm saying is  
 7 she's never been before that judge, so I don't know  
 8 how he can make this ruling when the guy didn't even  
 9 follow the UCCJEA. But that's not for this Court. I  
 10 mean, this is a subject of another matter, obviously.  
 11 And we'll take that up with the family court judges.  
 12 THE COURT: But the fact that there was no  
 13 additional notice of hearing for a motion that was set  
 14 to be heard that day -- and an order was entered  
 15 saying you can't take the child. Let me hear from  
 16 DCF, and I will enter any further orders once I've  
 17 contacted everybody. That assumes that I'm going to  
 18 address this motion today.  
 19 I'm not going to leave this in the air so that if  
 20 she feels that, again, this is her only avenue for --  
 21 she's convinced that this is against the child's best  
 22 interests and that she needs to flee with this child  
 23 again -- you know, so that -- his words were that this  
 24 mom, based on all of his review of the file in  
 25 Illinois, his conversations with Mr. Hillman or

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1 Commissioner Hillman, Judge Thorp from Washington, the  
 2 review of his own docket, that she was a significant  
 3 flight risk and he was concerned.  
 4 MS. FORTUNATO: But he never had testimony from  
 5 her. So he talked to everybody else and made a  
 6 decision based on her --  
 7 THE COURT: But he didn't have testimony from her  
 8 because she fled the state. She didn't comply with --  
 9 MS. DIENSTAG: And she was represented by  
 10 counsel. And she heard from the guardian ad litem,  
 11 who's been in this case since 2014. And she has  
 12 committed fraud in three jurisdictions. And she --  
 13 MS. FORTUNATO: The problem is they violated the  
 14 UCCJEA --  
 15 THE COURT: One at a time.  
 16 MS. FORTUNATO: They violated the UCCJEA. They  
 17 did this without notice. Had they heard the evidence  
 18 instead of issuing an order that is absolutely  
 19 ridiculous, that has no best interests of the child,  
 20 nothing to go in and act under the UCCJEA in that  
 21 matter -- I know this Court has nothing to do with it,  
 22 but that's obviously something that has to be dealt  
 23 with.  
 24 MS. DIENSTAG: And it's res judicata.  
 25 MS. FORTUNATO: No, it's not.

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1 MS. DIENSTAG: It is. Because it's --  
 2 THE COURT: Don't speak --  
 3 MS. FORTUNATO: When you don't follow the UCCJEA,  
 4 it's not.  
 5 MS. DIENSTAG: It's exclusive jurisdiction, and  
 6 there is no appeal. It is res judicata, and the  
 7 mother through counsel withdrew her petition. And  
 8 since 2015, that has been pending. And that order  
 9 that is the only order that is a valid order of any  
 10 court after full trial has been in existence since  
 11 2016 in --  
 12 MS. FORTUNATO: There was no trial. It was a  
 13 default.  
 14 THE COURT: Ladies.  
 15 MS. DIENSTAG: On February 29th, 2016, the father  
 16 got custody of that child.  
 17 MS. FORTUNATO: It was a default.  
 18 MS. DIENSTAG: That order is res judicata on all  
 19 jurisdictions of the United States under UCCJEA.  
 20 MS. FORTUNATO: No, it is not.  
 21 THE COURT: One second, please. I just need to  
 22 see the docket to see if there was any petition. No,  
 23 there's no petition filed. So all we have is the  
 24 initial motions, emergency motions that were filed,  
 25 verified motions for child pickup order. Then there's



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<p>1 an emergency motion for child pickup order again in 2 May. Then after that, there's the emergency motion to 3 break order and all the orders that were entered. And 4 then you filed a motion to vacate order on behalf of 5 your client. 6 MS. DIENSTAG: And required petitioner to return 7 the minor child. 8 THE COURT: And then you filed an amended motion 9 to vacate amended order. 10 MS. DIENSTAG: Right. After she filed her second 11 domestic violence injunction. And so I'm asking the 12 Court to vacate the pickup order, dissolve the 13 injunctions, which you've already done, and an order 14 requiring petitioner to return the minor child to 15 respondent in that you, one, have in your last order 16 on June 9th reserved jurisdiction to do so. 17 And, two, the wife has availed herself of the 18 jurisdiction of this Court, and we are asking the 19 Court to enforce the orders of Illinois on the writ of 20 habeas corpus and to allow the father to return the 21 child to the father. 22 And also, under the regular jurisdiction of the 23 family court, to order based upon your June 9th order, 24 which has also not been -- there's no rehearing or 25 reconsideration. Opposing counsel has accepted that</p>	<p>1 in the related cases, she doesn't put the Illinois 2 case. She says that the Court that entered a final 3 judgment granting her custody was in Washington. 4 MS. FORTUNATO: You forgot that she has done the 5 addendum. I brought that to the Court's attention. 6 All the orders are attached, and it's a typewritten -- 7 it's about this thick, and it's in the court file. 8 It's called an addendum. It's all there. 9 THE COURT: But that notice of related case was 10 filed May 25th. 11 MS. DIENSTAG: And her UCCJEA -- 12 MS. FORTUNATO: I didn't say notice of related 13 case. 14 THE COURT: One at a time. I cannot hear. Let 15 me hear her argument. 16 MS. FORTUNATO: I didn't say notice of related 17 case. What I said was the addendum to her petition 18 should be in the court file. And I think it's under 19 the first case, the -- it might be under the mother's 20 case number. 21 THE COURT: Oh, you mean the petition for 22 injunction? 23 MS. FORTUNATO: Right. 24 THE COURT: No. I'm talking about the family 25 case now, because those two cases are dismissed.</p>
<p>Page 130</p> <p>1 you have jurisdiction to enter such further orders 2 with regards to contact and access of the child with 3 his parents. 4 So at a minimum, based on your June 9th order -- 5 and you've indicated that you are taking jurisdiction 6 to enter further orders of contact and access with the 7 child and the parents. 8 MS. FORTUNATO: You can't enforce orders until 9 there's a domestication. And there's the opportunity 10 to object to these orders, because they could be 11 orders that have problems, like in our case. 12 MS. DIENSTAG: You must be kidding me. 13 MS. FORTUNATO: The UCCJEA -- 14 THE COURT: Okay. Wait. I've heard both -- 15 MS. FORTUNATO: Listen, do you want the rule? 16 You obviously don't know it. 17 THE COURT: Look, folks. The issue is this: I 18 find that this motion to vacate needs to be granted, 19 because she had no right to obtain this order. The 20 basis for the emergency motions, which I've read now, 21 are the injunctions that were already dismissed when 22 she filed this motion. So she had no basis for this 23 motion. The judge that got this case in family didn't 24 know the status of that case. 25 And I also noted here -- I was just looking that</p>	<p>Page 132</p> <p>1 MS. FORTUNATO: Right. There's no petition. 2 THE COURT: No, there's no petition. All there 3 is -- I'm saying that when she filed her motion in 4 family court for this pickup order that gave her the 5 child, she said in this case, in the family case, that 6 the custody of the child had been awarded to her in 7 Washington. That's what she says, and I can read it 8 to you. 9 MS. FORTUNATO: That's the -- do you have the 10 addendum? 11 MS. DIENSTAG: No, Your Honor. And she also 12 filed the UCCJEA saying the same thing in her own 13 handwriting on May 25th. 14 THE COURT: It says that also. 15 MS. FORTUNATO: Please read it. I can't hear 16 over counsel. 17 THE COURT: I'll read it. She talks about the 18 domestic violence. She checks off that there's a 19 related case, one, domestic, sexual, dating, repeat 20 violence, or stalking injunction in the superior court 21 of Washington. That's the first one. 22 MS. FORTUNATO: What date was that? 23 THE COURT: When she filed this? 24 MS. FORTUNATO: Yes, ma'am. 25 THE COURT: Her initial filing was February 6th.</p>

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<p>1 MS. FORTUNATO: Okay. So that was the first one, 2 though.</p> <p>3 THE COURT: Well, I know this is how she got the 4 child back, with this petition, this filing, this 5 motion. And then --</p> <p>6 MS. DIENSTAG: On May 25th, she filed a UCCJEA 7 referring to her related cases.</p> <p>8 THE COURT: She filed one before that. She filed 9 one in February. The UCCJEA is filed in February as 10 well. This is a Washington case. Any other 11 litigation or custody proceeding in this or another 12 state concerning custody of a child subject to this 13 proceeding. Name of child, Jacob Gantine. Type of 14 proceeding, family.</p> <p>15 And she does refer to the Broward case. I think 16 it's Broward -- yes. Broward County case. Date of 17 court order and judgment, November 4th, 2010. And 18 then Washington case No. 17-21981, and she says in 19 here that that's how she got custody of the child. So 20 I know she filed another one later in May, and I'm 21 going to look at that and see if there's anything 22 different there.</p> <p>23 MS. FORTUNATO: Yeah. That was the pickup order 24 for this time.</p> <p>25 THE COURT: Right. Broward County again. And</p>	<p>1 determination from the Court now here is the motions 2 to -- the amended motion to vacate the amended order 3 to pick up minor child. That's it.</p> <p>4 MS. DIENSTAG: And requiring the petitioner to 5 return the minor child to respondent, because she 6 wrongfully got possession of the child as a result of 7 the pickup order. And your June 9th order reserves 8 jurisdiction to --</p> <p>9 THE COURT: I understand. I already said that.</p> <p>10 MS. FORTUNATO: This Court can't enforce under 11 61.528 until there is a domestication, period. They 12 can't enforce any order from another state until 13 there's a domestication. 61.528 --</p> <p>14 MS. DIENSTAG: You're saying that the Court, 15 under the emergency jurisdiction, gave under the 16 domestic violence injunction in the family division. 17 And also, you received a pickup order in the family 18 division, and so that pickup order ordered that the 19 child be given to the mother. And so we're asking --</p> <p>20 THE COURT: All I can do is I can vacate the 21 order, because that order was entered by this Court 22 based on her representations to the Court. I find 23 that those representations were incorrect at best and 24 misled the prior judge, and she entered the orders.</p> <p>25 MS. DIENSTAG: Right. But also, on June 9th, you</p>
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<p>1 she does put Illinois, but she says family case. She 2 says that she has the right to the custody of the 3 child, as was adjudicated in case 09-2504191 from 4 Broward County November 4, 2010. Case transferred to 5 Illinois due to Illinois's domestic violence issue. 6 And it's cut off. It looks like 2012. I'm not sure 7 what it says, but judgment was never enrolled --</p> <p>8 MS. FORTUNATO: Right. It was never 9 domesticated.</p> <p>10 THE COURT: -- in Illinois.</p> <p>11 MS. FORTUNATO: That's what we call it here. So 12 when we get into the authority of the UCCJEA, that 13 will all come to light. But that's not for Your Honor 14 today.</p> <p>15 THE COURT: No, that's not for -- well, there's 16 no petition. The only thing that's been filed -- 17 there's no petition filed by either side. There's 18 only the motions.</p> <p>19 MS. FORTUNATO: Dad filed in Broward.</p> <p>20 THE COURT: I'm saying here, in this case, 21 there's no petition. All I have is her motions to a 22 pickup order, which they were granted by the previous 23 judge. Obviously, both of them. Both of her motions 24 were -- and the break order was granted as well. And 25 so the only thing that requires a judicial</p>	<p>1 entered an order that says that the contact and access 2 of the child -- and you said that the child can't 3 leave this jurisdiction.</p> <p>4 THE COURT: Right.</p> <p>5 MS. DIENSTAG: And so -- and that you would enter 6 such further orders, and that hasn't been appealed or 7 a rehearing or reconsidered. And so based upon the 8 evidence before the Court and what you heard from the 9 judge and what you would hear from the judge --</p> <p>10 THE COURT: I can't enforce.</p> <p>11 MS. DIENSTAG: -- in Washington as well is that 12 we were asking for the Court to amend its pickup order 13 that the child be returned, not -- you can amend the 14 pickup order that the child be returned to the father. 15 Because it says that the Court has jurisdiction of the 16 child under the -- and that's what the mother is 17 saying, that the Court has jurisdiction in order to 18 make determinations with regards to where the child be 19 and that this Court orders and directs all sheriffs to 20 immediately take into custody the minor child. So you 21 could enter a pickup order requiring that the child be 22 picked up and returned to the father under this same 23 basis as you ordered that pickup order, that the child 24 be picked up and given to the mother.</p> <p>25 MS. FORTUNATO: No.</p>

1 THE COURT: There was a motion that the mother  
2 filed with allegations sworn to, verified, as to her  
3 rights to have the child. And the Court relied on her  
4 allegations in her motion, in her emergency motion,  
5 not once but twice. So the problem -- I understand  
6 the issue is the concern now that mom is going to  
7 abscond with the child.

8 MS. DIENSTAG: She's going to flee.

9 MS. FORTUNATO: The mom is not going anywhere.  
10 She's been here. Where is she going? She's been --

11 MS. DIENSTAG: She's done it three times.

12 MS. FORTUNATO: She has not. Mr. Gantine has  
13 done this behind the Court's back. We'll get to that  
14 later, but this is fraud on the court by your client.

15 MS. DIENSTAG: No.

16 THE COURT: I can't modify a pickup order that's  
17 already been executed and given -- the child has been  
18 placed in her custody.

19 MS. DIENSTAG: But it was amended. You can amend  
20 the pickup order. You can amend the order --

21 THE COURT: She already has -- the pickup order  
22 was based on her request. How can I amend and change  
23 who the child is to be -- on what grounds?

24 MS. FORTUNATO: And since you've dismissed the  
25 injunction, you've just lost jurisdiction.

1 28 U.S.C. 1738A, that the Court has jurisdiction to  
2 enforce a decree under the UCCJEA.

3 And specifically, under Section 61.501 and  
4 61.542, Florida Statutes, and by operation of Florida  
5 law in the best interests of the minor child, taking  
6 into consideration all of the evidence and information  
7 that you received, and that another Court with  
8 exclusive jurisdiction has advised you that this  
9 mother will flee with the child, that you enter a  
10 pickup order under those premises.

11 And also, that the mother has already asserted  
12 that this Court has jurisdiction in the family matter  
13 to do so and has committed fraud in its original entry  
14 of the order. And also, based upon your ruling of  
15 June 9th, which has not been reheard or reconsidered.

16 MS. FORTUNATO: They have to follow 61.528, and  
17 they have to register the custody decree --

18 MS. DIENSTAG: That's not what it says.

19 MS. FORTUNATO: -- to do what they're doing.  
20 61.542 is a transitional provision. There's  
21 nothing -- it's at the time the motion or request --  
22 they haven't done a motion or request.

23 MS. DIENSTAG: I don't have to. All I have to do  
24 under this form pickup order is that a certified  
25 custody decree has been presented to the Court with

1 MS. DIENSTAG: No. Because it's entered in a  
2 family case.

3 THE COURT: The Court hasn't lost jurisdiction,  
4 because she filed -- the Court has jurisdiction in the  
5 family case. The petitions for injunction are  
6 dismissed, so there's no jurisdiction there. It's  
7 dismissed. But she filed this case. So the Court has  
8 jurisdiction, because she gave us jurisdiction by  
9 filing this motion. So I have jurisdiction.

10 MS. DIENSTAG: And under the pickup order,  
11 under B, a certified out-of-state custody decree has  
12 been presented to this Court with a request for full  
13 faith and credit recognition enforcement under the  
14 Parental Kidnapping Act. Because she did kidnap the  
15 child. So you can enter an order to pick up the minor  
16 child under B in that you have evidence of an existing  
17 custody decree and that --

18 THE COURT: I think what I'm hearing -- I just  
19 want -- so the record is clear, because they have the  
20 right to appeal, are you asking for an ore tenus  
21 motion based on my findings?

22 MS. DIENSTAG: Yes, Your Honor. I'm asking you  
23 based upon that you have a custody decree, and I'm  
24 asking you to give full faith and credit and  
25 recognition under the Parental Prevention Act,

1 requests for full faith and credit. Your Honor has  
2 validated and has heard that there is such -- and also  
3 has evidence that the mother has absconded and  
4 kidnapped the child before and taken him to  
5 Washington. And you have evidence that she tried --  
6 that she did change the child's name in order to do  
7 so.

8 MS. FORTUNATO: No, Your Honor. There's no  
9 evidence when you talk to a judge. A judge shouldn't  
10 be giving evidence. That's not the kind of evidence  
11 that you use, and that's not the purpose of the  
12 UCCJEA, to get another judge's opinion and put it on  
13 this Court. This Court has the ability to make its  
14 own decisions.

15 MS. DIENSTAG: It's already -- the Court has  
16 taken judicial notice of the Washington decree, which  
17 sanctioned the mother for doing the same thing that  
18 the Illinois judge -- and opposing counsel gave you  
19 permission to speak to the judges, which you did, and  
20 DCF. You have evidence both from Washington and  
21 Illinois that Illinois has exclusive jurisdiction and  
22 has entered a writ of habeas corpus that the child be  
23 in possession of the father. And you have no other  
24 evidence of any other jurisdiction exercising  
25 jurisdiction, except to enforce that provision, which

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1 Washington has done.  
 2 MS. FORTUNATO: You do have evidence. You have  
 3 evidence that -- the mother's testimony and the  
 4 evidence from last week that this court order was not  
 5 obtained under the UCCJEA formalities that it's  
 6 supposed to have. And the case law says when it's not  
 7 done correctly, the Court does not have to take  
 8 jurisdiction of that. That is why we domesticate  
 9 under the UCCJEA, and you give the other side an  
 10 opportunity to object to it and say why it's not. And  
 11 there's a hearing on it within 20 days. That's how  
 12 domestication works, and that's how --  
 13 MS. DIENSTAG: She's already accepted the  
 14 jurisdiction of the Court. She's the one who came  
 15 here.  
 16 THE COURT: Don't speak over her.  
 17 MS. FORTUNATO: Can I speak, please? When you  
 18 want to enforce a court order from another state, you  
 19 don't just come in and say here's my court order.  
 20 Please enforce, it, Miami. It's from Washington or  
 21 whatever. You come in and you enroll it. You  
 22 domesticate it. When you domesticate it, then you  
 23 give the other party the opportunity -- notice,  
 24 opportunity, due process to object to it and say why  
 25 this order is valid or invalid. Then this Court makes

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1 that decision, whether --  
 2 MS. DIENSTAG: That's not what the mother did.  
 3 MS. FORTUNATO: That's what we're saying.  
 4 There's nothing filed here.  
 5 MS. DIENSTAG: She came with a false domestic  
 6 violence injunction and got a pickup order. She  
 7 didn't domesticate it. She didn't do anything. And  
 8 she asked this Court to take jurisdiction, and now it  
 9 has. Be careful what you ask for. The mother filed a  
 10 UCCJEA and says you have jurisdiction.  
 11 You then -- this Court entered orders in favor of  
 12 the mother picking up. Under the same jurisdiction  
 13 that the mother is asserting, I'm asking you to assert  
 14 the same jurisdiction and enter in the same case that  
 15 she has already agreed you have jurisdiction on to  
 16 enter such orders and to enforce a decree of the  
 17 Illinois Court.  
 18 And it says right here in this same pickup order  
 19 that she received -- not domesticating anything, she  
 20 came with that domestic violence injunction, which was  
 21 a false order, and she got a pickup order. And she is  
 22 the one that asserted that this Court has jurisdiction  
 23 to enter pickup orders based on foreign court orders.  
 24 That's all she did, and that's why we're here.  
 25 THE COURT: The only issue I have -- so there's

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1 no question that I have some limited jurisdiction,  
 2 because mom has filed here in this case. So she  
 3 brought the Court the jurisdiction over this matter.  
 4 The issue is whether a pickup order can be issued just  
 5 based on an ore tenus motion, which is what you're  
 6 making today. I know you asked me, but I'm looking --  
 7 let me look at your motion to vacate and see --  
 8 MS. DIENSTAG: I moved to vacate, but also, an  
 9 order requiring the petitioner return the minor child.  
 10 As part of my motion to vacate --  
 11 THE COURT: Let me read it.  
 12 MS. DIENSTAG: -- I asked that an order requiring  
 13 petitioner to return the minor child and to enforce  
 14 the order of the Court -- that's in my motion.  
 15 "Respectfully respect that this Court vacate, dismiss  
 16 any orders which grants relief sought by mother and to  
 17 any and all orders requiring the mother to immediately  
 18 return the child to the father and provide custody of  
 19 the minor child to the father and enter such further  
 20 orders that prohibit the mother from seeking relief in  
 21 this jurisdiction."  
 22 And that's my motion to vacate. There has been  
 23 in the same -- in the same case that the mother is  
 24 asserting her pickup order.  
 25 THE COURT: Right. So I don't believe that --

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1 based on the circumstances, I know your argument is  
 2 that there wasn't due process when that order was  
 3 obtained by the father. That's what you're arguing to  
 4 this Court, but I've already addressed that.  
 5 And by her own testimony, she admitted that she  
 6 absconded. She left with the child without obtaining  
 7 an order for the Court to reserve jurisdiction. She  
 8 didn't provide another address for them. She didn't  
 9 notify the Court that she was leaving. She didn't  
 10 notify the father, by her own testimony.  
 11 So the Court -- although they had entered an  
 12 order previously that they had agreed with her that it  
 13 should be a gradual transition, they ordered  
 14 reunification, and they ordered the parties to  
 15 participate, she didn't give that an opportunity. She  
 16 left. She made her own decision to leave the state  
 17 and not comply with the Court's orders.  
 18 So I don't think -- that's up to the Illinois  
 19 Court to find whether there was due process or not and  
 20 whether they're going to vacate that order. I don't  
 21 know. They have jurisdiction.  
 22 MS. DIENSTAG: And she withdrew her motion to  
 23 vacate.  
 24 THE COURT: I was going to say I've been informed  
 25 by the judge who was assigned to the case that that

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1 motion was withdrawn.  
 2 MS. FORTUNATO: They're re-filing it, Your Honor.  
 3 THE COURT: But right now, it's withdrawn.  
 4 MS. FORTUNATO: Because of the new -- never mind.  
 5 You don't need to know that.  
 6 THE COURT: So at this time, based on the  
 7 circumstances that exist today, based on the pleadings  
 8 that have been filed under this case, based on the  
 9 mother's actions, the findings of this Court, I have  
 10 to grant this motion in part. I'm going to grant the  
 11 request to vacate the amended order to pick up, which  
 12 was entered by this Court -- by the previous judge on  
 13 May 30th, 2017, placing the child in the custody of  
 14 the mother.  
 15 Furthermore, the order granting the motion to  
 16 vacate that order will also require the child to be  
 17 immediately returned to the father so that he be  
 18 placed in the custody of his father immediately  
 19 concluding this hearing.  
 20 I am going to deny the part where you're  
 21 requesting that the mother be prohibited from seeking  
 22 any further relief in this jurisdiction. I'm not  
 23 going to grant that at this time. She has the right  
 24 to seek relief if she wants to. And I'm going to  
 25 reserve on your request for award of attorney's fees

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1 and costs and other sanctions.  
 2 MS. DIENSTAG: Thank you.  
 3 THE COURT: And that concludes this matter. If  
 4 you can write up the order. I have blank orders here.  
 5 If you need more, I have additional orders here. I'm  
 6 going to instruct my bailiff to walk across the street  
 7 with the father so that he can take custody of the  
 8 child so that there's no problems and the child is not  
 9 exposed to any drama or any harm.  
 10 MR. GANTINE: Thank you.  
 11 THE BAILIFF: He can go now, Judge?  
 12 THE COURT: If he wants to go now, yes. He can  
 13 go now. Well, I don't know if they're going to  
 14 request the order. They may require the order,  
 15 because the mother is the one that took the child.  
 16 MS. FORTUNATO: Can the deputy take her down  
 17 there to say goodbye to him before he goes down there  
 18 so he's not traumatized any further, Your Honor,  
 19 please? The deputy can take her.  
 20 THE COURT: I just don't want any harm to this  
 21 child. I know she's emotional.  
 22 MS. FORTUNATO: Exactly. That's why she wants to  
 23 tell him.  
 24 THE COURT: And I don't know how she's going to  
 25 behave, and I don't know what she's going to say to

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1 him. Yes, of course. I don't want to deny mom -- you  
 2 know, I understand she's distraught right now by my  
 3 ruling. I understand that, but I just don't want any  
 4 harm to this child.  
 5 MS. FORTUNATO: The deputy will be there.  
 6 MS. WATTS: He's already traumatized, Your Honor.  
 7 Already, he's --  
 8 MS. DIENSTAG: It's important what she says to  
 9 the child. That she encourages --  
 10 MS. FORTUNATO: Of course, she knows what to say.  
 11 She's his mother.  
 12 MS. WATTS: His life is ruined. He's been  
 13 through a lot.  
 14 THE COURT: I can't hear you. I'm sorry.  
 15 MS. WATTS: His life is ruined.  
 16 THE COURT: Well, you know, I really don't want  
 17 to say more. I think I've already expressed -- I know  
 18 you did take self-help and did what you thought was  
 19 the best thing.  
 20 You know, you have very good counsel here. I  
 21 hope you listen to your counsels. Listen to them.  
 22 They know the law. They're here to advise you on how  
 23 to do things right so that you don't find yourself in  
 24 these situations and so the child is not put in these  
 25 situations. Because unfortunately, he's a victim of

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1 this situation. He was the one that was -- whatever  
 2 happened, I can't readdress whatever the courts have  
 3 already determined. They've already made their  
 4 determinations regarding this child, The Court that  
 5 had jurisdiction.  
 6 But then your actions have also caused this child  
 7 to be harmed, because you've taken him away rather  
 8 than staying there and working through the  
 9 reunification process, which would have been  
 10 difficult, of course, if any of your testimony is true  
 11 about your past.  
 12 But it's what was ordered, and it would have been  
 13 in the child's best interest for you to follow the  
 14 Court's orders rather than take him to another state  
 15 and deny the father access to the child and not tell  
 16 him where you were going. Eventually, they were going  
 17 to find you, and they did.  
 18 So I know it's a very unfortunate situation that  
 19 you find yourself in and that this child is in. He's  
 20 innocent to all this. So I don't want to deny you  
 21 time with your child. I mean, I'm sure there's going  
 22 to be motions for you to have access to your child.  
 23 And I will hear them, of course. In fact, I think  
 24 there should be. I think it would be harmful for him  
 25 not to see his mother. So I would entertain any --

1 even an ore tenus motion as to what contact she is to  
2 have. I can order supervised visitations for now so  
3 she can at least see the child. I can do that through  
4 the family case.

5 MS. FORTUNATO: That's fine, Your Honor.

6 THE COURT: I'll enter that order right now.

7 MS. FORTUNATO: In the interim, can the deputy  
8 take her there to say goodbye?

9 THE COURT: Any objection?

10 MS. FORTUNATO: If there's any problem, you can  
11 obviously revoke supervised.

12 MS. WATTS: We could bring him here in front of  
13 the Court just to -- because he thought he was going  
14 to be with me. He was praying. You know, we could  
15 bring him here in front of you.

16 THE COURT: I don't think he's -- kids get kind  
17 of scared when they see the judge.

18 MS. WATTS: Yeah, I know.

19 THE COURT: Especially if they're not used to  
20 being in court and being brought to these things. I  
21 just don't want anything to be said to the child to  
22 cause him any problems.

23 MS. FORTUNATO: My client won't do that.

24 THE COURT: I'm entering the visitation order  
25 right now. Here's the order, so dad can go. And mom

1 CERTIFICATE OF REPORTER

2  
3 STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

4  
5 I, Patricia J. Feucht, Registered Professional  
6 Reporter and Notary Public for the State of Florida at  
7 Large, certify that I was authorized to and did  
8 stenographically report the foregoing proceedings; that  
9 the foregoing transcript, pages 4 through 150, is a true  
10 and complete record of the proceedings.

11  
12 I further certify that I am not a relative,  
13 employee, attorney, or counsel of any of the parties,  
14 nor am I a relative or employee of any of the parties'  
15 attorneys or counsel connected with the action, nor am I  
16 financially interested in the action.

17  
18 Dated this 20th day of June, 2017.



19  
20  
21  
22  
23  
24  
25  
*Patricia J. Feucht*

Patricia J. Feucht, RPR  
Stenograph Shorthand Reporter

1 is going to go see the child first, then?

2 MS. FORTUNATO: She's going to go with the  
3 deputy.

4 THE COURT: Okay. With my bailiff or with the --

5 MS. FORTUNATO: The deputy.

6 THE COURT: Oh, he's going to take her?

7 MS. FORTUNATO: Yes.

8 MS. DIENSTAG: And then how is the father -- he  
9 knows where to go too?

10 THE COURT: It's going to be the family court.

11 THE BAILIFF: I'll escort them, Judge.

12 THE COURT: You'll escort him? Okay. So perhaps  
13 when the officer advises you that the visit is  
14 concluded, then you can come back with the father.  
15 Okay?

16 THE BAILIFF: I'll come back, yeah.

17 THE COURT: Thank you, folks. And good luck to  
18 all of you.

19 (At 5:44 p.m., the hearing was concluded.)  
20  
21  
22  
23  
24  
25

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