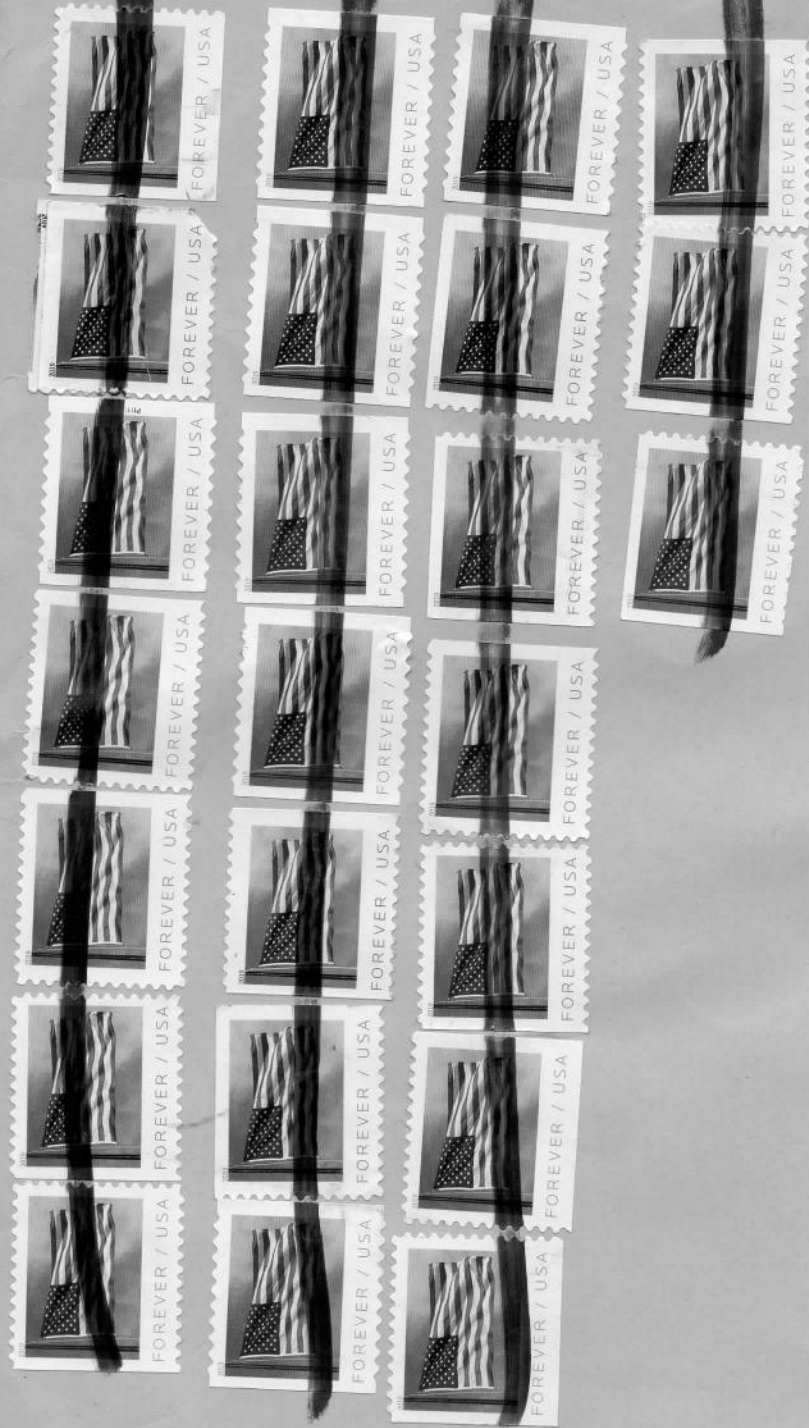


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*Dr. J. J. - 20*

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MR. McCALL: Judge, I've just passed up to the Court redacted versions of Government Exhibits 492 to 497. I don't think we're going to get there before lunch break. They've already been produced to counsel earlier today, but I wanted the Court to have them.

THE COURT: All right. Thank you. And defense counsel has them I assume as well?

MR. McCALL: Correct, Your Honor.

THE COURT: Okay. Great.

MR. McCALL: Judge, may I proceed?

THE COURT: Of course.

BY MR. McCALL:

Q. Almost good afternoon, Mr. Hitchings.

A. Good afternoon.

Q. Thank you. Could you please introduce yourself to the jurors?

A. I'm Timothy L. Hitchings.

Q. And what is your job?

A. I'm an attorney, practicing mostly family law.

Q. How long have you practiced family law?

*Tim Hitchings*  
*9/18/15*

*Hi Rudy & Erin - Hope you are both doing well staying safe & healthy. It has been a bit chaotic in here with even more controlled movements, meals, recalls, etc. The copy machine in the law library was also down so I took me some time to get these together to send. I have 3 more testimonies that I am preparing to send to catch up. I'd like to call Fr. 9/20. Miss hearing your*

1 A. I began practicing family law at  
2 about 1993 or '94.

3 Q. Do you have your own practice, do  
4 you work for a law firm?

5 A. I have my own practice.

6 Q. Where are you located, sir?

7 A. My office is in Newport, Delaware.

8 Q. Can you describe for the jurors  
9 what your duties and responsibilities are on an  
10 every day basis as a practicing family law  
11 attorney?

12 A. Well, being a solo practitioner,  
13 meaning I practice by myself without any other  
14 attorneys, I'm my own boss, I manage my firm, I  
15 do all the business of the firm, but most of the  
16 time I spend being an attorney, which means I  
17 meet with clients. New clients come in, they  
18 have lots of questions to ask and they decide  
19 whether to hire me or not and then they hire me,  
20 I represent them in court, I prepare documents  
21 for court, I prepare witnesses for court, I  
22 communicate with the other attorneys that may be  
23 involved in cases, I do really everything in the  
24 case that needs to be done.

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Q. Where is family court in New Castle County Delaware?

A. Family court for Delaware in New Castle County meets at the New Castle County Courthouse.

Q. I want to talk to you a little bit now about how divorce and custody proceedings work, okay?

A. Okay.

Q. Can you explain to the jurors when a person is seeking a divorce from their spouse how the process works?

A. Well, after I've interviewed them and gotten some background on the case, if we're the ones who are filing for divorce, I prepare a petition for divorce and they sign the petition, and then we file that in the family court down at the New Castle County Courthouse. If they have a custody concern, custody is always filed separately. It's a separate petition that is filed. Now, sometimes I'm representing the petitioner, the person who files the petition for divorce, or the person who files for custody and sometimes I represent the respondent, the

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1 person who is having the divorce filed against  
2 them or custody petition filed against them.

3 Q. Tell the jurors, what are the  
4 primary issues that you deal with when you have  
5 a divorce, particularly when children are  
6 involved?

7 A. Well, in the case of divorce, as I  
8 said, there's a separate petition that's filed  
9 for divorce from the petition that's filed for  
10 custody. In divorce matters, you, of course,  
11 you look at, is there a reason for getting  
12 divorced, and it's almost always  
13 incompatibility. And then you look at what sort  
14 of, what's called relief you're asking for. Are  
15 you asking for a divorce, are you asking to go  
16 back to your previous name, in the case of  
17 somebody who took their husband's last name,  
18 sometimes they want to go back to the maiden  
19 name. You ask for, you might ask for a property  
20 division, which means the house, retirement  
21 accounts, things in the house like furniture,  
22 deciding who pays off the debts in the family.  
23 In the case of a custody petition, you're  
24 dealing with two major issues, who is going to

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1 have custody, meaning where or who gets to make  
2 decisions for the children, and then who --  
3 where are the children going to live, who has  
4 residence of the children. And if one parent  
5 has residence, the other parent is going to have  
6 some sort of visitation and so those are the  
7 main issues that have to be resolved in these  
8 cases.

9 Q. So essentially when you have a  
10 couple that's divorcing, they have children, the  
11 divorce and the custody issues with the children  
12 are moving on parallel tracks; is that correct?

13 A. Yes, although, not always exactly  
14 at the same speed.

15 Q. Understood. Now, with respect to  
16 the custody, the custody issues that you just  
17 talked about, when a couple is divorcing, what  
18 are the factors that a court is looking at when  
19 it's determining how it's going to decide the  
20 custody with respect to the mother and the  
21 father?

22 A. Well, in Delaware, the ultimate  
23 goal is to find out what's in the best interest  
24 of the children.

1 Q. And --

2 A. And there are 8 factors that the  
3 Court looks at. The Court looks at what the  
4 children's wishes are, the Court looks at what  
5 the parents' wishes are, the Court looks at what  
6 the relationship of the children are,  
7 relationships are to various people, including  
8 the parents, siblings, grandparents, aunts and  
9 uncles, somebody else that might be living in  
10 the household. They look at the children's  
11 relationship or adjustment to home, school and  
12 community. They look at the health of  
13 everybody, both physical and mental health of  
14 the children, the parents and anybody else that  
15 the children are going to be in contact with.  
16 They look at the past and present compliance  
17 with both parents with doctor duties and  
18 responsibilities and their rights regarding the  
19 children. They look at any history of domestic  
20 violence and they look at any criminal history  
21 that's not domestic violence.

22 Q. How about matters of child abuse,  
23 how are they considered?

24 A. Child abuse is very important



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because it can interact with several of those factors. It could be a criminal case. Even if it's not criminal case, it's certainly domestic violence and of course it impacts on mental health and maybe physical health and it impacts also just as part of the relationship of the children with the parents.

Q. Okay. Now, can you tell the jurors what the difference is between joint custody versus sole custody?

A. Okay. In Delaware a lot of people mistakenly think that custody means where the children live. It really means who makes major decisions for the children. Solely -- I mean sole custody means that one parent makes all the decisions for the children and doesn't have to pay any attention to the wishes of the other parent. Joint custody means the parents are supposed to work together to make decisions for the children just like if they were still married. And even if one parent has primary residence, the children are living with that parent. Joint custody would mean that that parent would still need to consult with the

1 other parent to make decisions, major decisions.

2 Q. So at the end of the custody  
3 proceedings, the court is making two  
4 determinations, joint versus sole and then where  
5 the child or who the child is going to live with  
6 and for how long; is that correct?

7 A. That's correct.

8 Q. I'd like to turn now to the case  
9 of Christine Belford, okay?

10 A. Okay.

11 Q. Can you tell the jurors when you  
12 first met Christine Belford?

13 A. Christine Belford came to my  
14 office for the first time in January of 2006.

15 Q. What was her name when you first  
16 met her?

17 A. Her name was Christine Matusiewicz  
18 then.

19 Q. What did she come see you for?

20 A. She came to see me about getting a  
21 divorce from her husband, David Matusiewicz.

22 Q. Were you ultimately hired by  
23 Christine to be her lawyer?

24 A. I was.

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Q. And did that happen sometime later in January 2006?

A. That's correct.

Q. Do you recall about how old Christine Belford was when you met her in 2006?

A. Usually I don't remember that sort of thing, but in her case I can remember it very well, because her birthday was November 22nd, 1973, which is the 10-year anniversary of the assassination of President Kennedy, which if you're old enough you might remember that date very well.

Q. How old did that make Christine?

A. You're asking me to do math.

Q. Was she about 32?

A. Okay, yes, thank you.

Q. Who was she married to when you met her?

A. She was married to David Matusiewicz.

Q. Did Christine and David Matusiewicz have any children as a result of their marriage?

A. They did. They had three

1 children.

2 Q. And who were the children, do you  
3 recall?

4 A. Laura was the oldest and then  
5 Leigh or Leigh Nicole is the second oldest and  
6 then Karen was the youngest.

7 Q. Was there -- were there any other  
8 children that were, that Christine was the  
9 mother of?

10 A. Yes, Christine had a daughter  
11 named Katy. Actually I think her name was cat  
12 Catherine from her previous marriage.

13 Q. Do you recall at the time what  
14 David Matusiewicz's occupation was?

15 A. He was an optometrist.

16 Q. What was Christine's occupation?

17 A. She worked for David.

18 Q. Do you recall what her role was in  
19 the office?

20 A. I think she was probably a fairly  
21 general assistant, probably helped him with  
22 things that he did with the, in his practice,  
23 but she did have a degree in something connected  
24 to optometry.

1 Q. Now, at the time you met her in  
2 January 2006, was she still working for her  
3 husband?

4 A. It's my understanding that he  
5 fired her.

6 Q. Was there a marital home between  
7 Christine and David Matusiewicz?

8 A. They had a home down in  
9 Middletown, Delaware.

10 Q. When you met Christine in January  
11 2006, was she living in the home?

12 A. Not anymore.

13 Q. Where was David Matusiewicz  
14 living?

15 A. David was living in the marital  
16 home.

17 Q. Where were the children living?

18 A. They were in the home too.

19 Q. Do you recall whether anybody  
20 else, any other adults were in the marital home  
21 as well?

22 A. My recollection is that Christine  
23 told me that, that Lenore Matusiewicz, David's  
24 mother, had moved in at some point after she

1 separated from David.

2 Q. Once -- Mr. Hitchings, once you  
3 were hired to be Christine Belford's attorney,  
4 what was the first hearing or matter that you  
5 had to represent her in?

6 A. Well, she filed for divorce and  
7 David filed for custody. We filed an answer on  
8 the custody matter saying that we too wanted  
9 custody. So what happened, we had -- in  
10 February of 2006, we had a custody mediation in  
11 the family court at the New Castle County  
12 Courthouse.

13 Q. Okay. Now, can you tell the  
14 jurors, what's the purpose of a custody  
15 mediation hearing?

16 A. Well, in almost all custody and  
17 child support cases in Delaware, before they  
18 would go to a hearing or a trial with a judge,  
19 they are channeled through what's called a  
20 process called mediation in which they go to the  
21 family court and instead of going into the  
22 courtroom, they go into an office and they meet  
23 with a family court employee called a mediator,  
24 who is there to try to help them reach an

1 agreement on custody of the children. And  
2 that's what we did in February of '06.

3 Q. Now, going into the mediation,  
4 what was David Matusiewicz's position?

5 A. His position was that he wanted  
6 sole custody of the children.

7 Q. Now, he was represented by an  
8 attorney; is that correct?

9 A. He was.

10 Q. Okay. And what was your position  
11 at the hearing?

12 A. Well, we wanted to be able to  
13 share custody with David going in, but that's  
14 not what ultimately occurred at the -- it's not  
15 really a hearing, we call it a mediation.

16 Q. What was the outcome of the  
17 mediation?

18 A. Well, Chris agreed to temporarily  
19 or in the interim as we say, give David sole  
20 custody, but for her to have visitation with the  
21 children.

22 Q. Okay. And when you say for her to  
23 temporarily give sole custody, what does that  
24 mean?

1 A. That would mean that in the short  
2 term David would be able to make the decisions  
3 for the children.

4 Q. And in the long term what was the  
5 plan?

6 A. The long term was once she got  
7 into a better, a good -- a reasonable good  
8 housing situation and once she was on her feet,  
9 so to speak, that she would be able to share  
10 custody and share residence with the children,  
11 with David for the children.

12 Q. And was that position made clear  
13 at the mediation hearing?

14 A. We did.

15 Q. Now, what was significance about  
16 Christine Belford's living situation during that  
17 time?

18 A. Well, when she -- she and David  
19 broke up at the very beginning of January of  
20 '06. Before she came to see me. And she  
21 initially moved out and moved into a friend's  
22 house, but that wasn't going to last, so then  
23 she moved in with her, her maternal grandmother,  
24 and that's where she was living at the time that



1 we had the mediation in February.

2 Q. Okay. And was there or were there  
3 any issues with the maternal grandmother?

4 A. Well, the maternal grandmother was  
5 okay, but the problem was Christine's mother  
6 also lived there. And Christine's mother was an  
7 alcoholic and Christine didn't feel comfortable  
8 taking the children to that house.

9 Q. Now, in the time frame after the  
10 mediation hearing, did Christine obtain another  
11 job?

12 A. Yes, she did.

13 Q. Do you recall for whom?

14 A. She got a job with Simon Eye  
15 Associates, another optometrist place.

16 Q. Okay. Do you know what she was  
17 doing there, if you know?

18 A. At some point I believe she was  
19 identified as a staff trainer.

20 Q. Okay. And once she started  
21 working again, what did she do with a portion of  
22 the money, if anything, that she made?

23 A. Well, I guess she probably helped  
24 her grandmother out a little bit and she paid

1 attorney's fees also to me and she also wrote  
2 checks to David to support the children.

3 Q. And why was that?

4 A. Because she felt that she needed  
5 to support her children.

6 Q. Now, following the initial  
7 mediation hearing in February 2006, what were  
8 the next steps in the divorce and the child  
9 custody litigations that you've just described  
10 for the jurors?

11 A. Well, on the day of the custody  
12 mediation, David Matusiewicz's attorney at the  
13 time, Mr. Berkowitz, said that he wanted to file  
14 a, or he wanted to have an evaluation, a  
15 psychological evaluation done of Christine  
16 Belford.

17 Q. Okay. And that was in connection  
18 with the?

19 A. The custody matter.

20 Q. All right. Now, let me first  
21 focus on the divorce.

22 A. Okay.

23 Q. Okay. Was the divorce between  
24 Christine Belford and David Matusiewicz

1 ultimately contested between the two of them?

2 A. There was no -- well, ultimately  
3 there was no contest about getting a divorce.  
4 They both eventually came to that, to accept  
5 that that was going to happen, but there was a  
6 contest over how property should be divided up  
7 and whether alimony should be paid.

8 Q. First with respect to the divorce,  
9 when did it become final?

10 A. It became final in November of  
11 2006.

12 Q. And what was the basis for it?

13 A. I believe it was incompatibility.

14 Q. What judge oversaw that divorce  
15 proceeding?

16 A. That would be Judge Buckworth,  
17 Family Court judge.

18 Q. And turning now to the child  
19 custody litigation, after this mediation,  
20 February 2006, what's the next -- what was the  
21 next step in that process?

22 A. Well, Mr. Berkowitz on behalf of  
23 David had filed this motion for a custody, a  
24 psychological evaluation. I filed a response,

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1 an answer to that asking that an evaluation be  
2 -- a thorough custody evaluation in which both  
3 of the parents and the children would be  
4 evaluated by a psychologist to help the court  
5 make its decision.

6 Q. Now, was that psychologist  
7 ultimately hired?

8 A. Yes.

9 Q. And who was that?

10 A. That was Dr. Samuel Romirowsky.

11 Q. And was a hearing scheduled for  
12 the custody proceeding?

13 A. Ultimately it was scheduled for  
14 February of 2007.

15 Q. Now, again, who was the judge for  
16 that proceeding?

17 A. That was Judge Buckworth, Judge  
18 Mark Buckworth.

19 Q. And that proceeding occurred; is  
20 that correct?

21 A. It did.

22 Q. And that happened, again, in  
23 February of --

24 A. In 2007.

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Q. Where did that proceeding take place?

A. That was in Family Court down at the New Castle County Courthouse.

Q. Can you tell the jurors what David Matusiewicz's position was, what was he advocating for at that proceeding?

A. He wanted sole custody, which means he would continue making all the decisions for the children, and he wanted primary residence, which means that the children would live with him almost all the time.

Q. What was Christine Belford's position, what was the position that you were advocating for?

A. She felt the best thing for the children would be joint custody with the parents making decisions together and shared residence with the children living roughly half the time with her and half the time with him.

Q. Let's turn back again to David's position, sole custody, residential custody. What was the basis that he was providing to the Court as to why he should receive sole custody?

1 A. Well, I asked him that, and he  
2 said that felt that he could make better  
3 decisions for her because he was a doctor, I'm  
4 sorry, better decisions for the children than  
5 Christine because he was a doctor.

6 Q. What was the position at the  
7 hearing as it related to Christine Belford?

8 A. I'm not sure I understand.

9 Q. Was he making any claims as to  
10 Ms. Belford's fitness to be a parent?

11 A. He didn't think she was fit.

12 Q. Why not?

13 A. Well, he had a detective follow  
14 her around, and on one occasion, the detective  
15 testified that Christine had been driving too  
16 fast with the children in the car. And on  
17 another occasion, when she was visiting her  
18 father with the children, she allowed Leigh, one  
19 of the girls, to run out into the street a  
20 couple of times, or sometimes.

21 Q. Okay. Did he also or did he also  
22 raise any issues as it related to her mental  
23 health?

24 A. He very early in the case had been

concerned about her being mentally unstable or being bipolar or something like that. And she had been on medications, Paxil, an antidepressant for postpartum depression following the birth of Karen, the youngest child in 2005, but that was -- but he said that she was bipolar. And so that she wasn't fit to raise the children.

Q. Now, at any point during the child custody proceeding, did David Matusiewicz or his attorney raise an allegation that Christine Belford was sexually molesting any of her three biological children?

A. No, never.

Q. How about Katie Moffa, did that come up that she was sexually abusing Katie Moffa?

A. No.

Q. Aside from what you discussed about the detective following Ms. Belford around, did David Matusiewicz or his lawyer accuse Christine Belford of physically abusing any of her three biological children or Katie Moffa at this hearing?

*Christine suffered from post partum depression. She was medicated in the 3rd trimester each time she was going to give birth. Between pregnancies she was also seeing a psychologist, Alan Richmond, + her family doctor, Kehagis, for management of her depression.*

1 A. David didn't say anything about  
2 abuse at all during the custody hearing in 2007.

3 Q. Tell the jurors, Mr. Hitchings, if  
4 you're in a custody battle with your spouse,  
5 what is the significance when one party raises  
6 an issue of sexual abuse or physical abuse at  
7 these proceedings?

8 A. In my twenty years of experience  
9 of doing Family Court work, especially custody  
10 work, an accusation of abuse, abusing a child is  
11 like a nuclear bomb. It's one of the strongest  
12 things you can say in a case to try to keep your  
13 children away from the other parent. And if I  
14 have a case like that, I wouldn't hesitate to  
15 use that in the case for custody.

16 Q. Now, at the hearing, did David  
17 Matusiewicz and his attorney call witnesses upon  
18 their behalf?

19 A. They did.

20 Q. Do you recall who?

21 A. I remember that David called his  
22 friend, a man named, last name was Bruno, first  
23 name might have been Michael, best friend of  
24 his, he was a doctor. Also had David's mother,



1 Lenore Matusiewicz, testify. And also a private  
2 detective whose last name was Phillips testify.

3 Q. Did you call witnesses on behalf  
4 of Christine Belford?

5 A. Yes. Well, Christine testified,  
6 of course, but we also had Dr. Samuel Romirowsky  
7 testify.

8 Q. How long was the hearing?

9 A. Six hours.

10 Q. What was the outcome?

11 A. The outcome was a little bit  
12 complicated. We went into court recognizing --  
13 well, I have to explain that Christine had moved  
14 from the home of her maternal grandmother to the  
15 home of her paternal grandmother because her  
16 mother had lived at the other house and her  
17 mother was an alcoholic and kind of out of it,  
18 and not a good place to take the children. So  
19 she moved in with her paternal grandmother and  
20 the paternal grandmother had dementia. It's a  
21 better place than the other grandmother's home  
22 but not a very good place. So she was still  
23 living there at the time of the February 2007  
24 custody hearing.

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A1627

1                   So we went in there with a  
2                   position that she should have some expanded  
3                   visitation with the children, including  
4                   overnight visitation, to the degree that she  
5                   could do that with being at the grandmother's  
6                   house, and then as soon as she would have a  
7                   better place to stay, a place of her own, that  
8                   then she should like to have shared residence  
9                   with the children spending about half the time  
10                  with her and half the time with David.

11                  What Judge Buckworth did, he  
12                  basically followed, pretty closely followed what  
13                  we requested. He provided an order in which --  
14                  a custody order in which the children would have  
15                  some expanded visitation with Christine until  
16                  she got a better place to live, and then by  
17                  force of that order, she would then be able to  
18                  have the children living more with her than just  
19                  visiting.

20                  Q. As it related to sole custody  
21                  which David Matusiewicz sought and shared  
22                  custody which Christine Belford sought, what did  
23                  the judge award?

24                  A. Joint custody.

1 Q. Now, you mentioned that due to her  
2 living situation, Ms. Belford couldn't enforce  
3 the order right after it was issued by the  
4 judge; is that correct?

5 A. Well, she couldn't have the  
6 children as much as she ultimately would be  
7 having them.

8 Q. At some point based on your  
9 representation of her, did she find different  
10 living circumstances?

11 A. In I believe it was July of 2007,  
12 she moved in with a boyfriend into an apartment.

13 Q. Do you know his name?

14 A. Jerald Purcell.

15 Q. And how did that move relate to  
16 the living situations that you described in the  
17 context of her ability to force this custody  
18 order the judge had issued?

19 A. It was my understanding that the  
20 apartment that she and Mr. Purcell began sharing  
21 in mid summer 2007 would be big enough where the  
22 children could stay over. At that time I didn't  
23 -- I wasn't following, we weren't looking  
24 closely at the custody issues, I was -- at that

He probably wasn't aware of all of the times that she brought the girls home early or didn't pick them up at all.

time, I was focusing more on the property division and financial issues of the case. So I don't know how much time the children were spending with their mother when she moved in with Mr. Purcell.

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Q. But the idea was that was the place where she would be able to bring the children?

A. That's right.

Q. And enforce her position in the custody award that had been issued?

A. Something else happened around that time that would have -- that could have affected her situation. She had inherited some money, I believe from an aunt, and she purchased a house, but the actual purchase didn't take place until a little bit later in 2007.

Q. Just to put this in context, so this move happens in July of 2007, right, the move in with Mr. Purcell, roughly?

A. Roughly.

Q. And the kids are kidnapped when?

A. That's in August.

Q. Now, I want to turn back, we

1 talked a lot about the child custody. I want to  
2 turn back to the -- some of the aspects of the  
3 divorce proceeding. Okay?

4 A. Okay.

5 THE COURT: I'll let you pick your  
6 time for the break, Mr. McCall.

7 MR. McCALL: Judge, this is a good  
8 time.

9 THE COURT: It sounds like you  
10 might be changing subjects, so I tried to break.

11 MR. McCALL: Yes.

12 THE COURT: Ladies and gentlemen,  
13 we'll take our lunch recess for now.

14 (A brief recess was taken.)

15 THE COURT: Can I see counsel  
16 briefly at side-bar on the record.

17 (Side-bar discussion:)

18 THE COURT: I'm just trying to  
19 anticipate this afternoon. I know  
20 Mr. Hitchings' name was on the hit list, I know  
21 that early in the media coverage of the case  
22 there was a reference to an attorney having been  
23 told to protect himself by law enforcement, and  
24 I don't know whether that was Mr. Hitchings or

1 was not Mr. Hitchings, and you guys may not have  
2 even read that. And I was trying to monitor the  
3 media just to keep track of the potential affect  
4 on the jury.

5 MR. McCALL: I'm sorry, Judge,  
6 what was the --

7 THE COURT: There was some  
8 publication about the hit list, it was mentioned  
9 in Delaware News Online that at least one  
10 attorney in the Wilmington area had been advised  
11 on law enforcement to take precautions, so  
12 having read that, I have no idea whether that  
13 was Mr. Hitchings or not, I don't know, but I  
14 just thought since I know his name is on the  
15 list, to the extent that that was going to be a  
16 subject of testimony, if you could preview it  
17 for us.

MR. McCALL: I'm actually not -- I  
wasn't go to show him -- I'm not going there. I  
mean, I will say, though, that what we're  
establishing right now is part of the basis for  
why Mr. Hitchings is on the list. But we're not  
going to show him the list or anything like  
that. There is no need to do that.

Well why not?  
They already  
"leaked" a document  
titled HL to the  
media citing it as  
a "matusiewicz  
hit list" when  
that is not even  
what it said.

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THE COURT: It just occurred to me that we may venture in that direction, I thought I would grab us all before we did.

Great. Okay. Thanks very much. Everyone. Have a good lunch.

(A luncheon recess was taken.)

THE COURT: All right. Please be seated. Continuing with the direct examination of Mr. Hitchings.

MR. McCALL: Judge, may I proceed.

THE COURT: You may.

BY MR. McCALL:

Q. Mr. Hitchings, before we broke for lunch we were about to turn to the issue of how the property was going to be divided up --

A. Right.

Q. -- following the divorce in the case of Christine Belford and David Matusiewicz, okay. Can you describe for the jurors whether or not an agreement was reached between the two parties about how the property was going to be divided?

A. There was.

Q. Okay. What were the terms?

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1           A.    Terms involved David would keep  
2           the marital home and would refinance it and then  
3           pay Christine \$100,000 from the equity of the  
4           marital home.   There would be no alimony  
5           payment.   Christine would keep a vehicle.   I  
6           believe there was a vehicle for David.  
7           Christine would waive any claim that she might  
8           have to David's business interests in his  
9           optical or optometry practice.

10          Q.    Okay.   Now, after that agreement  
11          was reached or shortly thereafter the kidnapping  
12          occurred; is that correct?

13          A.    That's correct.

14          Q.    And the terms of that agreement  
15          were never fulfilled; is that correct?

16          A.    That's correct.

17          Q.    Now, after the kidnapping  
18          occurred, what legal action did you take on  
19          behalf of Christine Belford?

20          A.    I filed a petition for emergency  
21          custody in the family court.

22          Q.    And was that granted?

23          A.    It was, in September of 2007.

24          Q.    And what was the basis for that,



that request for temporary sole custody?

1           A. Well, David and told Christine  
2 that he was taking the girls on a trip to Disney  
3 World in August of, August of 2007. And when  
4 they didn't return when they were supposed to,  
5 Christine was worried and after a couple days  
6 she called the police and it was, it became  
7 obvious that the girls weren't coming back. She  
8 made phone calls to, on a cell phone to try to  
9 reach them and there were no answers, and so it  
10 was obvious the girls weren't coming back.

11           Q. So the basis was the taking of the  
12 children; is that correct?  
13

14           A. That's correct.

15           Q. What judge did you go in front of  
16 to make that request?

17           A. That was Judge Buckworth, the same  
18 judge who had heard the custody hearing earlier  
19 that year.

20           Q. And again, where is Judge  
21 Buckworth physically located?

22           A. He's a judge in family court of  
23 Delaware at the New Castle County Courthouse.

24           Q. You may have mentioned it a moment

1 ago. When was that order granted?

2 A. That was granted in September of  
3 2007.

4 Q. At some point after the temporary  
5 custody order was issued and granted by Judge  
6 Buckworth, did you move again for any other  
7 additional custody orders?

8 A. What happened was that Judge  
9 Buckworth's office contacted me a year later,  
10 about November of 2008, to find out if there was  
11 any word on the children being found or not.  
12 And I said there was not. And so we had a brief  
13 teleconference with Judge Buckworth in which he  
14 directed that temporary emergency order that he  
15 had issued in September of 2007 would now become  
16 a permanent order.

17 Q. So this is over a year later that  
18 this issue is being revisited by the Court; is  
19 that correct?

20 A. That's correct.

21 Q. If you could, Mr. Hitchings, could  
22 you turn in your binder set there to Government  
23 Exhibit 348?

24 A. 348?

Q. 348. This is volume 3.

A. Yes.

Q. What is Government Exhibit 348?

A. It says Final Custody Order.

Q. Okay. Is this the order that was issued by Judge Buckworth in November of 2008?

A. Yes, November 21st, 2008.

MR. McCALL: Judge, I would ask to admit and publish Government Exhibit 348.

THE COURT: Hearing no objection, you may.

BY MR. McCALL:

Q. Mr. Hitchings, if you could, again, what does the caption indicate in Government Exhibit 348?

A. It says the Family Court of the State and Delaware, In and For New Castle County, Christine Belford, formerly Matusiewicz, Petitioner, versus David Matusiewicz, Respondent, Final Custody Order.

Q. I want to turn to the second page, if you would, and the first paragraph that begins therefore. What does that say?

A. Says therefore the Court grants

1 permanent sole custody and primary residence to  
2 petitioner Christine Belford. The restrictions  
3 on David Matusiewicz's contact with the parties  
4 children remain in effect. This order takes  
5 precedent over all previous custody orders  
6 governing the parties.

7 Q. Okay. And the restrictions that  
8 were on David Matusiewicz were what?

9 A. Well, that would have to go back  
10 to the September of 2007 emergency order that we  
11 got, which was a little over a year earlier.

12 Q. Okay. Could you summarize,  
13 though?

14 A. Basically it granted her sole  
15 custody, sole custody which means -- and primary  
16 residence. And it went on to say, to ask at  
17 that time it was during the kidnapping went on  
18 to ask that law enforcement agencies cooperate  
19 and try and help find the kids.

20 Q. Okay. If I could ask you to turn  
21 in your binder to Government Exhibit 347.

22 A. Yes.

23 Q. Okay. What's Government Exhibit  
24 347?

1 A. This is the emergency order that I  
2 obtained for Christine in September of 2007.

3 Q. And if I could direct your  
4 attention down to the bottom of page 1.

5 A. Yes.

6 Q. And specifically the last sentence  
7 that begins having, if you could just read it to  
8 yourself, and then look back up at me when  
9 you're done and I believe it continues onto page  
10 2.

11 A. Yes, I've read that.

12 Q. Okay. Does that refresh your  
13 memory as to what the restrictions were that  
14 were in place as it related to David  
15 Matusiewicz's ability to contact his children?

16 A. Yes. It says there should be no  
17 further contact between father and the children  
18 and no visitation until further order of the  
19 court.

20 Q. Thank you. And again, back to  
21 Government Exhibit 348, I'm pulling it up on the  
22 screen there, the date of the order is what,  
23 sir?

24 A. That is -- 348 is the order of

1 November 21st, 2008, the final custody order.

2 Q. Okay. Now, it's November 2008,  
3 the children still are not back; is that  
4 correct?

5 A. That's correct.

6 Q. Describe how much contact you're  
7 having with Christine Belford during this  
8 period?

9 A. During that period where the kids  
10 were missing, after we got, aside from the  
11 custody -- the emergency order of September 2007  
12 and the final order of November 2008, the only  
13 time that we talked was when she would  
14 occasionally call me with information when she  
15 thought there were leads as to where the  
16 children were.

17 Q. Were you representing her in any  
18 other way?

19 A. There wasn't an active case at  
20 that point.

21 Q. Okay. And I think you mentioned  
22 earlier in your testimony that she had come into  
23 some money and had purchased a home; is that  
24 correct?

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A. She did.

Q. Do you recall the address?

A. It was on Donegal Court, but I can't remember the actual street address.

Q. Was that in Delaware?

A. Yes, it was in New Castle County.

Q. Now, Mr. Hitchings, the children were ultimately recovered; is that correct?

A. That's correct.

Q. And brought back to Christine Belford?

A. That's correct.

Q. And that happened in and around March of 2009?

A. March of 2009.

Q. Following the return of the children to their mother, what legal action, if any, did you take on behalf of Christine Belford?

A. I did three things.

Q. What was that, sir?

A. I filed -- because they were now in her residence, I filed a petition for child support against David. I filed a petition for

This was the child support petition that ultimately led to the modification hearing for child support on 2/1/13

1 protection from abuse order against David if he  
2 should happen to get out of prison, and I filed  
3 a protective abuse order against Lenore  
4 Matusiewicz as well.

5 Q. Mr. Hitchings, where did you file  
6 the child support motion against David  
7 Matusiewicz, which court?

8 A. That petition was filed in the  
9 Family Court of Delaware at the New Castle  
10 County Courthouse.

11 Q. How about the other two motions?

12 A. Same location.

13 Q. Now, you indicated that the  
14 children were back living with Christine; is  
15 that correct?

16 A. That's correct.

17 Q. And were they all residing at the  
18 Donegal address that you had just mentioned, to  
19 your knowledge?

20 A. That's correct.

21 Q. Now, as you continued to work the  
22 various motions that you had filed for the PFA,  
23 for child support, at some point did you become  
24 aware of any allegations that David Matusiewicz



was making against Christine Belford?

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A. Yes.

Q. Could you tell the jurors what that was, sir?

A. I received -- you know, David was facing criminal charges, federal charges for the kidnapping and the financial institution fraud, and so there was a federal prosecutor named Christopher Burke, and he was aware of me through Christine, apparently, and he called me up one day.

MS. CHAVAR: Objection.

THE COURT: I think there is an objection.

MS. CHAVAR: Side-bar.

THE COURT: Are you going to go much further into this area?

MR. McCALL: I think I can straighten this out with a follow-up question.

THE COURT: Let's do that.

MR. McCALL: Understood, Judge.

BY MR. McCALL:

Q. Without getting into who told you what, can you just tell the jurors what the new

David was charged, pled guilty to & sentenced for International Parental Kidnapping & Bank Fraud. The Bank Fraud had to do with David refinancing the home & paying Christine \$100K per court orders. I can't remember the exact details at this moment, but I remember that Christine was supposed to have her lawyer draw up some paperwork regarding the home that was never done & David forged her signature to refinance the home.

22  
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I will have to get  
clarification of the  
details from David +  
send it via email  
to Rudy + Erh.

1 allegation was that you learned?

2 THE COURT: Against Ms. Belford.

3 Q. Correct, against Christine Belford  
4 by David Matusiewicz?

5 A. Yes. The first I heard of it, I  
6 was told that there was an allegation that David  
7 was going to make that Christine had sexually  
8 molested her daughter, Laura.

9 Q. Now, Mr. Hitchings, you  
10 represented Christine Belford since January of  
11 2006. Was this the first time that you had  
12 heard about this type of an allegation?

13 A. Yes.

14 Q. Now, I think you mentioned a  
15 moment ago that you also filed a motion for --  
16 or excuse me, a petition to terminate the  
17 parental rights of David Matusiewicz; is that  
18 right?

19 A. I hadn't mentioned it earlier, but  
20 I did do that eventually.

21 Q. Again, what court did you file  
22 that petition in, sir?

23 A. I filed that petition for  
24 termination of parental rights in the Family

1 Court of Delaware, again, in the New Castle  
2 County courthouse.

3 Q. When did you file that petition?

4 A. That was early 2010, beginning of  
5 February.

6 Q. So this is eight, nine months  
7 after the children have been returned to  
8 Christine Belford that you filed this petition;  
9 is that correct?

10 A. That's correct.

11 Q. Could you tell the jurors what the  
12 basis was for the petition to terminate the  
13 parental rights of David Matusiewicz?

14 A. Well, he committed a serious -- a  
15 felony against the children by kidnapping them,  
16 and there was concern, ongoing concern that they  
17 might be endangered by continued struggle  
18 between him and Christine. There was a concern  
19 that the -- he had taken the children to Central  
20 America without getting vaccinations and there  
21 was some concern as to whether he was capable of  
22 being mindful of their health, but it was mainly  
23 the ongoing threat to the children and to  
24 possibly to Christine, but mainly to the

David  
never  
hurt his  
children  
or  
Christine.

1 children.

2 Q. Now, in the course of the petition  
3 that you filed, did David Matusiewicz retain an  
4 attorney?

5 A. He did.

6 Q. Who was his attorney?

7 A. Donald Roberts.

8 Q. Now, Mr. Hitchings, you have been  
9 at this point litigating off and on against  
10 David Matusiewicz since 2006; is that correct?

11 A. That's right.

12 Q. By your count, how many attorneys  
13 had Mr. Matusiewicz gone through?

14 A. I have to think about it.

15 Q. Roughly?

16 A. This would be about his fifth, I  
17 believe.

18 Q. Five?

19 A. Five.

20 Q. Now, during the petition, or  
21 excuse me, after you file your petition to  
22 terminate his parental rights, the children,  
23 okay, do they get an attorney appointed by the  
24 State of Delaware?

A. Yes. The court appointed them an attorney called a guardian attorney ad litem. So this was an attorney appointed by the court to advocate for the children's best interest.

Q. Are there any attorneys that are appointed by the state for the children?

A. In this particular case, David's attorney asked that the court appoint another attorney for the children, a Frazier attorney. This was an attorney appointed not to advocate for their best interest, but to advocate for what the children wanted should there be a difference.

Q. Can you just very briefly a little bit more explain the difference between what the guardian ad litem attorney is who represents the children versus a Frazier attorney?

A. A Frazier attorney.

Q. Who represents the wishes of the children?

A. Well, a Frazier attorney would represent, advocate for whatever the children said they wanted. So if the children said they wanted to live with mom, then that's what the

1 attorney would say. If the children said they  
2 want to live with dad, that's what the advocate  
3 or the Frazier attorney would advocate for, or  
4 anything else the children would advocate for.  
5 Whereas the guardian ad litem attorney, that  
6 attorney would look at all factors involved in  
7 what might be the best interest of the children  
8 and make a judgment call as to what was best for  
9 the children, and it might be the same thing or  
10 it might be a different thing.

11 THE COURT: Mr. Hitchings, does  
12 the term Frazier attorney stem from a court  
13 decision?

14 THE WITNESS: That's correct,  
15 there was a previous Family Court case in  
16 Delaware involving a little girl whose last name  
17 was Frazier.

18 THE COURT: When you hear Frazier  
19 attorney, it's referring to the court that made  
20 the decision, like Miranda rights, just to give  
21 some perspective to the jury.

22 Q. Mr. Hitchings, could you tell the  
23 jury who the guardian ad litem attorney was?

24 A. That was Kimberly Lawson.

1 Q. Do you recall who the Frazier  
2 attorney was that was appointed to represent the  
3 three girls as well?

4 A. Yes, that was Tabitha Castro.

5 Q. Now, following your filing of the  
6 TPR petition, was a court hearing held?

7 A. Oh, yes.

8 Q. How many different days did the  
9 court meet, approximately?

10 A. Seven or eight.

11 Q. And that was over the span of what  
12 kind of time, sir?

13 A. We began having hearings in late  
14 2010, and we had our final hearing in the -- in  
15 mid 2011.

16 Q. Those hearings took place in  
17 court; is that correct?

18 A. In the Family Court down at New  
19 Castle County Courthouse.

20 Q. Who was the judge who oversaw  
21 these hearings?

22 A. That was Judge Barbara Croll.

23 Q. Now, during the course of these  
24 hearings, what, if any, allegations were made



1 against Christine Belford by David Matusiewicz?

2 A. The principle one would be the

3 allegation that he had sexually molested Laura.

4 Q. That she had sexually molested

5 Laura?

6 A. Right.

7 Q. What witnesses did you call on

8 behalf of Christine Belford during the course of  
9 this hearing in Family Court?

10 A. We had several. We had a

11 Dr. Jason Hann-Deschane who was the children's

12 pediatrician. We had Dr. Samuel Romirowsky who

13 had done the original custody evaluation and we

14 had another psychologist, Monica Bocanagra.

15 Q. And did Christine Belford testify

16 at the hearing?

17 A. She did.

18 Q. Did David Matusiewicz call any

19 witnesses on his behalf?

20 A. Yes. He had another psychologist

21 do an evaluation on the case named Dr. Marsha

22 Orloff, and Dr. Orloff testified.

23 Q. Did David Matusiewicz testify?

24 A. He did.

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Q. Now, obviously you know this is a jury trial. Can you explain who's making the decisions, who's making the determinations at a proceeding for the termination of parental rights? Who is evaluating the evidence at a termination of parental rights proceeding?

A. All Family Court -- like all Family Court cases, the decision is made by the judge.

Q. Okay. Now, after the seven or eight days of hearings that you had, what was the outcome?

A. The outcome was that Judge Croll granted Christine's petition to terminate David Matusiewicz's parental rights.

Q. When did that happen, Mr. Hitchings?

A. That happened in the summer, August, I believe, of 2011.

Q. What did that mean for David Matusiewicz?

A. Legally it means that he has no more rights to the children than anybody else, a stranger might have, legally.

Someone must have forgotten to thoroughly explain that to Laura because she was contacting Tabiana + I sept or oct + Nov 2011.

1 Q. What does it mean for the rest of  
2 his family?

3 A. I'm sorry?

4 Q. What did it mean for the rest of  
5 his family?

6 A. Well, legally, they don't have  
7 anymore rights, either, as relatives.

8 Q. I want to direct your attention  
9 now to the time frame after the order came down  
10 terminating David Matusiewicz's parental rights.  
11 Okay?

12 A. Okay.

13 Q. Following that order, did that  
14 cease all contact between Christine Belford and  
15 David Matusiewicz, Lenore Matusiewicz, Amy  
16 Gonzalez and Thomas Matusiewicz?

17 A. No, it did not.

18 MR. IBRAHIM: Objection.

19 THE COURT: Basis that it's a  
20 legal opinion?

21 MR. IBRAHIM: Both it's a legal  
22 opinion as well as foundation.

23 THE COURT: Why don't we huddle at  
24 side-bar quickly.

(Side-bar discussion:)

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THE COURT: Okay.

MR. IBRAHIM: Your Honor,  
primarily how is this witness going to know  
other than if he was contacted, if he's going to  
testify about what was told to him by Christine  
Belford, we have no way to cross-examine that.  
I would object to testimony about that type of  
information.

MR. McCALL: We just saw a series  
of letters that came off the TPR hearing from  
Amy Gonzalez, Tom Matusiewicz, Lenore  
Matusiewicz.

THE COURT: I may have lost the  
thread. I heard him talk about the termination  
then of the relatives following the court, I may  
have lost the next question.

MR. McCALL: I just said did that  
cease the contact between -- following the TPR,  
did that cease contact between Christine Belford  
and various family members.

THE COURT: I took the contact to  
mean would that have the legal effect of  
stopping further, I didn't take it as a factual