

1 DISTRICT COURT, COUNTY OF ARAPAHOE, STATE OF COLORADO

2 Case No. 89DR477, Division R-1

3

4 TRANSCRIPT OF TAPE-RECORDED PROCEEDINGS

5

6 In re the Marriage of:

7 SANDRA WILFRED,

8 Petitioner,

9 and

10 HARMON WILFRED,

11 Respondent.

12

13 This matter came on for hearing on temporary
14 orders on June 13, 1989, before VIRGINIA WARE, District
15 Court Referee.

16 This is a transcript of the proceedings recorded
17 in this case on that date.

18 APPEARANCES: ELAINE EDINBURG, Attorney at Law,
19 appearing on behalf of the Petitioner herein.
20 ROBERT HINDS, Attorney at Law,
21 appearing on behalf of the Respondent herein.
22 JOANN LONG, Attorney at Law,
23 appearing on behalf of the Respondent herein.
24 SUSAN DYCUS, Attorney at Law,
25 appearing as Guardian ad Litem for the minor
child.

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JUNE 13, 1989

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(WHEREUPON, the following proceedings were recorded:)

THE REFEREE: On the record now on June the 13th, 1989. Calling 89DR477, in re the marriage of Wilfred. Counsel, would you enter your appearances, please?

MS. EDINBURG: Yes, good afternoon, Your Honor. I'm Elaine Edinburg. I'm attorney of record and I'm here this afternoon with the Petitioner, Sandra Wilfred, who is seated at counsel table.

MR. HINDS: Judge, the Court will perhaps note that there was in the file a motion for continuance based on two facts: Mr. Epstein was in trial and Mr. Hinds was in trial. As you can see I am here and my matter in (inaudible) was dissolved at 11:30 before Judge Strait (phonetic), so I am able to attend and therefore my basis for continuance no longer exists.

I note I was informed by your clerk that in fact a continuance had been denied in any event, but we hadn't been told that, so I would like to tender at this time -- I have given a copy to opposing counsel -- our position on temporary orders. The matter is set to go forward at this time and I would note that I am assisted in this matter by Mr. Epstein's (inaudible) office in the form of Joann Long.

UNIDENTIFIED PARTY: Mr. Hinds, would you have a

1 copy of that (inaudible)?

2 MR. HINDS: Yes, I surely would.

3 UNIDENTIFIED PARTY: (inaudible) copy.

4 MS. DYCUS: Your Honor, Susan Dycus, registration
5 13721, appearing as guardian ad litem for the minor child.

6 THE REFEREE: All right.

7 MS. EDINBURG: Your Honor, with all due respect, I
8 would object at this time to Mr. Hinds' tendering to the Court
9 what purports to be a verified motion for temporary orders.
10 The Court might recall this matter was originally filed on
11 March 3rd by myself and Ms. Wilfred. We appeared before you
12 and requested a restraining order specifically concerned about
13 issues regarding the minor child, Tyler, which the Court will
14 hear in much more detail.

15 I filed a motion for temporary orders March 3rd.
16 Mr. Wilfred is now on third, fourth and fifth lawyer seated at
17 counsel table. I have not had any notice of a verified motion
18 for temporary orders and I believe it's properly set before
19 the Court and the only motion pending before the Court today
20 is our motion for temporary orders and I would ask that the
21 Court ignore and place Mr. Hinds' motion to the side and I
22 don't feel it's properly before the Court. We've not received
23 any notice and no opportunity to be prepared for a response
24 until two (inaudible).

25 THE REFEREE: Well, counsel, I'm going to proceed

1 and hear these issues and I don't know whether we will finish
2 this afternoon or not and I don't -- I obviously haven't even
3 had a chance to read Mr. Hinds' motion. I don't think it has
4 been properly set, but I strongly suspect that most of these
5 issues have already been put forth in your motion. Certainly
6 I reviewed your motion and the issues of visitation and -- and
7 custody of the minor child and that sort of thing already
8 before the Court. I -- we're going to proceed and --

9 MS. EDINBURG: Thank you.

10 THE REFEREE: -- hear the testimony from both
11 sides --

12 MS. EDINBURG: (inaudible)

13 THE REFEREE: (inaudible)

14 MS. EDINBURG: Your Honor, if I may tender to the
15 Court -- I would file with the Court at this time the original
16 financial affidavit of the Petitioner.

17 THE REFEREE: You may, counsel.

18 MS. EDINBURG: Thank you.

19 MR. HINDS: Your Honor, I have in like manner an
20 affidavit --

21 THE REFEREE: All right, thank you.

22 MR. HINDS: -- and I would like to have the
23 opportunity for a brief opening statement in this matter.

24 MS. EDINBURG: I have an opening as well, Your
25 Honor.

1 THE REFEREE: All right. Both parties will be
2 given an opportunity for a brief opening, as well as the
3 guardian ad litem. You may proceed, counsel.

4 MS. EDINBURG: Thank you.

5 MS. DYCUS: Ms. Edinburg, do you have an affidavit
6 for me?

7 MS. EDINBURG: Yes.

8 THE REFEREE: The prophet is not without honor
9 save in their own country, Ms. Dycus.

10 MS. DYCUS: Well said.

11 MS. EDINBURG: I like her position in this
12 courtroom. I'm wondering when I'm the GAL whether I get to
13 sit (inaudible) the clerk's position.

14 THE REFEREE: The only reason they get to sit in
15 the bailiff's chair is because, number one, there's no other
16 place for them to sit. When they sit behind the podium, I am
17 frequently going like this because I --

18 MS. EDINBURG: Can't see them.

19 THE REFEREE: -- can't see them.

20 MS. EDINBURG: Your Honor, a review of the Court
21 records will reveal that a petition for dissolution was filed
22 in this court on March 3rd. At that time a verified motion
23 for restraining order was also filed specifically requesting
24 that the Court order supervised visitation based upon the
25 bizarre behavior of Mr. Harmon Wilfred, the Respondent-Father

1 in this case.

2 Subsequent to that time, Mr. Wilfred hired the
3 services of Mr. Steven Segall to come in and file a motion
4 asking that the Court eliminate, remove, abolish the verified
5 motion for restraining order and order that the visitation not
6 be held in a structured setting.

7 We had approximately a three-hour hearing before the
8 Honorable Joyce Steinhardt in April of this year,
9 approximately two months ago, and at that time Judge
10 Steinhardt heard significant testimony from both of the
11 parties as well as other witnesses and the restraining order
12 was ordered to remain in full force and effect.

13 At this time we are before the Court on our original
14 motion for temporary orders, which was originally set in May,
15 but was continued due to the convenience of Mr. Wilfred and
16 his first attorney until today's date.

17 At this time, Your Honor, we were asking for
18 temporary sole custody of the minor child to be p-- placed
19 with the Petitioner-Mother, that Mr. Wilfred be entitled to
20 reasonable visitation in a supervised setting. He is
21 currently visiting once a week at Bridges and once a week in
22 his own home, supervised by an agent or a person arranged
23 through Ms. Dycus, the guardian ad litem in this case.

24 Your Honor, it is our belief, and two witnesses will
25 testify in addition to the Petitioner, that based upon Mr.

1 Wilfred's bizarre behavior, his Dr. Jekyll/Mr. Hyde
2 personality (inaudible) one moment he's charming and agreeable
3 and cooperative and the next moment he's obsessed and getting
4 messages from the the Lord and God and praying and taking off
5 and making very bizarre statements that the Court will hear
6 much more detail about, that this child will be in significant
7 danger of being snatched, taken or moved if, in fact,
8 supervised visitation is lifted in any way, shape or form.

9 Additionally, Your Honor, we're before the Court on
10 our motion for support, both as maintenance for the Petitioner
11 and child support for the minor child. Financial records will
12 reveal that, based upon the financial statement of Mr.
13 Wilfred, that his income is approximately \$8,500 a month and
14 additionally we will testify -- have testimony that there's
15 another \$1,500 a month that Mr. Wilfred has in addition to the
16 items listed on his financial affidavit. Therefore, his
17 monthly income is approximately \$10,000 per month.

18 I would point out to the Court that since the end of
19 February when Ms. Wilfred and the minor child sought refuge in
20 hiding in safety with friends that Mr. Wilfred has only
21 supported as recent as two days ago, Sunday, he gave Mrs.
22 Wilfred a check for \$750.

23 We are also asking that an automobile be provided
24 for Mrs. Wilfred. The car that she's currently driving is
25 leased and the lease is up at the end of this month and she

1 would have no transportation. We're requesting that all the
2 automobile, home, medical and life insurance policies remain
3 in full force and effect, that certain debts and obligations
4 be determined by the Court as the Petitioner is not able to
5 make all the payments on the obligations that she is --
6 basically joint marital obligations.

7 And finally that Mr. Wilfred pay an amount of
8 temporary attorney's fees. He's now on lawyers number three
9 and four and we believe that he has taken several thousands of
10 dollars of marital property and we will trace that for the
11 Court during testimony to show that he has more than
12 sufficient resources to help him and assist with her attorney
13 fees. That is the opening of the Petitioner. Thank you.

14 THE REFEREE: Mr. Hinds?

15 MR. HINDS: Recognizing that I'm at a little bit
16 of a disadvantage, having just entered my appearance, let me
17 first, in relationship to the restraining order hearing, defer
18 that to Ms. Dycus, who I did have a conversation with, because
19 she is aware, to some extent, as to the nature of that
20 proceeding.

21 It would be my belief that what Judge Steinhardt
22 would have said is that this matter would be deferred to a
23 full hearing on the matters and did not in any way take your
24 authority out that you cannot impose proper order. Ms.
25 Edinburg has it appear as if this Court doesn't have

1 jurisdiction to review the entirety and in some way is
2 prevented by Judge Steinhardt's order from hearing these
3 matters in full.

4 Particularly at the time that Judge Steinhardt heard
5 these matters, there was not available to the guardian ad
6 litem -- in fact I believe she'd just been appointed -- the
7 psych evaluations, particularly any psych evaluation on my
8 client to demonstrate his capacity and his mental health. But
9 I'm gonna defer the advocacy of that remark to the guardian ad
10 litem and go to the fundamental issues that I'm going to be
11 asking the Court to decide.

12 First of all, I'm going to request, Your Honor, to
13 take a look today and to make some interim orders today
14 regarding whether or not this man needs to be watched over and
15 supervised and whether there is evidence that -- that
16 indicates that he is, in fact, as Ms. Edinburg is attempting
17 to state, a person who is likely to kidnap his 17-year-old --
18 17-month-old son.

19 What is concern here is what appears to me to be
20 very exaggerated feelings, perhaps on both sides. But let me
21 deal first of all briefly what I -- what I believe the
22 evidence will show in this case. The evidence will show,
23 under psychiatric, or what we'd call psych evaluation testing,
24 that if one were to look at the raw test data -- and Dr.
25 Gutterman (phonetic) will be giving testimony today -- that in

1 fact it is the mother in this case who has a profile that is
2 more extreme in the testing than is the husband.

3 That in fact, the husband's testing is within
4 reasonable and normal limits, then what brings us to the point
5 of such a situation as to have acutely supervised visitation?
6 A belief that my client is acting in an erratic matter --
7 manner. He apparently is under great stress in his business.
8 We would admit that. He is being sued. I don't think that's
9 the first time we've seen people who deal with significant
10 assets, particularly in this (inaudible) shopping time, that
11 are involved in litigation.

12 The evidence will show that he's in two Chapter
13 11's. We will have accounting expertise that will indicate
14 that his financial matters are fairly straightforward. He has
15 a certain amount of money that he receives that's been
16 outlined in his financial statement. I would point out that
17 there will be additionally (inaudible) of \$1,500 which will
18 be, we anticipate, available in September of 1989. That's the
19 \$1,500 that is referenced by Ms. Edinburg.

20 Now, that being the circumstance, a question in my
21 mind for the Court to decide, with the assistance of the
22 guardian ad litem, should there be supervised visitation.
23 Evidence will show that the testimony and statements by the
24 guardian ad litem as an officer of the Court that the
25 supervised visitation isn't working very well, that the child

1 is bonded to the father, that the only reason for the Court to
2 indicate a supervised visitation is not my client's caretaking
3 ability, but whether you believe he is so sick, mentally
4 indisabled (sic), that the judicial supervision provisions of
5 the statute need to be put in place look -- or continued in
6 place.

7 And I believe with some psychiatric testimony the
8 Court would find it falls short of that requirement and that
9 the Court will, first of all, say that supervision is
10 unnecessary. Second, these people were substantially equal in
11 their parenting before the separation, and I do think that the
12 Court should provide a joint custody so neither party has a
13 legal advantage and so that these people can get on to jointly
14 parenting, and second, that my client should have two evenings
15 per week, not this one-week distance that seems to exist at
16 this point.

17 Every other weekend he should have, starting
18 Saturday and overnight through Sunday, let's say till 4
19 o'clock, should have his boy.

20 Last thing is, the people's behavior is the best
21 indication and I agree with that, and evidence will show that
22 these people adopted this child, went through extensive
23 adoption proceedings through the Lutheran agency, they jointly
24 wanted the child, he's now just 17 months of age.

25 Evidence will show that in January of this year,

1 when they were having some marital conflicts, they both
2 voluntarily did some psych eval testing to try to help 'em
3 with the problem. Evidence will show that in February, the
4 wife left and we note that there was a restraining order.

5 What isn't very evident is that she did what I call
6 the van to the house and cleaned out the entirety basically of
7 the house and put the furniture in storage, apparently out of
8 great distrust that my client would do something.

9 Well, evidence will show that there are some very
10 exaggerated feelings. Dr. Gutterman (phonetic) will talk
11 about what the scales mean as it pertains to behavior, and I
12 think when we come to the conclusion of this case, A, the
13 Court will find that \$1,500 is appropriate temporary support,
14 a thousand dollars, although that's a little bit above the
15 guidelines, perhaps, \$1,000 is the proper figure for child
16 support, 500 for maintenance.

17 The reason I say that is this lady has been a loan
18 officer, she's had executive positions, she has an earning
19 capacity. It seems to me she should make some effort to
20 contribute to this some \$2,100 that she has indicated --
21 \$2,310 she has indicated are her financial needs.

22 I would make one last passing comment about
23 attorney's fees, because we're gonna hear in this Court in
24 matters to which we will have light temporary attorney's fees.
25 it's my understanding that this Court has in the past elected

1 to take the position that it needs to have the full benefit of
2 the entirety of the information in evidence and that
3 attorney's fees would probably be set for permanent orders.

4 Given that there are two Chapter 11's already
5 examining the marital estate, I do not anticipate expensive or
6 expensive property evaluations in this case. I think it's
7 going to be a custody case essentially, and for that reason I
8 would respectfully request that this questions of attorney's
9 fees be deferred.

10 Thank you, Your Honor.

11 THE REFEREE: Ms. Dycus?

12 MS. DYCUS: Very shortly, Your Honor, and I --
13 it's so short I'll just stay by this microphone.

14 THE REFEREE: All right.

15 MS. DYCUS: I would like the Court to be aware that
16 the visitations at Bridges have actually ceased, that it's
17 going to go to non-professional supervision as of about a week
18 ago.

19 I have no concerns about the interaction, as Mr.
20 Hinds indicated. The concern that I will be listening to the
21 evidence for is the concern that Mr. Harmon Wilfred, being
22 (inaudible) Mr. Wilfred might be so impulsive as to leave the
23 jurisdiction with the child. The original concern that was
24 brought up was to even leave the country.

25 And I did not feel, based on the information that I

1 was able to obtain, at least through last week, that without
2 hearing a full evidentiary hearing I could even make a
3 recommendation.

4 MR. HINDS: Your Honor, I only have one request.
5 With Dr. Gutterman (phonetic) being present, in the event that
6 we cannot complete the case, which, again, seems unlikely, we
7 would like at least to have Dr. Gutterman's testimony today.

8 MS. EDINBURG: I didn't even know Dr. Gutterman
9 (phonetic) was gonna be here till I arrived this afternoon, so
10 my -- I -- I have two witnesses that have taken off from work
11 and I don't know if we can accomodate Dr. Gutterman on those
12 (inaudible).

13 THE REFEREE: Well, we can certainly try, but
14 you'll need to proceed, Ms. Edinburg.

15 MS. EDINBURG: Thank you, Your Honor. For my
16 first witness I would call William Davis -- Bill Davis.

17 THE REFEREE: Mr. Davis, would you (inaudible)
18 to the stand? Raise your right hand.

19 (WHEREUPON, the witness was duly sworn by the
20 Referee.)

21 THE REFEREE: You may be seated. Please adjust
22 the microphone, Mr. Davis. The microphone does not magnify
23 your voice; it simply feeds into the tape recorder, so you
24 need to speak clearly and distinctly so we have a record.
25 Thank --

1 THE WITNESS: Okay.

2 THE REFEREE: -- you.

3 WILLIAM DAVIS,

4 called as a witness on behalf of the Petitioner herein, having
5 first been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. EDINBURG:

8 Q Would you please state your full name and spell
9 your last name for the record?

10 A William Halbert (phonetic) Davis. Last name
11 D-A-V-I-S.

12 Q And what is your occupation?

13 A I'm an accountant for Trammel-Crow.

14 Q Are you here today pursuant to a subpoena that I
15 issued?

16 A Yes, I am.

17 Q And do you have some fears and trepidations about
18 testifying in this case?

19 A Yes, I do.

20 Q Why?

21 A I was given a letter to sign that I release no
22 financial information regarding Westmark (phonetic)
23 Investments.

24 Q Did you feel that there may be repercussions
25 against you by testifying at this hearing?

1 A Yes, I do.

2 Q By Mr. Wilfred?

3 A Yes.

4 Q Mr. Davis, how long were you employed at Westmark
5 (phonetic)?

6 A Four months.

7 Q And who was your primary employer? Who hired you?

8 A Harmon Wilfred.

9 Q And who was your supervisor?

10 A Harmon Wilfred.

11 Q What was your role there? What did you do for
12 (inaudible)?

13 A Bookkeeper.

14 Q How often or frequently did you see Mr. Wilfred?

15 A Six to eight times a day, usually.

16 Q And during what four-month period of time would
17 -- did you work there?

18 A In the office?

19 Q Yes.

20 A Eight to 12 hours a day.

21 Q And when was your last day of work there?

22 A April 17th.

23 Q Of what year?

24 A This year.

25 Q 1989?

1 A Right.

2 Q So you would've began work in January?

3 A Right.

4 Q And this is the same time period that the divorce
5 (inaudible)?

6 A Actually it was December that I started.

7 Q Now --

8 THE REFEREE: In December of 1988 you started
9 working at Westmark (phonetic), is that correct, Mr. Davis?

10 THE WITNESS: Yeah, I believe that was right.

11 THE REFEREE: To April 1989 --

12 THE WITNESS: Right.

13 THE REFEREE: -- is that (inaudible)?

14 THE WITNESS: Yes.

15 THE REFEREE: All right. Thank you.

16 Q (By Ms. Edinburg) Would you describe for the
17 Court, please, what, on a daily basis, would you observe about
18 Mr. Wilfred's behavior?

19 A He was very much into religion and seemed to have
20 real mood swings.

21 Q What kind of mood swings? (inaudible)?

22 A Like one day he'll come in whistling, real happy.
23 The next day he'll come in -- or 10 minutes later he'll be all
24 upset and -- and off the wall.

25 Q Off the wall in what way? What would he do?

1 A Some of the things that he said were -- were a
2 little bit strange, I thought.

3 Q Okay. Can you give us specific examples?

4 A That everything that he's doing revolves around
5 God and that payin' checks, God's gonna take care of all the
6 -- or the bills; God's gonna take care of all the bills and
7 everything.

8 Q Do you have specific examples of what would happen
9 if you would give him a bill that needed to be paid? How
10 would you get instructions about whether you could pay that
11 bill?

12 MR. HINDS: If I might propose a small objection.
13 I would ask that as a preface to these questions on behavior
14 that a time-line be implied. We have a four-month period and
15 I think it's important that we have a time-line.

16 THE REFEREE: Would you -- a little better
17 foundation -- or ask the witness to give a little better
18 foundation with regard to when these things might have
19 occurred?

20 Q (By Ms. Edinburg) H-- when did you first notice
21 the mood swings for the bizarre behavior?

22 A It'd be one month after I started.

23 Q So would that be in January of 1989?

24 A Yes.

25 Q And how frequently would you see the different

1 behavior?

2 A It was like every other day, we were always
3 wondering whether he's gonna be down to earth or -- or another
4 person.

5 Q And who -- what do you mean we? Who are you
6 talking (inaudible)?

7 A Everybody in the office. Laura Kelker,
8 Nancy Fleming (phonetic), Meredith McClennan (phonetic), I
9 believe her last name was.

10 Q So when -- when -- when you would observe this
11 behavior, how did he present when he was, quote, in a good
12 mood or stable? How -- how -- what -- what did you observe?

13 A I -- I guess I don't follow your question here.

14 Q Well, his normal or nice behavior, was he a nice
15 man, was he reasonable and rational?

16 A Yeah. He seemed real nice and no problems, real
17 rational.

18 Q And then what -- what did you observe? What other
19 behavior did you observe?

20 A Well, I guess -- you want a specific example or --

21 Q Sure.

22 A We had a -- there was an ongoing battle with
23 CityFed (phonetic) and, again, I don't want to disclose any
24 financial stuff 'cause I'm afraid this guy's gonna come back
25 and try to sue me here.

1 Q Uh huh.

2 A But --

3 Q Just talk about his behavior and not disclose
4 any --

5 A Just generalizations, you mean, or --

6 Q Well, no. What would he say? What would he do
7 that you felt was strange or odd behavior?

8 A Uh --

9 Q What happened with the -- the -- the thing with
10 CityFed (phonetic)? I don't want you to get into the details
11 of the transaction, but what was Mr. Wilfred's response or
12 instructions to you?

13 A Basically they had agreed to give us some funding
14 for a project and it was an ongoing battle and they were gonna
15 give us the draws and he was real happy; everybody was real
16 happy we were gonna get the draws and 10 minutes later he
17 writes a letter to 'em saying it's a conspiracy.

18 Q And -- and was he angry then, was he difficult to
19 -- to communicate with at that point?

20 A He was just -- it was a behavior that none of us
21 really expected. I mean, we all -- all thought that the
22 project was gonna get the money and -- and --

23 MR. HINDS: Did you get the money?

24 THE RESPONDENT: Not (inaudible) --

25 THE WITNESS: -- he turns around and writes this

1 letter and says, well, I'm gonna write a letter that there --
2 it's a conspiracy, wanna -- they wanna take over the projects
3 and -- and run me out of business and they've been trying to
4 do this for a long time.

5 Q (By Mr. Edinburg) Do you recall any specific
6 conversations that you had with Mr. Wilfred, either at lunch
7 or in the office, where he shared things with you that would
8 -- that seemed awkward or strange to you?

9 A Yeah, there was one time where we went down to
10 breakfast 'cause a lot of crazy things were happening and --
11 and I felt we needed to talk about what was going on around
12 the office and try to build up the morale and -- and try to
13 straighten the problems out we had.

14 And he said he felt that he had a need to share with
15 me that -- an experience that he -- that he has and is ongoing
16 and he said something to the effect -- well, exactly what he
17 said was, I have an extremely high libido and -- which I take
18 to be a sexual drive. He said that he watched the neighbor
19 lady across the street unveil herself in front of the window
20 and he stood there for 10 or 15 minutes watching her do this,
21 then he said he began shaking so bad that he ran down to the
22 bathroom, locked himself in and -- and prayed for two and a
23 half hours.

24 Q Do you remember when you had this conversation?

25 A To the day, no. We had it down in the Harvest

1 House, downstairs.

2 Q How long ago?

3 A That was --

4 Q Would it have been --

5 A -- let's see --

6 Q -- after March 3rd? After we filed the divorce
7 papers?

8 A Yes.

9 Q Did you have any other conversations with him
10 where he shared some feelings about God or Jesus or his -- his
11 religious beliefs?

12 A All the time, he --

13 Q (inaudible)?

14 A Every day he was talking about the born-again
15 Christian stuff and --

16 Q What would he say?

17 A That -- well, one example is, the person I
18 replaced, he claimed that she had demons within her and that's
19 one reason they got rid of her, is 'cause that she was
20 possessed by demons and he said that Tom Jones (phonetic), his
21 partner, was a prophecy and that he could see demons and he
22 was clairvoyant and everything.

23 And he said that he could see good spirits in me,
24 that's why, you know, he felt like I was -- I should be hired
25 there.

1 Q What would he do when you would give him a bill
2 that was delinquent or needed to be paid, what was his
3 response about how the bill was to be paid?

4 A One specific bill that was for our -- to Coldwell
5 Bankers -- again, I don't wanna go into -- I shouldn't go into
6 any detail here 'cause, you know, I don't wanna be sued by
7 this guy, and I know he would sue me, 'cause he's suing
8 everybody in the world here --

9 MS. EDINBURG: Your Honor, is the Court at this
10 point at all willing to instruct the witness that you will
11 provide some protection for him in terms of the subpoena as it
12 relates only to the domestic situation and Mr. Wilfred's
13 ability to function on a daily basis on a rational -- so that
14 we don't have this potential of a lawsuit against the
15 witness?

16 I'm very concerned about that and so is the
17 witness.

18 MR. HINDS: Your Honor, if it please the Court, I
19 (inaudible) believe this witness is here for the exclusive
20 purpose of testifying to my client by his direct observations
21 on the stability issue. If he wishes to -- and wants to run
22 the risk -- and I have not seen nor do I believe he has
23 probably brought a confidentially -- con-- confidentiality
24 agreement -- if he wants to attempt to go over under that I
25 suppose he does it at his own risk.

1 I don't believe this Court has the authority to
2 intrude onto these second- or third-party contractual
3 relationships, plus it's not relevant as to what this witness
4 is offered for. I think he should stick to what he observed
5 and not get into the question of this man's other issues,
6 unless there's some other offer of proof of what the
7 (inaudible) --

8 THE REFEREE: I haven't heard anything that would
9 lead me to believe that he's divulged anything --

10 MS. EDINBURG: Okay.

11 THE REFEREE: -- regards to financial issues --

12 MS. EDINBURG: Fine.

13 THE REFEREE: I -- I certainly could, you know, I
14 guess be a witness to that. I don't know what other
15 protection I can provide him other than he is here to testify
16 with regard to what he's observed with regards to Mr.
17 Wilfred's behavior.

18 Q (By Ms. Edinburg) So, tell us what on that
19 particular check that -- I'm sorry, bill that you were
20 referring to.

21 A Okay. I gave him a delinquent bill which was going
22 on its sen-- second month of delinquency. I gave him this
23 bill and said, I think we really need to pay this and please
24 advise me. It came back with a little note on it that said,
25 in Jesus' name amen, and so I looked at it for a while and

1 talked to Laura.

2 I said, what should I do, do you think? And we both
3 agreed we ought to go back and talk to him and see what he
4 meant. So I went back and I -- I asked him what I meant by it
5 and he says, well, oh, it'll get paid; just pray for it. And
6 -- and that's all I heard about it.

7 Q What did it mean -- what did he mean by, in Jesus'
8 name, amen? What did he tell you that meant?

9 A He believes that praying for money's gonna bring
10 money in to pay the bills.

11 Q How often would you hear that?

12 A Oh, probably every other day.

13 Q Were there other conversations that you had with
14 him where he shared information specifically about his ability
15 to take care of Tyler? Or his desire to get Tyler?

16 A Yeah, he --

17 MR. HINDS: Your Honor, I think we've asked that
18 this be prefaced with a time-line. This is a particularly
19 sensitive question so I'm going to ask specifically.

20 Q (By Ms. Edinburg) And I'll ask -- after he was
21 served with divorce papers --

22 A Yeah.

23 Q -- did he make any statements to you regarding his
24 desire to get his son?

25 A Yeah, he said he was gonna get Sandra off

1 completely. She and Tyler will come back to him.

2 Q What do you mean, they will come back? Those are
3 his words? He'll make them come back to him?

4 A Th-- those were his exact words. I can't really
5 read anything into it.

6 Q Uh huh.

7 A He says, they will come back to me.

8 Q Are there -- are there pieces of conversation that
9 you had with him about his ability to properly care for a
10 child?

11 A Yeah, he said once that he really doesn't know how
12 to raise a child. Here all of a sudden he has a child and he
13 doesn't know how to raise him, but he's gonna learn.

14 Q When was that statement made?

15 A That statement was in -- I believe it was in
16 February.

17 Q That was before the divorce was filed?

18 A I believe so, yeah.

19 Q Did he ever make any statements about him not
20 being able to pay attention to detail?

21 A Yeah, his expression was, tying the dog to the
22 bumper of the car.

23 Q And what does that mean?

24 A It means that he forgets a lot and a specif--
25 specific example to that was he -- he kept giving the -- the

1 child concentrated formula, which gave him a -- a real rash,
2 made him real sick for like three days in a row. And this is
3 what Harmon told me himself.

4 Q Is this before or after the separation?

5 A It's before.

6 Q Now, when you say, tying the dog to the bumper,
7 I'm not sure the Court knows what you mean by that. What --
8 what does that phrase mean?

9 A The way he put it is, he's real forgetful about
10 things and he's not very detail oriented. That was what the
11 whole conversation was about, not being detail orientated.

12 Q Okay. I still don't understand what the phrase,
13 tying the dog to the bumper, means. Can you give us a little
14 bit of understanding of what -- how you understood his
15 statement to you?

16 MR. HINDS: Your Honor, I'm gonna object to twice
17 (inaudible) if he can't read into what the -- the (inaudible)
18 what my client thought. This is really another form of the
19 same thing. He can't interpret what my client believes that
20 particular (inaudible) might represent.

21 MS. EDINBURG: I think the witness knew what the
22 intention and the -- the whole circumstance around the phrase
23 meant and I think he can answer if he knows what it meant.

24 THE REFEREE: If he knows I'm gonna allow him to
25 answer.

1 THE WITNESS: Yeah, I think it means that -- in
2 fact, I know what it meant -- means, is it means you're very
3 forgetful; you forget things and -- important things that need
4 to be taken care of.

5 Q (By Ms. Edinburg) But -- but specify for us the
6 phrase and how that ties into what you just -- in -- into the
7 meaning.

8 A Phrase, tying the dog to the bumper.

9 Q Right. What does that mean?

10 A This is -- this is from the movie "Vacation" where
11 he tied the dog to the bumper of the car and forgot the bumper
12 was back there and drove 60 to 100 miles down the road and got
13 out and the kids asked about the dog and he went to the back
14 of the car and there the dog is.

15 Q And that was a (inaudible) --

16 THE REFEREE: Excuse me, (inaudible) --

17 (WHEREUPON, the tape was changed.)

18 THE REFEREE: We're back on the record now on
19 June the 13th, 1989, in re the marriage of Wilfred, 89DR477.
20 You may proceed, counsel.

21 MS. EDINBURG: Thank you.

22 Q (By Ms. Edinburg) I think I was asking you about
23 (inaudible) the context in which (inaudible) was talking about
24 (inaudible).

25 A Uh huh, exactly.

1 Q Mr. Davis, are there other examples of -- where
2 you would observe in the office Mr. Wilfred being cool and
3 calm and collected and then going in the off-- go-- going into
4 his office or something happening and then a totally different
5 personality emerging?

6 A Yeah --

7 MR. HINDS: Your Honor, I'm gonna object.
8 Counsel's making a statement. That's a leading --

9 THE REFEREE: I -- it's --

10 MR. HINDS: -- statement.

11 THE REFEREE: -- slightly leading, counsel, yeah.

12 MS. EDINBURG: Okay.

13 Q (By Ms. Edinburg) So, talk about the behavior,
14 the contrasts in behavior that you could see.

15 A He -- especially with his employees -- one minute
16 he'd think you were the greatest thing since peanut butter and
17 the next minute you were like totally cut, he didn't like you
18 at all and he was ready to fire you and then you knew at that
19 point that, you know, you couldn't -- couldn't become friends
20 with the guy, again, or -- you know -- you knew that your job
21 was done with.

22 Q Did you have a specific example of this after you
23 left the employment of Mr. Wilfred? Was there a phone
24 conversation that you had with him?

25 A After I left the employment of Mr. Wilfred, two

1 days later I called him up and said, I expect my check on
2 Friday. He got very irate and said, I'm gonna sue you for
3 everything you got, you're gonna keep your mouth shut, you're
4 gonna -- you're not gonna say anything about Westmark
5 (phonetic), I want you to sign a paper saying that if you
6 disclose any financial information or anything about Westmark
7 then -- then I will sue you, that I can sue you.

8 Q What was the tone of his voice?

9 A He was just like a crazy man, you know, screaming
10 and yelling on the phone and then he called me back about 20
11 minutes later and he was totally a different guy. He said,
12 you know, I've been doing a lot of thinking here over the last
13 20 minutes and a lot of praying and I'm really sorry, and he
14 was real humble and -- and all this and saying that, you were
15 a good employee and -- and I'm glad we can leave things on a
16 -- a even keel here and I just want you to sign that paper and
17 then -- then you go your way, I go my way.

18 Q Did you believe it -- was it like talking to the
19 same person?

20 A A totally different guy.

21 Q And you're sure it was him both conversations?

22 A Oh, yeah.

23 Q Was that typical of behavior that you observed
24 previously?

25 A Yeah. It didn't surprise me at all.

1 Q What -- do you believe that Mr. Wilfred has taken
2 his new-found belief in Christianity almost to an extreme?

3 MR. HINDS: Your Honor, I'm gonna object. This
4 witness, A, has no expertise in whether he may or may not be
5 overly religious, he can only testify as to his observations.
6 And whether he believes he's taken Christianity too far is not
7 within any expertise --

8 MS. EDINBURG: I'll rephrase the question.

9 THE REFEREE: Please do, counsel.

10 MS. EDINBURG: Okay.

11 Q (By Ms. Edinburg) Mr. Davis, were there
12 circumstances during your work with him where he would make
13 statements about his own situation that seemed to be not
14 necessarily within the normal realm of understanding of most
15 of us?

16 A When he was down he compared himself to Job. When
17 he was up he compared himself to David and -- and Goliath. He
18 would go in his office and disappear for a couple hours at a
19 time and come out with his eyes all glassy and -- and from
20 what I understand he -- he'd go in there and pray.

21 Q Did Mr. Wilfred take a lot of trips or leave town
22 when you were working there?

23 A He went to New Mexico for, I believe it was a week.

24 Q And were these trips spontaneous or were they
25 planned over long periods of time?

1 A They were pretty spontaneous. Like a couple days
2 before that he decided to go.

3 Q When did he go to Mexico, do you know?

4 A The dates -- I -- I'm not sure when it was.

5 Q When he came back did he make any statements about
6 his desire to live in Mexico?

7 A Yes.

8 Q Move to Mexico?

9 A Yeah, he mentioned that he'd like to -- if he lost
10 everything tomorrow he'd like to go to Mexico and open up a
11 Bible school for boys.

12 Q And he said that to you when he came back?

13 A Yeah.

14 Q And was that this year?

15 A Yes.

16 Q Did -- were there any subsequent connections with
17 this trip to Mexico, calls to the office from anyone in
18 Mexico?

19 A There was a call to the office from a -- some guy
20 that couldn't speak any English and a -- we're lookin' all
21 over for Caesar (phonetic) to -- Caesar Costas (phonetic) to
22 translate. By the time they got it translated, they found out
23 that this guy that Harmon met once down in Mexico on his trip,
24 his mother died. Harmon didn't even know the guy and he was
25 gonna -- he wanted some money to -- for the funeral services

1 and wanted Harmon to send the money and Harmon said he would.

2 Q Said he would?

3 A Yeah.

4 Q Did you ever -- did you ever receive instruction
5 to open other accounts by Mr. Wilfred?

6 MR. HINDS: I'm gonna object. First, we don't
7 even know what accounts we're referring to. He's a
8 businessman with numerous accounts. There's an allusion in
9 that as if there was some subterfuge. There needs to be a
10 foundation.

11 MS. EDINBURG: I'll re-- I'll rephrase the
12 question.

13 Q (By Ms. Edinburg) Were you responsible for putting
14 deposits in certain business accounts that were already open?

15 A Yes.

16 Q And was there a -- ever a situation that arose
17 where Mr. Wilfred asked you to do something other than your
18 normal business proceeding (inaudible)?

19 A I -- I really don't want to answer that, 'cause if
20 I do I'm afraid he's gonna have some recourse. Again, we're
21 giving out financial information.

22 Q You've heard this attorney today make a statement
23 (inaudible) financial affidavit that was filed with the Court
24 that he earns approximately \$8,000 a month. Is that
25 consistent with the records that you observed during the time

1 that you worked for Westmark (phonetic)?

2 A Again, I -- I feel like I'm gonna get sued if I
3 say anything about that.

4 Q Did Mr. Wilfred ever make a statement to you
5 other than money that involves Westmark's (phonetic) finances,
6 that there was other money that had been put aside?

7 A Yes.

8 Q And what did he tell you?

9 A That if the company went down tomorrow they had
10 around 100,000 out there and they could survive for a y-- at
11 least a year.

12 Q 100,000 where?

13 A I didn't -- I said I didn't want to know.

14 Q And that was made this year?

15 A Yes.

16 Q Are you a father of two children?

17 A Yes, I am.

18 Q How old are your children?

19 A Two and four.

20 Q Do you -- based upon all of your knowledge of Mr.
21 Wilfred -- feel comfortable leaving your two children in his
22 care?

23 MR. HINDS: Now that is a terrible question. This
24 isn't a psychologist. To say, based on his knowledge would
25 he believe his children, is just really an attempt to inflame

1 the Court.

2 MS. EDINBURG: (inaudible)

3 MR. HINDS: That's not an appropriate question at
4 all and Ms. Edinburg is experienced enough to know better.

5 MS. EDINBURG: Your Honor, that is a question that
6 any lay witness can answer regarding babysitting or caretaking
7 and the Court hears from lay people all the time about whose
8 care they would entrust their own children to. I'm not asking
9 as a professional; I'm asking as a father.

10 THE REFEREE: I don't think she asked a
11 professional opinion, counsel. I think any lay person can
12 give their opinion with regards to whether or not this is a
13 person that they would feel comfortable leaving their own
14 children with. I'm going to allow the question.

15 THE WITNESS: Absolutely not.

16 Q (By Ms. Edinburg) Why not?

17 A I feel that he couldn't take care of my kids. I
18 don't know with this high libido that he claims he has, I
19 wouldn't want my kids around this guy.

20 Q Do you believe, based upon what you know about Mr.
21 Wilfred, that he could take the minor child and -- and leave
22 the state or leave the country?

23 A I really couldn't say. I couldn't answer that.

24 Q Would you be afraid that that's a possibility?

25 A With my own child, I wouldn't -- I just wouldn't

1 have him around 'em 'cause I wouldn't want to take that
2 chance.

3 Q What about with his own child? If he -- he had
4 the opportunity to take Tyler and everything else around him
5 was ruins, as you said earlier?

6 A I think there's a chance he probably could.

7 MS. EDINBURG: Thank you. I have nothing further.

8 THE REFEREE: Cross examine, Mr. Hinds?

9 CROSS EXAMINATION

10 BY MR. HINDS:

11 Q How old are you, sir?

12 A 33.

13 Q And are you a certified public accountant?

14 A No.

15 Q Bookkeeper?

16 A Right.

17 Q When I heard you use the nomenclature, this guy,
18 three or four times you said this guy when you related to Mr.
19 Harmon (sic), I detected a certain amount of animosity,
20 acrimony. Am I misevaluating your feelings toward Mr. Harmon
21 (sic)?

22 A Absolutely.

23 Q You have the acrimony.

24 A Pardon me?

25 Q You have the animosity and the acrimony, do you

1 not?

2 A You want to restate that? I -- I don't understand
3 what you're saying here.

4 Q You have some strong feelings about Mr. Harmon
5 (sic) personally --

6 A I like --

7 Q -- how he treated you.

8 A I like Harmon very much.

9 Q So you don't have feelings of acrimony, do you?

10 A No, I think he provided me with a great
11 opportunity, a place to work, I gained some great experience
12 and I told him that over the phone the last conversation we
13 had.

14 Q And he fired you.

15 A No, I quit.

16 Q Terminated your relationship.

17 A No, I quit.

18 Q You quit?

19 A Yeah.

20 Q Just before he fired you?

21 A No.

22 Q No harsh feelings to Mr. Harmon (sic) that caused
23 you to say, this guy?

24 A No, not at all.

25 Q In fact, no harsh feelings because he called and

1 chewed you out a good one and then 20 minutes later he called
2 back and said, I want you to sign this non-disclosure, this
3 confidentiality -- no harsh feelings?

4 A Absolutely not.

5 Q You know Mr. Shubert (phonetic)?

6 A Yes.

7 Q Who's he?

8 A He's the CPA.

9 Q For who?

10 A For Harmon Wilfred.

11 Q And his related entities, is that right?

12 A Right.

13 Q Licensed to practice accounting in the State of
14 Colorado?

15 A Is Paul Shubert (phonetic)?

16 MS. EDINBURG: Objection, objection. Beyond the
17 scope of direct examination. I don't know what the relevancy
18 is.

19 THE REFEREE: Sustained.

20 Q (By Mr. Hinds) Let me ask you this question. Are
21 you a -- a fundamental Christian?

22 A Yeah, I believe so.

23 MS. EDINBURG: Objection as to the relevancy of
24 his own religious beliefs. I don't know what that matters.

25 MR. HINDS: Throughout the entirety --

1 THE REFEREE: Well, I'm sorry, counsel, I think
2 you opened that line of questioning and I'm going to allow Mr.
3 Hinds to cross examine (inaudible).

4 C (By Mr. Hinds) Let me redefine the question. Do
5 you see that Mr. Harmon (sic) has strong fundamental Christian
6 beliefs?

7 A Sure.

8 Q He uses nomenclature like the devil, right?

9 A Rephrase that. I --

10 Q He -- it's not uncommon for him to use words like
11 demon or the devil. I think you talked about that. Job,
12 Jehovah, old-type terms? He uses those kinds of things?

13 A Uh huh.

14 Q Quite frequently. Is there something repugnant
15 in the fact that he uses words like demon or Jehovah and those
16 fundamental terms to you in your religious beliefs?

17 A Only when he fires people, saying that they're
18 possessed by demons. I think there's something wrong with
19 that.

20 Q In -- in the fundamental Christianity belief, you
21 have enough knowledge of Mr. Harmon (sic) to know that those
22 terms are symbolic terms, are they not?

23 A For some people.

24 Q And when he would go into his room and pray and
25 come back, you said glassy-eyed, could they have been in fact

1 tears and emotional rather than glassy? Are you talking about
2 tears in Mr. Harmon's (sic) eyes?

3 A It's definitely emotions.

4 Q Yeah, it's emotions. He's an emotional man, right?

5 A Uh huh.

6 Q Now, as an emotional man, has he been under any
7 particular stress, without going into detail, has he been
8 under some stress in the last -- up through your termination,
9 was he under any particular business --

10 A Sure.

11 Q -- or economic stress?

12 A Yes.

13 Q In fact, I think you used -- what was the name of
14 that large organization, banking institution, mortgage holder?
15 What was that? Fed company? Do you know -- do you know what
16 I'm talking about?

17 A Yeah, I believe so.

18 Q What's the name of the company?

19 A CityFed (phonetic).

20 Q CityFed (phonetic), all right. Without getting
21 into particulars, you indicated that he had an overreaction to
22 that situation, in your opinion, that he was sending 'em
23 letters of conspiracy.

24 MS. EDINBURG: Objection as to the re-- the
25 restatement. That's not what the witness testified and I

1 object to the form of the question. It's not properly stated.
2 That's not what the evidence was.

3 THE REFEREE: I will ask you to restate the
4 question, Mr. Hinds, I --

5 Q (By Mr. Hinds) You were concerned -- let me --
6 I'll just ask you direct. Were you concerned that he was
7 overreacting to this company in terms of his sending a letter
8 to them?

9 A Absolutely.

10 Q And you are aware, are you not, that that same
11 company commenced foreclosure proceedings on or about April
12 1st of this year?

13 A Uh huh.

14 Q Foreclosed two major properties of his?

15 A Uh huh.

16 Q And those same properties were relatively well-
17 leased during the foreclosure process?

18 A I wouldn't say that.

19 Q Mr. Harmon (sic) wanted to hold onto those
20 properties, you know that?

21 A Uh huh.

22 Q And would it not be natural for him to have a very
23 strong reaction to be foreclosed upon relative to those
24 properties?

25 A Sure.

1 Q He was trying to hold onto 'em.

2 A Sure.

3 Q Was trying to hold onto them a reasonable business
4 decision?

5 A Sure.

6 Q Okay.

7 THE RESPONDENT: Mr. Wilfred.

8 MR. HINDS: I'm sorry. If I say it once more you
9 can chastise me again.

10 Q (By Mr. Hinds) Mr. Wilfred, you indicate, has a
11 tie the dogs to the bumper. He tends to be more of a global
12 fellow than a detail man.

13 A Uh huh.

14 Q Would that be a fair statement?

15 A Uh huh.

16 Q An ideas person? How many employees are within
17 his related companies?

18 A Right now or when I was working there?

19 Q When you were there.

20 A Let's see. One, two, three, four -- well, five,
21 including Sandy. Well, no, actually about eight of us.

22 Q How -- is it your testimony that you believe that
23 Harmon Wilfred would not be candid and honest in testifying to
24 this Court?

25 A Yes.

1 Q Why is that, sir?

2 A Because he -- he's a manipulator. He's a very
3 bright guy and he tends to take the truth and kind of turn it
4 around to make it look real nice.

5 Q Do you feel he manipulated you?

6 A No, not necessarily.

7 Q Now, you indicated you were here under subpoena.

8 A Uh huh.

9 Q I would expect that that indicates that you're not
10 a voluntary witness?

11 A Nope.

12 Q You are a voluntary witness?

13 A No, I am not.

14 Q And I assume that by your testimony you have kept
15 inviolate the confidentiality agreement that you signed?

16 A Absolutely.

17 Q How many times since Mr. Harmon (sic) and Mrs. --
18 Mr. and Mrs. Wilfred -- Harmon Wilfred -- how -- how many
19 times have you visited and verbally discussed any matters with
20 Sandra, his wife?

21 A Never.

22 Q You've never discussed --

23 A She --

24 Q -- anything?

25 A No.

1 Q Has she discussed things with you?

2 A Well, she -- yeah. I take that back. She did call
3 once and say that -- that we may be going to court and I'd
4 like you to testify and I said I'd rather not and she called
5 me two days ago and said, we are going to subpoena you to come
6 to court and I was served with the subpoena yesterday.

7 Q Now, you indicated something about Mexico. You
8 speak Spanish?

9 A No.

10 Q You're saying that he identified to you that he
11 was going to kidnap his child and take the child to --

12 A Oh, absolutely not.

13 Q Okay. Did you indicate that he said in some sense
14 that he would start a Bible school if he lost everything
15 here?

16 A Far-- run that by me.

17 Q Did you testify that if Mr. Harmon (sic) lost
18 everything, I think was the way you phrased it, he was
19 thinking of starting a Bible school in Mexico?

20 A He --

21 Q Boys' Bible school?

22 A He expressed that to me when he came back from
23 Mexico.

24 Q That didn't indicate to you that he'd cut and run
25 or kidnap, did it?

1 A It just sounded like, if he lost everything, he
2 had enough money to go down there and -- and just leave
3 everything behind here and -- and I don't know if that
4 includes taking Tyler or not.

5 Q But your observations during your employment was
6 that Mr. Wilfred was fighting to maintain and to keep his
7 business afloat. Is that a fair statement?

8 A Uh huh.

9 Q This libido stuff -- what's your knowledge of the
10 brain to know what he meant by, he's got a high libido?

11 A I didn't even know what a libido was. I guess I
12 had Psychology 101 and they talked a little bit about the
13 libido, but he specifically -- he said, my libido is -- I have
14 a extremely high libido, extremely high sex drive, and --

15 Q He said, extremely high sex drive or high libido?

16 A He said, high libido, and then he started talking
17 about his high sexual desires.

18 Q Now, have you observed him with his child?

19 A Pardon me?

20 Q Have you observed him with his child?

21 A No.

22 Q So you don't know how he feeds the child from
23 direct observation, whether the child is attached or bonded or
24 anything like that?

25 A No, not really.

1 Q Have you, by illustration and contrast, seen Mrs.
2 Wilfred with the child?

3 A Yes, I have.

4 Q Now, are there any positive qualities in Harmon
5 Wilfred, in terms of his business acumen, in terms of his
6 survivorship or investment and making things work, anything
7 positive that you've noticed in the man?

8 A Yeah, he has a lot of positive traits, I believe.

9 Q Give me some examples of his positive traits.

10 A I think that he's -- he -- he was very nice to --
11 to his employees when you're on his good side. Not to say
12 when you're -- when you -- you become possessed by the devil
13 or whatever he believed, that's -- that was his bad side.

14 He's a very good salesman. I think that was one of
15 his best qualities that I admired. He was a great persuader,
16 which I admire. I'd say those are the key points.

17 Q Do you have any belief that he'd intentionally try
18 to harm, from your observation, physically, his child?

19 A I would say probably not intentionally.

20 MR. HINDS: That's all I have. Thank you.

21 MS. EDINBURG: Just brief redir-- oh, I'm sorry.

22 Do you have questions?

23 THE REFEREE: We have a guardian ad litem, Ms.
24 Edinburg.

25 MS. EDINBURG: I forget. I'm sorry.

1 MS. DYCUS: The other problem with being up here
2 is --

3 MS. EDINEURG: Yeah, I know.

4 MS. DYCUS: -- I look like I'm being a bailiff.

5 Your Honor, in order for the record to be clear, I'm
6 going to go back to one of Petitioner's questions --

7 EXAMINATION

8 BY MS. DYCUS:

9 Q -- and ask you again, Mr. Davis, did -- in the
10 const-- context of making deposits to business accounts, were
11 you ever asked to do anything unusual?

12 A Yes.

13 Q Okay. Will you tell me what that is, please?

14 A Do I have protection from the Court?

15 Q I -- I would ask the Court to instruct the
16 witness to answer. I don't feel that -- feel the Court has
17 the ability to compel him to answer and my own feeling is that
18 he would not be violating agreement if he is doing it under
19 compulsion of Court order.

20 MR. HINDS: Well --

21 MS. EDINBURG: I agree. I mean, I think this is
22 important testimony and it goes to Mr. Wilfred's credibility
23 if he's instructing an employee to do something out of the
24 course of ordinary business transactions, specifically
25 regarding money, and I think this Court can give -- cloak this

1 witness with some protection if he's being ordered to answer
2 under oath this -- and protect him from future suit by Mr.
3 Wilfred.

4 THE REFEREE: Ms. Edinburg. Ms. Dycus, your
5 argument as to why the Court should order this witness to
6 answer this question?

7 MS. DYCUS: Your Honor, I am not aware of the
8 witness claiming any particular privilege which permits him to
9 avoid answering this question. He has said he would prefer
10 not to answer it. He is concerned about his personal
11 liability if he does answer it. But that does not raise to
12 the level of a privilege to avoid that answer. I was adding,
13 sort of as a dictum, that I feel if he is compelled to testify
14 that there is no kind of agreement that can hold him liable.

15 In addition, Your Honor, there could be one further
16 protection placed on this by the Court putting a limited
17 access to the transcript and ordering everyone present that
18 they cannot repeat any of this information outside of this
19 room.

20 THE REFEREE: Mr. Hinds, I will hear from you.

21 MR. HINDS: Well, I haven't seen the agreement, so
22 it's a --

23 THE REFEREE: I haven't either.

24 MR. HINDS: -- little bit hard for me to give an
25 opinion. If there is a privacy and an undisclosed agreement.

1 and I assume that the purpose of that is, given the tenuous
2 circumstances of the corporation, that it would be an
3 endangerment to the corporation or the other entities' welfare
4 and financial future to have this particular information.

5 These folks are very generous in saying to this man,
6 speak up and you're gonna be protected by the Court. I'm not
7 in that field of law, but I wouldn't give that protection
8 statement to this gentleman. He signed an agreement. I
9 certainly would feel before he testifies on this particular
10 issue -- we're not gonna be completed today.

11 So my recommendation is as follows: That this
12 question be held in abeyance, that he be subject to recall,
13 that I have the opportunity to take a look at the agreement
14 that was signed between the parties and see if I'm gonna
15 continue with the objection. If I feel, in reading that, that
16 it would be appropriate, then I would, under the guideline
17 suggested by the GAL, ask that something be submitted of
18 confidentiality and a clarity of the Court that this cannot be
19 revealed.

20 I'm very concerned if this just goes blanket in open
21 court. No one asked for sequestering of these witnesses.

22 THE REFEREE: That's right.

23 MR. HINDS: We can't sequester now at this point
24 in time under the rules because it has to be done op-- at the
25 beginning of a transaction. So I think that we should, as to

1 this witness, since we're not gonna get completed, find out
2 what the agreement is, have counsel have a phone conference,
3 perhaps with the Court if we deem it necessary to go forward,
4 and -- and then take it at that point.

5 I think you're putting this man in a horrible
6 position. If the Court directs him to do it without having
7 read the agreement and it turns out that what he's done causes
8 him significant liability.

9 MS. EDINBURG: Your Honor, I just would like to add
10 that I'm concerned about Mr. Hinds' statement, we're not gonna
11 finish today. I find that to be quite troublesome because I
12 think that's the strategy here: Let's delay, let's delay,
13 let's delay, and let's not give any money.

14 The -- the other thing that I would point out to the
15 Court is, if this statement was made by Mr. Wilfred to Mr.
16 Davis to do something and it does not affect Westmark
17 (phonetic) Corporation and it was not done as it financially
18 relates to Westmark Corporation, then it does not breach the
19 terms of the agreement as I understand it. And if it was a
20 statement made to him about hiding money or opening other bank
21 accounts and putting money in other bank accounts, then I
22 don't know if it directly affects the -- the agreement that
23 Mr. Davis is -- is referring to and I'm concerned about his
24 own protection here. I understand that.

25 THE REFEREE: Well, that's my concern, counsel.

1 MS. EDINBURG: I -- I understand.

2 THE REFEREE: I don't know that anyone has seen
3 this agreement and -- and I have some concerns about calling
4 this witness in here, saying, yes, answer the question, and
5 then placing him in some kind of jeopardy for having breached
6 the agreement that none of us have seen.

7 MS. EDINBURG: I -- I -- I respect that.

8 THE REFEREE: And I -- I think we have some
9 obligation to at least address the issue of whether or not Mr.
10 Davis, by answering this question, would be placing him in --
11 himself in some kind of jeopardy. I -- I -- I have some real
12 concerns about that and I think Mr. Davis is here and not
13 represented by counsel and I am not going to ask -- I am not
14 going to have him dir-- I am not going to direct him to answer
15 that question.

16 Again, I will -- at this point I will make, I think,
17 Mr. Hinds' suggestion is a good one. I think we can reserve
18 that question for recall. I agree, quite frankly, with Mr.
19 Hinds, that at the rate we're going, counsel, it's -- it's 10
20 minutes after 3 now. I don't -- you -- you indicated that
21 you had several witnesses. Mr. Hinds has indicated that --
22 that he has a professional witness.

23 MS. EDINBURG: I would just hope, Your Honor, that
24 the Court would enter some interim orders (inaudible) --

25 THE REFEREE: I may very well enter interim orders,

1 but that does not mean we're gonna finish this hearing today.

2 MS. EDINBURG: I understand.

3 MS. DYCUS: Thank you, Your Honor.

4 My only other question, which I will say just so it
5 will also be reserved, was the question regarding whether or
6 not the \$8,000 on -- listed on the financial affidavit was
7 accurate, which he also refused to answer before.

8 Mr. Davis, are you willing to answer that question
9 now?

10 THE WITNESS: No.

11 MS. DYCUS: Okay. I have nothing further, Your
12 Honor.

13 THE REFEREE: All right.

14 MS. EDINBURG: I have brief redirect.

15 REDIRECT EXAMINATION

16 BY MS. EDINBURG:

17 Q How many hours a day would Mr. Wilfred work?

18 A Towards the end of my employment, he would,
19 probably per week, I'd say he'd come in maybe two or three
20 days a week. He would --

21 Q Wh-- when you first started in December or January,
22 how -- how many hours a day would he work?

23 A From about 9 till 6:30.

24 Q Okay. Did he work nights or weekends at home,
25 do you know?

1 A I couldn't tell you that. I think he worked at
2 home a little bit.

3 Q Did he ever take Tyler into the office and -- and
4 -- and take responsibility for parenting Tyler in the office?

5 A Never -- never --

6 Q Never.

7 A -- saw him bring Tyler in.

8 Q Okay. So his -- his -- now, when you -- when you
9 talked about his good qualities, he was a good salesman and a
10 good persuader, if Mr. Wilfred had the opportunity to meet
11 somebody and wanted to persuade them to -- to believe in his
12 case or believe in his cause, does he have good verbal skills
13 and ability to do that?

14 A Yes, he does.

15 Q And would a person meeting him on first impression
16 be very impressed with this man?

17 A Yes, they would.

18 Q Is he bright?

19 A Yes, he is.

20 Q Is Mr. Wilfred capable of manipulating people to
21 get what he wants?

22 A Absolutely.

23 MR. HINDS: Hold it just a second, sir. If I might
24 impose my objection. I think, if I heard that, is Mr. Wilfred
25 capable of manipulating, I suppose all of us in this life can

1 do some manipulating. I don't think that kind of leading
2 question is appropriate.

3 THE REFEREE: I'm gonna allow the question for
4 whatever it's worth, Mr. Hinds.

5 Q (By Ms. Edinburg) I asked you, do you believe that
6 he's capable of manipulating someone.

7 A Yes, I really do.

8 Q Thank you.

9 MS. EDINBURG: I have nothing further.

10 MR. HINDS: I have nothing for this witness.

11 MS. DYCUS: (inaudible)

12 THE REFEREE: Mr. Davis, you may step down.

13 MS. EDINBURG: May this witness be excused
14 (inaudible)?

15 THE REFEREE: Yes. Any objection to the witness
16 being excused?

17 MR. HINDS: I think he just indicated he wants to
18 stay.

19 MR. DAVIS: (inaudible)

20 MR. HINDS: Is that what you said? He wants to
21 observe.

22 MS. EDINBURG: Your Honor, I would call as my next
23 witness --

24 THE REFEREE: Excuse me. Before we call another
25 witness, I have another matter -- a brief matter to take care

1 of. Mr. Hall, what is your situation?

2 MR. HALL: Mr. Hegland (phonetic) is refusing to
3 answer some of the questions that gave rise to property he may
4 have and I need to have an order for much of property turn
5 over and stuff.

6 THE REFEREE: As you can see, I am in a -- a
7 hearing. Why don't you ask my clerk -- I don't have a clerk
8 today. If M-- is -- if my part-time clerk is in there, ask
9 her to give you the file and take it to the division. That's
10 the best I can do. I can't -- I -- I am not in a position to
11 interrupt this proceeding for a -- a Rule 69 (inaudible).

12 Sorry for the interruption. Ms. Edinburg?

13 MS. EDINBURG: Okay. Your Honor, as my next
14 witness I would call Laura Kelkwit -- Kelkler (phonetic).
15 Sorry if I'm pronouncing it wrong.

16 THE REFEREE: Raise your right hand, please.

17 (WHEREUPON, the witness was duly sworn by the
18 Referee.)

19 LAURA KELKER,

20 called as a witness on behalf of the Petitioner herein, having
21 first been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. EDINBURG:

24 Q Would you please state your full name and spell
25 your last name for the record?

1 A Laura Christine Kelker, K-E-L-K-E-R.

2 Q And are you familiar with Mr. Harmon Wilfred and
3 Sandra Wilfred?

4 A Yes, I was employed by them.

5 Q When -- what were the dates of your employment?

6 A My employment be-- began on September 12th, 1988.
7 It ended on April 20th, 1989.

8 Q And what was your position with Mr. Wilfred? What
9 did you do?

10 A I began as receptionist. After about a month I
11 became property management assistant. And after that it
12 fluctuated between executive secretary and personal secretary,
13 you know, whatever the urge was that day.

14 Q Are you here today pursuant to a subpoena that I
15 issued to you?

16 A Yes.

17 Q And are you afraid to testify?

18 A I have some fears. I don't fear that I'll be
19 sued, as Bill does. I just -- I have a fear that, you know,
20 that there will be problems with Mr. -- I wouldn't want to see
21 Mr. Wilfred in public after this. I don't know what he would
22 do.

23 Q What were the circumstances of your leaving? Did
24 you -- were you terminated, fired, did you quit?

25 A I had another business opportunity that was too

1 good to pass up, so I left voluntarily.

2 Q Now, would you observe Mr. Wilfred on a daily
3 basis? Would you see him on a daily (inaudible)?

4 A Oh, yes, yes, as his --

5 Q How many times a day would you interact with him?

6 A In the beginning it was, you know, in September
7 through like October, it was, you know, I wasn't his -- his
8 secretary at that time, so it was, oh, a couple times a day.
9 When we moved --

10 THE REFEREE: Excuse me. I'm confused.

11 THE WITNESS: I'm sorry.

12 THE REFEREE: I thought you said you -- you went to
13 work December 12th, 1988.

14 THE WITNESS: No, September 12th, 1988.

15 THE REFEREE: Okay.

16 THE WITNESS: I'm sorry.

17 THE REFEREE: September 12th, 1988.

18 THE WITNESS: Uh huh.

19 THE REFEREE: That makes more sense now.

20 THE WITNESS: In November when we moved from one
21 office to the office that they are currently in, I be-- you
22 know, I became his secretary then and I wa-- you know, I saw
23 him every day -- well, the days he was there. Some days he
24 wasn't there. He would work at home. But those days, you
25 know, I would see him all day long.

1 Q (By Ms. Edinburg) When you would first -- when
2 you first met Mr. Wilfred, how would you describe him in terms
3 of behavior?

4 A In -- the first time I met both Mr. Wilfred and
5 Mrs. Wilfred it was in my interview and I thought that they
6 were both, you know, very -- very nice, you know, I just felt
7 very welcome with them. I was asked a very odd question upon
8 one of my -- the previous interview. I was asked if -- how I
9 would feel working for Christians and, you know, at that point
10 in time I didn't, you know, I didn't know what -- what -- what
11 was meant. You know, later on it would become apparent.

12 Q As you got to know Mr. Wilfred better, did you ever
13 have the opportunity to dis-- to observe some different kind
14 of behavior other than what you expected from the normal
15 employer-employee situation?

16 A Yeah, in November when we moved offices, his
17 behavior became different as in, you know, he wasn't the same
18 person that I had met upon, you know, working -- starting work
19 with them. I had known that he was a Christian and everything
20 and in November it got the point where he and Tom Jones, you
21 know, one of his very good friends and partner in the
22 business, they would, you know, they -- it seemed to be that
23 they were praying quite a bit in the office.

24 There were times that he would come in and he would
25 be, you know, it's -- in a normal mood, normal as in, you

1 know, hi, good morning, how are you. He would go into the
2 office for maybe 15 minutes with the door shut and he would
3 come out and he would -- he would be glassy-eyed and I don't
4 believe it was an emotional-type glassy-eye. You know, I
5 didn't s-- at that point in time there wasn't any stress that
6 would make him overly emotional, crying or anything.

7 It was just, he would come out and he would be very
8 intense and that intensity would, you know, for his -- I -- I
9 believe it was his religion at that time, would go throughout
10 the whole work environment. We all felt that, you know, that
11 -- that -- well, he -- he was so into the Lord that, you know,
12 if we weren't into the Lord, we might not have a job and, you
13 know, there were times when -- when I was asked to pray.

14 I don't mind. I'm a -- I'm a Christian. I'm not a
15 born-again Christian, but I am a Christian; I don't mind
16 praying. But it's -- I don't believe it's in the place to be
17 that intense -- in that intense of an environment at work. I
18 mean, I -- I do that at -- at church.

19 Q Were there ever any times that Mr. Wilfred made
20 comments or remarks to you that you were uncomfortable with?

21 A Yeah, there were. There was one certain day. He
22 was going through --

23 MR. HINDS: Excuse me, Your Honor. I -- I'd like
24 to -- we -- we have an even longer span of time --

25 THE REFEREE: Let's get some kind of --

1 MR. HINDS: Let's get the time-line --

2 THE REFEREE: -- time frame.

3 MR. HINDS: -- of when these (inaudible) --

4 THE WITNESS: Oh, okay.

5 THE REFEREE: Could you give us some kind of time
6 frame?

7 THE WITNESS: I'm sorry. This is in February.

8 I -- let -- let me think about this real quick. Yeah, it was
9 February. No, I'm sorry, it was March. It was March.

10 There were some -- he was -- he was going through
11 some business dealings and he felt that he needed agreement.
12 One of the -- on -- what I -- from what I understand, in his
13 religion to bring something, to make it come true -- I --
14 well, I don't know whether it's to come true or what, but you
15 have to have agreement. Two people have to pray on it for it
16 to -- for it to happen.

17 Well, I was asked to pray over this one business
18 dealing to make it happen, and it was just so -- so intense,
19 you know, and I -- I just felt very uncomfortable at that
20 point in time. The next day he was still in the inten-- he
21 was still very intense and I had to have -- I had to go to --
22 to the doctor; I had a female problem, don't want to go into
23 it. But -- and I -- I explained to Harmon about, you know,
24 how I had to leave and about the doctor.

25 Well, he was trying to -- I guess he feels that in

1 his religion they can heal you, because he kept bringing me in
2 and he'd pray over me and then he'd tell me that there were
3 3,000 people in California that were praying for me. And then
4 he'd call me -- he called me in the final time, and this
5 scared me quite a bit.

6 He -- he said, you won't believe this, I -- I have
7 something that -- that will help you, you know, and I -- I
8 don't believe that -- that for the problem that I had that I
9 could've been healed. But he handed me an annointed cloth and
10 this was a gynecological problem that I had and he told me
11 that if I went -- if I would go and touch myself where I was
12 ailing, I would be healed and that I should not let the
13 doctor do anything to me until they had examined me, because
14 he was sure that he was healing me.

15 And it, you know, it wasn't -- that Harmon that did
16 that was not the same Harmon that hired me. The Harmon that
17 hired me was -- I mean, just any person on the street that --
18 that you would feel comfortable sitting down and talking with.
19 And it got to the point after --

20 Q Let me -- let me stop you for a second. That
21 incident where he handed you this cloth, how did you feel?

22 A I -- I left. I -- I had, you know, the appointment
23 to go to and I left and I was so -- so upset by it I was -- I
24 mean, I was almost physically ill. I didn't know how to take
25 it. I didn't know whether I should really believe that he was

1 trying to help me, because I don't -- I don't -- I don't think
2 in the work setting or anyplace anybody has the right to try
3 and heal my -- my gynecological problems besides my
4 gynecologist.

5 Q Did it seem like he was just being a nice boss
6 that cared about you or --

7 A Well, no. A nice boss that cared about me would
8 have said, thank you, you know, we'll see you tomorrow, I hope
9 you feel better. This was just being too over-zealous. It
10 was too much. It was -- it was bizarre.

11 Q Was it frightening?

12 A Yes, it was.

13 Q Were there other times where he made comments or
14 statements to you that you felt were crossing the boundary
15 between employer-employee?

16 A Yes, there was a time in I'd say either December
17 or January. I was in the employee kitchen getting something
18 to drink and he -- he was talking -- you know, he -- he's --
19 one thing about Harmon, he does make you feel like you're a
20 part of -- like Westmark (phonetic) is a family.

21 Well -- and so it didn't seem odd that, you know, he
22 -- if my son was sick or something, he would -- he would help
23 me with that, you know, he would let me know that he -- he
24 understood, that -- that if I had to leave, he understood,
25 that it wasn't an omen or something to have to leave. So,

1 you know, it didn't seem odd to talk about my personal life.

2 Well, all of a sudden one day, it was either in
3 December or January, he asked me if my husband made me happy
4 in all ways. And I said, in all ways? He goes, yes, you know
5 what I mean? And I said, well, yeah. And I said, yes, he
6 does. He goes, oh, because if he didn't, you would make a
7 wonderful wife -- for, you know, he -- a wonderful wife for
8 me. And I just --

9 Q A wonderful wife for me meaning Harmon Wilfred?

10 A I assume that.

11 Q And this was before the separation --

12 A Uh huh.

13 Q -- or the divorce was filed? Did -- did you take
14 that comment as just kind of a -- a joke or a jest or was
15 (inaudible)?

16 A No. At that point in time, that was when, you
17 know, up until -- well, that -- it must have been in December
18 because my sister worked for the company and the day before
19 Christmas Eve he fired her. She was the one that had -- that
20 they saw demons around. And that's when I started -- I
21 started having some real misgivings about -- you know, I -- I
22 was afraid to -- one day I was supposed to stay after and --
23 and help Harmon do some files and Tom Jones stayed there with
24 me and Harmon was caught in another meeting and he finally --
25 Tom said, I don't want you here alone with Harmon, go ahead

1 and go home. And I -- I was so thankful I left. I, you know,
2 I was, I mean, if you won't -- with as much. --

3 Q When was that?

4 A That was -- that was in the middle of February.

5 Q Before the separation?

6 A Uh huh.

7 Q Did he make other remarks to you, sexually, you
8 know, kind of provocative remarks to you during the course of
9 your employment?

10 A Well, not -- not particularly sexually. He would
11 -- he would -- he would make little -- well, like on
12 Valentine's Day and -- and, you know, many bosses do this and
13 they -- they -- he brought flowers, but he did say, this is
14 the one day of the year that I love because I can come in and
15 kiss the secretaries.

16 You know, I don't -- I -- I appreciate flowers, but
17 the, you know, there didn't need to be that comment.

18 Q Was there behavior after the separation regarding
19 his -- one moment he's real cool and calm and the next moment
20 something different?

21 A Well, at the point when -- the day that Sandy left
22 I did know about it and I was -- I was very fearful because in
23 -- in all honesty, I -- I worried about Harmon because there
24 were so many stresses in his life. You know, his wife had
25 left him, and then like two weeks later the properties went

1 into receivership, and at that point in time I didn't know
2 what to expect. I mean, here was this man with all of these
3 things going wrong and -- and I didn't know where the outlet
4 would be, you know, if -- if he would just fly off the handle
5 or what.

6 About a month after she left he pulled me in to tell
7 me about how Sandy had left him and -- and that he hadn't seen
8 his son for a month and he -- he went through the whole -- the
9 whole saga. And I -- I lost my train of thought.

10 Q What -- what did he say to you when he pulled you
11 in? What did he tell you?

12 A Well, he -- he said, you know, if -- he -- he felt
13 he needed to let me know this and he said that he was -- he
14 had been taking it, you know, the -- the separation and
15 everything, he was going to just do it amicably, but then he
16 decided if he a-- if he wanted his son back, he would have to
17 fight.

18 And he had -- during the -- during the time with --
19 when we were having the problems with the lender, City
20 Federal, he had nu-- numerous -- on numerous occasions said
21 that he would bring them to their knees and they would, you
22 know, they would see what he wanted.

23 Well, he then used that -- he said, I will bring
24 Sandy to her knees and she -- I will have my son back and I
25 will have my wife back and he wanted me, you know, on numerous

1 he asked -- this was, you know, in March and April -- he asked
2 me to go home and pray for his son's return. So, you know, I
3 know that there's -- he has some very strong feelings about,
4 you know, having his son.

5 And I think also his wife, but it was always Tyler
6 in the first place and -- and he wanted to take Sandy to her
7 knees.

8 Q Were there circumstances and times when he would
9 plan business trips, you know, long periods of time in advance
10 or were there kind of spontaneous business trips that just
11 happened?

12 A Well, it seems to me there were trips that -- I --
13 Harmon -- I -- and I mean, he's told me this many times -- we
14 had breakfast once and -- once and he told me that he was a
15 very impulsive person, you know, he -- he did things on
16 impulse. He -- I think he, you know, would plan trips and
17 then he -- the trips that were to be taken with Tom Jones, his
18 business partner. I think Tom would slow the process down so
19 that it wasn't like one day decide they're going on a trip,
20 the next day they leave.

21 Tom would take it and he would plan everything so
22 that it wasn't -- but I, you know, the -- it seems to me the
23 trip to Mexico, that was -- that was a pr-- well, in my
24 opinion, that was a very quick planned -- quickly planned
25 thing and then they didn't take their wives and I thought that

1 that was odd that they didn't take their wives, but --

2 Q And do you know when that trip to Mexico was?

3 A That was, I believe, in -- at the end of January.

4 Q Did he make any comments to you when he came back
5 from that trip about what he would like to do?

6 A No, no, he didn't say anything. He just -- they
7 just said that Mexico was a wonderful place and -- and Tom did
8 -- Tom Jones did tell me that --

9 MR. HINDS: Your Honor, I'm gonna object to
10 whatever Mr. Jones may have said (inaudible).

11 THE WITNESS: Okay, I'm sorry. I'm sorry.

12 THE REFEREE: Sustained.

13 Q (By Ms. Edinburg) Did he ever ask you to do what
14 you perceived to be a -- a kind of strange request for an
15 employee to ask to -- to perform in terms of writing letters
16 to people?

17 A Yeah, there was -- I don't want to go into the --
18 the business dealing, but there was, you know, I don't want to
19 hurt any -- any -- any dealings they might have right now or
20 -- there was a time that we -- it was at the time when I had
21 the doctor's appointment, the day before when he was very
22 intense.

23 Q That was March of '89?

24 A Uh huh. He, you know, he had this very big
25 business dealing and he want-- he was writing letters to

1 people very high up in the government and, you know, I don't
2 mind writing letters to whoever they want to write to, but I
3 was also asked to join hands with him and pray over the
4 letter.

5 I was also told that -- we had to make a call to a
6 government agency and he couldn't get through. I was told
7 that he would lay his hand on the phone and I would be able to
8 get through because he had -- he had laid his hand on the
9 phone and that would --

10 Q Were you asked to write a letter to someone who
11 didn't have any more power in the government?

12 A Yes, yes.

13 Q Who was that?

14 A That was President Ronald Reagan.

15 Q And that was after he was no longer president?

16 A Yeah, Bush was in office then.

17 Q And what was that -- what happened with that --

18 A That's -- that's what I was talking about. We
19 were praying ov-- I don't want to go into the complete
20 business dealing, you know, in -- in the case that he's still
21 working on it, I don't want to ruin, you know, his chance for
22 (inaudible) --

23 Q He sent a letter to President Reagan believing that
24 he had power to make this happen?

25 A Uh huh. Uh huh. We were -- well, it wasn't --

1 we weren't sending them through the mail, we were faxing them
2 to him.

3 Q To President Reagan?

4 A Yeah.

5 Q Ex-President Reagan, excuse me.

6 A Or his entourage, I think (inaudible).

7 Q I'm sorry (inaudible)?

8 A Or his entourage. I don't know if he got them.

9 Q During the time that you were there, from
10 September to April, did you ever see Mr. Wilfred bring Tyler
11 to the office and take responsibility for caring for him?

12 A No. Harmon never -- you know, Sandy would bring
13 Tyler in and it seemed odd at the time, when Sandy was working
14 there, Tyler would, you know, come in with her and Harmon
15 would maybe see him for a second and then, you know, he'd go.
16 I know that that's his business and he has to run it, but I
17 really never saw that he was, you know, really, really
18 excited about, you know, being with his son at the office or
19 -- and I know he did a lot of work at home, so I don't know --
20 I know how intense he was at work doing work, you know, that
21 was -- he was very focused, he is a very focused person, and
22 if he was doing work at home, I don't know how he could take
23 care of a child. I -- I couldn't if I were that focused.

24 Q How many hours a day would he work?

25 MR. HINDS: Again, a time-line, Your Honor.

1 THE WITNESS: Okay. When I began in September --
2 this is September through October, he would -- he was there
3 when I got in at 8 and it would be until like -- I -- after I
4 left. And then --

5 Q What time would you leave?

6 A At 5. And then November through April -- well,
7 actually November through January it stayed about the same and
8 then February through April, it started laxing off in February
9 and then in March when all hell broke loose, I mean, for him,
10 he started staying home quite a bit to do work at home, well,
11 which was understandable. Sandy was gone and I -- and I'm
12 sure he was working on that.

13 Q Let me ask you this. Did you ever have access to
14 records to see how much money Mr. Wilfred was paid on a
15 monthly basis?

16 A Yes.

17 Q And what amount of money do you recall was paid to
18 him on a monthly basis?

19 MR. HINDS: First we want to have as to a time-
20 line and which month she's speaking of, and I think a
21 foundation of what record specifically she observed so she can
22 distinguish the nature of the payment.

23 THE WITNESS: Okay --

24 THE REFEREE: Sustained.

25 THE WITNESS: In the beginning I was doing accounts

1 payable and at that time I didn't keep a clear track of
2 exact-- I mean, it wasn't my business to know what he was
3 being paid. But it -- from September through October, he was,
4 I'd say around --

5 MR. HINDS: Excuse me. The first foundation
6 question has to be, what records, what check account, who they
7 were made payable to and then in what amount --

8 MS. EDINBURG: Your Honor --

9 THE WITNESS: You want a list of all this?

10 MS. EDINBURG: Wait -- wait just a minute. Just a
11 minute. This is not cross examination. If I'm asking the
12 questions, Mr. Hinds is not asking the questions.

13 THE REFEREE: He's -- he's --

14 MS. EDINBURG: I will --

15 THE REFEREE: -- he has interposed an objection
16 which the Court sustained with regards to foundation.
17 However, Mr. Hinds, the Court will decide whether or not
18 proper foundation has been laid, not you. Thank you. You may
19 proceed and would you please p-- ask your questions such that
20 the foundation is laid, Ms. Edinburg?

21 Q (By Ms. Edinburg) What records were you -- did
22 you have access to, or what records did you observe in order
23 to answer the question that you were about to answer?

24 A Okay. I will go farther into the -- farther into
25 it. In March and April I was helping Bill Davis with the

1 bookkeeping and he had documents stating exactly what was to
2 be paid each month from what property to whom, if they were
3 management fees, if they were, you know, Harmon's amount that
4 he was going to be paid.

5 And I know for a fact that --

6 THE REFEREE: Are we talking March and April of
7 1989?

8 THE WITNESS: 1989.

9 THE REFEREE: All right.

10 THE WITNESS: I know for a fact that Promenad
11 (phonetic) Limited, monthly he was paid \$5,000 a month. --
12 Falcon Limited Number One, monthly was \$1,500 a month. There
13 was also an amount paid to him by Westmark (phonetic)
14 Investments Incorporated for his, you know, whatever you want
15 to call it -- his -- his salary that would range, you know, it
16 -- it depend-- I didn't see any -- any exact reason what --
17 how much was paid to him. It wasn't, you know, a -- a salary
18 figure or anything. It was just -- I would see the voucher
19 and I would type the check and that would be between 1,500 and
20 \$2,500 a month.

21 Q (By Ms. Edinburg) Now, Mr. Wilfred filed today
22 with the Court and -- here it is -- an affidavit that his
23 sources of income are \$5,000 from Promenad (phonetic) Limited
24 Management. Is that consistent with (inaudible)?

25 A Yes.

1 Q He also tells the Court that he has \$2,000 a month
2 from Westmark (phonetic) Investments Manage (inaudible). Is
3 that consistent?

4 A That's correct.

5 Q He's also telling the Court that on -- he has a
6 Westmark (phonetic) furniture note of \$1,244 a month. Do you
7 know anything about that?

8 A No. That -- that's new since I was there.

9 Q And then you had mentioned a Falcon Limited
10 payment --

11 A Falcon Limited Number One.

12 Q How -- how much is that a month?

13 A That was \$1,500 a month.

14 Q And how many months do you know he actually
15 received that in 1989?

16 A From -- from September through the time I left.

17 Q From September of 1988 --

18 A Uh huh.

19 Q -- till the time you left in April, he got \$1,500
20 a month from that source of income?

21 A Yes.

22 Q What, then, would be your estimate of the total
23 income that he received from all of the sources?

24 A Just from those, between 8,500 to 9,500 a month.

25 Q Did he have other sources of income?

1 A Not that I know of. I'm sure that if there were
2 deals that were closed, he would get a commission off of them,
3 but, you know, with the market that Denver has right now, you
4 know, I don't know how many deals are closed.

5 Q So there would be commission --

6 A On top of that.

7 Q -- on top of it. Do you -- Ms. Kelker, do you
8 know anything about other accounts that were being opened or
9 you were instructed to open or be aware of other than the
10 normal routine business accounts?

11 A Back when City Federal was coming in to, you know,
12 it was before -- we didn't know that anything was happening,
13 that the properties might go into receivership. I was told
14 one day -- Harmon came back and he -- and he said that all
15 monies coming in for Promenad (phonetic) Limited I was to give
16 to him and he would deposit them in -- at that point in time
17 it was a secret account.

18 It ends up that that secret account, you know, was
19 -- I -- I don't want to disclose the name of the account, but
20 it was -- it ended up that it was in an effort to keep it out
21 of the books for the lender so that the lender wouldn't come
22 in and take all of the money so that they could still run the
23 shopping centers if they needed to, but it was under one of
24 the entities that was part -- well, it was part owner of
25 Promenad (phonetic) Limited, so it wasn't -- it wasn't, you

1 know, sunk into his own personal account. It was a -- a
2 business account of -- of an entity of Promenad (phonetic),
3 but it was secret to the lender.

4 Q And who called it a secret account?

5 A H-- both Harmon -- well, Fred, Tom Jones and Bill
6 Davis.

7 Q Are you a parent? Are you a mother?

8 A Yes.

9 Q How old is your child?

10 A He's 10 months old.

11 Q Would you feel that Mr. Wilfred was a fit and
12 proper person to take care of your son?

13 A I would not, just with hi-- the -- his intensity of
14 -- of how he deals with work, if he's also that intense with
15 his church, which I know he goes to quite a bit in the
16 evenings, I would not feel comfortable with, you know, I don't
17 know what he would be doing with A.J., my son.

18 Q Do you believe that he has the ability to be
19 persuasive and --

20 A Oh, yes.

21 Q -- and -- and do you think he would get up and
22 -- and tell the Court how he would swear that he would stay
23 here and he would never take his son out of the state and was
24 he that kind of a person?

25 A Yes. One day -- it was in -- it was in February.

1 It was at the end of February. I -- everything was happening
2 and it was just very odd. I was -- I was, you know, afraid to
3 come into work. I didn't know what I would find. I told him
4 that I wanted to have breakfast with him. Or I -- I told him
5 I wanted to talk -- talk to him.

6 And we went down to the Harvest for breakfast. And
7 I'll tell you, within an hour, he had changed my whole idea of
8 Westmark (phonetic) from, this is the weirdest company, to it
9 was the best company on earth, that I should be happy to work
10 for them. He was, you know, it -- it was -- he was so
11 persuasive, I mean, if I had been on a car lot and wanting to
12 buy a car, I would've driven off with a -- he could have sold
13 me a junker and I wouldn't have known the difference.

14 Q Do you think he's bright?

15 A He's brilliant, yeah.

16 Q Are you afraid of him?

17 A I don't know that there's -- I -- I mean, again,
18 I'm not afraid that he's going to sue me or anything. I just
19 don't feel comfortable in his presence.

20 Q Now, let's talk for a minute about -- was it your
21 sister that was, quote, possessed by the demons?

22 A Uh huh.

23 Q What -- what's her name?

24 A Therese Gravit (phonetic).

25 Q And how long had she worked for the company?

1 A Very short. Maybe a month and a half.

2 Q And did you work with her on a daily basis?

3 A Yes, yes.

4 Q Was she performing her job satisfactorily?

5 A Yes, she was -- with what -- I mean, you have to
6 understand that the accounting department -- at that point in
7 time there had been two other bookkeepers that had -- that
8 didn't know what they were doing. It was a mess. And with
9 what she was given, she did the best job she could and, I
10 mean, she did better than anyone in that office could have
11 done.

12 Q And are you saying that because she's your sister?

13 A No, no. I -- I mean, she and I have had many
14 differences. That's -- I mean, there's no --

15 Q Did she do anything in the office that you were
16 aware of that would've exemplified that she was --

17 A Th-- possessed by demons? No, no. Th-- in fact,
18 the day that she was fired -- it was the day before Christmas
19 Eve and we were all going to go to homeless shelters and --
20 and old folks' homes to sing Christmas carols to them. And we
21 were go-- we were wrapping presents to give to them. And we
22 were all doing it, all of the salaried employees. Patrice
23 (phonetic) was doing it also.

24 And that was the straw that broke the camel's back.
25 She was called back by Harmon and fired, just because she was

1 wrapping a Christmas present for a homeless person.

2 Q And it was that kind of impulsive decision --

3 A Uh huh.

4 Q -- (inaudible)?

5 A Yeah. Tha-- we had no idea that anything was
6 happening. In fact, after that, I felt very odd, because it
7 was like she had never existed. She had never been there, and
8 here she's my sister. I work for the man, she worked for the
9 man and she -- she no longer existed in his mind. Everything
10 was fine.

11 Q Were there other things that he would do on impulse
12 like that, just --

13 A Just, I mean, from day to day you didn't know
14 whether he would be there or not. You know, he could call up
15 at 8:30 and say, I'm going to be working out of my house.
16 Then, you know, I -- I -- yeah, it was a very impulsive-type
17 situation the whole time.

18 Q Would you have any knowledge of his inability to
19 deal with detail?

20 A Well, yeah. I sat in once on a conversation he
21 had with Bill Davis about Bill's ability to work with detail,
22 you know, and -- and he -- and he admitted that he is not a
23 detail-oriented person and -- and from what I've seen most
24 presidents of companies are -- I mean, they -- that's what
25 they have the other people for, to deal with the details.

1 You know, Harmon -- he could always see the big
2 picture, but he couldn't see -- I'm not sure he could see how
3 to get to that big picture all the time.

4 Q Was it your perception that not only did he make
5 overtures to you in a sexual way, but he did that to other
6 women in the office?

7 A Well, the only other woman through most of my
8 tenure was -- I mean, she was pregnant. He didn't -- he left
9 her alone.

10 Q Were there other situations where there were women
11 that were afraid of him?

12 A Well, there was one -- there was a receptionist.
13 She was 19 years old and a friend of the Wilfreds and she
14 called up --

15 MR. HINDS: Your Honor, I'm going to make this a
16 formal objection until there's a foundation that she directly
17 observed whatever the sexual accusation is, and I ask that she
18 not be permitted to testify on hearsay evidence that someone
19 may have told her.

20 THE REFEREE: Is this hearsay? Is this something
21 that someone else --

22 THE WITNESS: Well, I can say what she -- what I
23 know for a fact what she said to me.

24 MR. HINDS: (inaudible)

25 THE WITNESS: Well, no, no what --

1 MS. EDINBURG: (inaudible) you can't say what she
2 told you --

3 THE REFEREE: You can't say what --

4 THE WITNESS: Okay.

5 THE REFEREE: -- the receptionist said, all right?

6 MS. EDINBURG: You have to testify to what you
7 directly (inaudible).

8 THE REFEREE: You have to testify with regards to
9 what you --

10 THE WITNESS: Okay. I never saw any -- any --

11 THE REFEREE: All right.

12 Q (By Ms. Edinburg) Based upon everything that you
13 know and you testified to, do you believe that Mr. Wilfred has
14 the ability to take Tyler and leave the country or the state?

15 A I believe --

16 MR. HINDS: (inaudible) I'd object to what this --
17 and this question just -- has the ability, which is different
18 from saying that he would. I'd assume that -- that that needs
19 to be clarified. The question is very am-- ambiguous.

20 THE REFEREE: Would you rephrase --

21 MR. HINDS: I would object to the form.

22 THE REFEREE: -- please?

23 Q (By Ms. Edinburg) Do you believe, based on what
24 you know, that if the Court lifted the restriction on the
25 supervised vis-- visitation, that Mr. Wilfred could, would,

1 may take Tyler and leave the state (inaudible)?

2 MR. HINDS: Your Honor, could, would and may is a
3 three-question situation --

4 MS. EDINBURG: (inaudible) I'll ask each one.

5 Q (By Ms. Edinburg) Do you believe that he has
6 propensity to do that?

7 A You know, being -- I -- he never spoke to me about
8 taking trips with the child or anything, so I don't -- I can't
9 say that he would take the child. He may, you know, anyone
10 may take the child. I -- you know, I can't say for a fact
11 that Harmon told me that he would take Tyler, but there is
12 (inaudible) --

13 Q Would you be afraid of -- that (inaudible) --

14 A That's why I'm here.

15 Q What?

16 A That's why I'm here. I don't -- I -- I am fearful
17 that Tyler would be taken away from his mother so that Tyler
18 would not know his mother.

19 Q Thank you.

20 MS. EDINBURG: I have nothing further (inaudible).

21 MR. HINDS: Does the Court wish to take a recess
22 or have us continue? (inaudible)

23 THE REFEREE: The Court will take a 15-minute
24 recess. Thank you, Ms. Kelker. You may step down. We will
25 recall you in approximately (inaudible).

1 (WHEREUPON, the tape was stopped.)

2 MR. HINDS: -- was not -- was not my witness.

3 MS. EDINBURG: Yes, I had rested and with the
4 Court's permission I had reserved direct examination questions
5 I just need to ask this witness. If I could call her I can
6 (inaudible).

7 MR. HINDS: Your Honor, I want to say that,
8 apparently the Court's gonna make some interim orders. It --
9 it certainly would seem fair that rather than extend this
10 person's examination beyond what has already been fairly
11 lengthy, that I be given at least the opportunity to put the
12 objective per-- hopefully the Court would consider objective
13 professional evidence, so you can make some orders in this
14 case.

15 THE REFEREE: I'm going to allow the next two
16 questions of counsel.

17 MS. EDINBURG: Thank you.

18 Q (By Ms. Edinburg) Ms. Kelker, this situation with
19 the -- the annointed cloth and when Mr. Wilfred offered to
20 give you this annointed cloth, was there anything else said to
21 you which had a sexual overtone to it?

22 A Well, at that point in time when he handed it to
23 me, he did, you know, he said, take this and touch yourself
24 where you're ailing. And then he did offer, he said, and if
25 you need support I can be there for you. I don't know whether

1 he was meaning in the room or as moral support. I just -- I
2 took that as a place that he shouldn't be.

3 Q Did you ever have the opportunity to observe Mrs.
4 Wilfred in the office?

5 A Yes, yes, she was my manager from September through
6 December.

7 Q And would you characterize her in terms of her
8 emotional stability or instability?

9 A She -- in the office, we all went to her for --
10 you know, if there was any problem, we went to Sandy. She was
11 -- I mean, when she stopped coming into the office, there was
12 a real -- at least in the people that were in the office the
13 whole -- all the time, there was -- I mean, we all got very --
14 we were down because Sandy wasn't there to -- to help us. She
15 wasn't there to keep everything going the way it had been and
16 it wasn't --

17 Q Do you --

18 A -- an even keel any more. It -- that's when it
19 became very erratic.

20 Q Do you know why she wasn't there any more? Do you
21 know what happened with her?

22 A It seems to me that it had something to do with
23 the -- with the relationship between she and Harmon and --

24 Q Do you know whether she voluntarily (inaudible)
25 not to go or that she was fired?

1 A One day she told me that -- I mean, we were going
2 to do some shopping for the company and she said that she
3 would -- she would be cutting down to part time because Harmon
4 had decided that someone needed to be home with Tyler. He had
5 -- he had said that he would stay home with Tyler, but she
6 said that, you know, in all actuality, he realized that it was
7 best for her to stay home. I mean, Harmon had the business to
8 run.

9 Q Did you ever observe her with Tyler in the office?

10 A M-- on many occasions.

11 Q And how would you describe her parenting ability
12 and mothering abilities?

13 A Very, very good. The -- you know, the perfect
14 mother. She is very loving to the child, you know, he -- she
15 would -- like if she had to leave to go get something -- one
16 time she had to go get the diaper bag. The poor little guy,
17 he was hysterical because -- Mommy, Mommy, you know, and --
18 and Daddy was there and -- and he still -- and it could just
19 be the age. You know, he still wanted Mommy.

20 Q Based upon your dealings and knowledge of Mrs.
21 Wilfred versus Mrs. Wil-- Mr. Wilfred, would you characterize
22 Mrs. Wilfred as an exaggerator or a person that would make
23 things worse than they were?

24 A No, and -- and in fact it would be the opposite
25 because Harmon is so impulsive, everything gets blown out of

1 proportion, you know, well, he makes mountains out of
2 molehills, you know. Things build with Harmon, whereas Sandy
3 was always such a -- you could always talk to Sandy because
4 she could always look at things in perspective and keep them
5 in perspective and they wouldn't get blown out.

6 Q Thank you.

7 MS. EDINBURG: I have nothing further, Your Honor.

8 CROSS EXAMINATION

9 BY MR. HINDS:

10 Q Do you feel that you have legitimate business
11 grievances with Mr. Wilfred?

12 A No, I do not.

13 Q When you were expressing your concerns about his
14 imposition of religious feelings, were you really talking
15 about your strong feelings that that was a wrong thing to do
16 on an office basis as against disagreement with him as to his
17 religion?

18 A The -- the only thing that -- that bothers me
19 about him bringing it into the office is both sides were not
20 shown. I could not -- I couldn't come in and preach my word,
21 but he was -- he was given to any time in the day, any time he
22 wanted to he could bring his books out or whatever and we --
23 you know, we had to know his Lord, but he didn't have any want
24 to learn about our Lord.

25 I mean, I'm -- I'm Catholic and he didn't -- I was

1 -- I -- I was told, not by Harmon but by another Christian in
2 the office that if I wasn't saved I, you know, I was doomed.

3 Q Doomed in terms of your employment?

4 A No, do-- no, no, no, no. Doomed as in -- I mean --

5 Q Well --

6 A -- heaven and hell.

7 Q Mr. Jones, the other partner in the office, was of
8 like religious persuasion.

9 A Yes, he was.

10 Q In fact, it sounds to me like at the beginning of
11 your employment, they were pretty much up front saying that
12 they were a Christian organization, weren't they?

13 A No. What I was asked by the executive secretary
14 at that time, she asked if I would mind working for
15 Christians. She did not go into -- you know, I don't mind
16 working for Christians. I do mind being pushed into praying
17 and -- and believing in their Lord.

18 Q All right. There's some strong feelings about that
19 then that you really were pushed into to believing (inaudible)
20 --

21 A At times --

22 Q -- (inaudible) --

23 A -- yes.

24 Q And I -- I think that's understandable. That's
25 not what you're hired to do, is to pray and to do the kinds of

1 things that he did regularly.

2 A That's exactly right.

3 Q (inaudible) was an imposition. Did that form a
4 substantial basis of why you left the firm?

5 A No, no. The only reason I left the firm was I
6 received other employment that was -- I'd asked for a raise
7 just before at Westmark (phonetic) and this was \$4,000 more a
8 year. I took it. I mean, you can't pass up that
9 opportunity.

10 Q Now, San-- Sandy, she worked there for awhile,
11 didn't she?

12 A Yes.

13 Q She had a capacity -- a -- a job?

14 A Oh, yes, yes. She was --

15 Q And you --

16 A -- property manager.

17 Q -- mentioned that she was there on pretty reg--
18 pretty regular basis. She appeared, I'm sure, competent and
19 able in whatever she was doing in terms of her -- her job and
20 -- are -- are you looking at me or looking at someone else?

21 A No.

22 Q She -- she was able and competent to do her job?

23 A Yes.

24 Q You became aware of marital problems of this couple
25 when?

1 A Well, I mean, from the -- not from the beginning
2 but from like November on, there was a certain tension -- I
3 mean, a husband and wife work together, you would normally
4 want -- you would normally not want to, but you would normally
5 see some type of husband and wife interaction, you know, just,
6 hi, honey, maybe. But none of that ever went on.

7 Q You saw tension between these people as early as
8 November?

9 A Not really tension in November. It was more just,
10 you know -- I, you know, I know if my husband and I worked
11 together we would, you know, have lunch together occasionally.
12 That's all I'm saying.

13 Q You kind of indicated, and correct me if I'm wrong,
14 that there was a close and a warm and comfortable relationship
15 that you had with Sandy than you would say you had with Mr.
16 Wilfred, is that a fair statement?

17 A No. When she was working, that -- that isn't what
18 I'm saying. When she was working, I worked for her. She was
19 my manager. I didn't have direct contact with Harmon. And, I
20 mean, women being what they are, you -- I mean, I got along
21 with Sandy because she's another woman. We understand each
22 other.

23 I also got along with Harmon. I -- Harmon's a very
24 nice man. I mean, I don't have any animosity toward Harmon.

25 Q Harmon is a nice man?

1 A Yes.

2 Q Has parts of his personality that are very
3 pleasant, very kind to people?

4 A Yeah, there are parts, yes.

5 Q All right. Sandy left the employment in February?

6 A Sh-- in January and February it started -- well,
7 January it started slacking off. February was the last time
8 we saw her in the office.

9 Q After she left the employment, did you give her,
10 without advising Mr. Wilfred, any documents of any kind or any
11 information as to the financial well-being or the dealings of
12 the company?

13 MS. EDINBURG: I'm gonna object, Your Honor. It's
14 beyond the scope of direct examination. I think that it --
15 the answer -- I don't know what it's leading to, but if it's
16 going to subject this c-- this potential witness to a lawsuit
17 then I would ask that she also receive the same protection
18 that Mr. Davis received because of, you know, we have a lot of
19 potential --

20 THE REFEREE: Well, I'd like to hear the answer to
21 the question --

22 MS. EDINBURG: I don't know the answer to the
23 question.

24 THE REFEREE: I don't know the answer to the
25 question either --

1 THE WITNESS: But there --

2 THE REFEREE: -- counsel. I --

3 THE WITNESS: -- there's nothing (inaudible) --

4 MS. EDINBURG: (inaudible) --

5 THE REFEREE: -- I -- if, you know, she wants to
6 interpose that she feels uncomfortable answering this
7 question, I will hear from her.

8 THE WITNESS: I don't feel uncomfortable.

9 THE REFEREE: She doesn't feel uncomfortable.

10 MS. EDINBURG: That's fine. I'll withdraw the
11 objection.

12 MR. HINDS: Let me rephrase the question for the
13 witness.

14 Q (By Mr. Hinds) Have you developed an alliance
15 with Sandy Wilfred as against -- in other words, by alliance I
16 mean a closer relationship with Sandy than you have with Mr.
17 Wilfred at this time.

18 A At this point in time --

19 MS. EDINBURG: Excuse me. Your Honor, I want to
20 hear the answer to the other question. I think the Court does
21 too and I'd like to hear that answer. If Mr. Hinds wants to
22 go off on another tangent, then let's get one question --

23 THE WITNESS: Do you want me (inaudible) --

24 MS. EDINBURG: -- answered (inaudible) --

25 THE REFEREE: Well, I -- I -- I -- I don't think

1 you rephrased the question, Mr. Hinds. I think you quite
2 changed --

3 MR. HINDS: I'd also like to -- I will withdraw
4 the question. It's my right as this witness.

5 THE REFEREE: All right. (inaudible) --

6 MR. HINDS: I withdraw that question and go on to
7 this question.

8 THE WITNESS: The -- I'm sorry. Which question
9 are we on now?

10 Q (By Mr. Hinds) Have you developed an alliance
11 with Sandy over against your feelings for Mr. Wilfred?

12 A The -- the only alliance that I have with Sandy is
13 that I am here today. She called to ask if I would feel
14 comfortable testifying and in all truth the reason I'm here is
15 I -- I'm looking -- I'm not looking at the welfare of Sandy or
16 at Harmon, I'm looking at the wel-- welfare of Tyler. I love
17 children and I don't want Tyler to be hurt in any of this.

18 Q Do you, including under direct examination, make
19 some remark that one of reasons you're here is fear of Sandy
20 losing Tyler?

21 A Yes. I -- I would --

22 Q (inaudible) by that?

23 A I believe strongly that a mother is very important
24 in the -- I mean, I'm not a -- I'm not a professional here,
25 but I am a mother and that a mother is a very large part in a

1 baby's life. You know, for the first few years I think that
2 the mother is the largest part, and I don't want to see --
3 when I was working for Westmark (phonetic), Harmon wanted
4 Tyler, you know, sole custody.

5 He -- you know, he said, I -- I'm going for sole
6 custody and all -- and all of this. I don't -- I don't want
7 to see that.

8 Q Why is that? Conceptually you think mothers
9 (inaudible)?

10 A Well, no. And also I've seen -- I've seen the
11 two -- the two parents with their child. Harmon on occasion
12 -- you know, not -- not many occasions, but you would think
13 that in seven and a half months I would have seen the father
14 be a little more of a father than I did.

15 Q Let me ask you about this Mexico thing. Is it not
16 true that the original trip that resulted in going to Mexico
17 was originally to be in Hawaii? You aware of that?

18 A Yes, it was.

19 Q (inaudible) He, in quote, impulsively was gonna
20 go h-- to Hawaii and then he impulsively changed that to
21 Mexico?

22 A Well, no. It -- it -- I don't believe that there
23 was any -- any -- I don't think the destination had anything
24 to do with it. It was an impulsive act that we are going to
25 go on a trip and it -- the trip was to -- in -- in the

1 beginning was to see where the company was going in the next
2 year, but then it turns out that the trip was for their, I
3 believe, for their spiritual well-being -- being.

4 Q They wanted to get away from the pressures and
5 duress of the -- of the company --

6 A That could be.

7 Q -- (inaudible)? Are you aware, and is it correct,
8 that it was in fact Sandy who suggested, why not go to Mexico
9 instead of Hawaii? Is that true?

10 A I -- I understood that it was Tom Jones that -- he
11 -- Tom on many occasions said that Hawaii -- he hated Hawaii.
12 So I -- I -- I understand -- to my understanding it's Tom
13 Jones that wanted to go to Mexico. He had been there before.

14 Q The event you described back in December relating
15 to what you -- you felt was the sexual imposition by your
16 employer (inaudible) some kind of a relationship -- a personal
17 relationship. Is that the way you perceived it?

18 A When he was asking me if my husband made me happy?

19 Q Yes.

20 A At -- the way I felt about that, that was not a
21 question that he or anyone else should have been asking. I,
22 you know, he wasn't asking me to have any relationship with
23 him. He had never approached me in that, but he put me in a
24 position where I was uncomfortable and I felt that maybe there
25 was a different feeling than an employer-employee feeling.

1 Q Did he ask you out on a date?

2 A No, he did not.

3 Q Has he ever sexually touched you inappropriately?

4 A He's hugged and he's kissed, which I don't think
5 belong in the office.

6 Q That -- that hug and kiss was around what -- what
7 was (inaudible)?

8 A Well, no. Valentine's Day there was a kiss and
9 then there was a hug another time.

10 Q And that's the extent of it?

11 A Yeah -- there -- there were subtleties throughout
12 my employment -- well, since December -- that -- that were
13 odd. I mean, just -- and -- and they aren't --

14 Q You familiar with the Happy Church?

15 A Yes, I am.

16 Q Are you familiar enough to recognize that the kinds
17 of behaviors and putting his hand on the phone and these
18 regular prayer meetings are a regular part of the behavior of
19 the people who actively practice in that religious faith?

20 A Yes, I understand that. I --

21 MS. EDINBURG: Wait a minute. I'm gonna object.
22 Do you know that? Is -- is that within your knowledge? I'm
23 gonna object to whether or --

24 THE WITNESS: I --

25 MS. EDINBURG: -- (inaudible) beyond the scope of

1 this witness' knowledge. I -- I think it calls for a
2 conclusion and she may not know that. I mean, what she said
3 was, I understand that, like he's telling her that, but I
4 don't know if she knows that and I'm gonna object to the form
5 of the question, I think.

6 THE REFEREE: I'm going to allow counsel to
7 rephrase that question.

8 MR. HINDS: All right.

9 Q (By Mr. Hinds) A lot of the people in Mr.
10 Wilfred's group belong to the Happy Church, his friends,
11 business acquaintances? You're familiar with his commitment
12 to that church?

13 A I didn't know it was the Happy Church. I thought
14 that it was a different -- I mean, the Happy Church is a
15 complete -- I think it's a completely different --

16 THE RESPONDENT: It is the Word of Life Savior --
17 Savior that you're (inaudible).

18 MR. HINDS: Wor-- Word of Life, I'm told.

19 THE RESPONDENT: -- (inaudible) --

20 THE WITNESS: It's a -- is a Pentecostal.

21 Q (By Mr. Hinds) All right. Are you familiar
22 enough from your observations from the groupings that Mr.
23 Wilfred had that the kind of activities such as putting his
24 hand on the phone, such as the prayer meetings, such as making
25 reference as he has done to trust in the Lord, whether that is

1 common to that group?

2 A Well, let me say this: My sister-in-law is a
3 born-again Christian who -- and she belongs to the Abundant
4 Life Church, which I'm sure is a Pentecostal, and she does not
5 go into the extremities that -- that he does. She -- she
6 believes that if you -- if you live your life right and you
7 -- and you worship the Lord and you've been saved, that --
8 that you will go to heaven, but she doesn't believe in
9 prophecy -- prophets. She -- or -- prophets on earth. I
10 mean, she believes in the prophets that are in the Bible, but
11 not people that are on earth that are prophets. She does not
12 believe that -- that she can he-- I mean, I've had colds
13 around her, she doesn't try and heal me.

14 UNIDENTIFIED PARTY: (inaudible)

15 THE WITNESS: Sorry.

16 THE REFEREE: The question was, are you familiar
17 enough with this church to know about these practices? And I
18 think that can be answered yes or no.

19 THE WITNESS: Well -- ex-- no, there's an
20 explanation. I am familiar enough, but no, those are not the
21 practices for everybody in that church.

22 Q (By Mr. Hinds) Are you familiar enough to
23 recognize that many of the people who are deeply involved in
24 that church practice similarly to what you observed of Mr.
25 Wilfred?

1 MS. EDINBURG: Objection to other people. I mean,
2 I don't think it's relevant --

3 THE REFEREE: Well, I think --

4 MS. EDINBURG: -- to this (inaudible).

5 THE REFEREE: -- he can ask her if she's familiar
6 enough. And the question is, are you familiar enough to know
7 this and if you -- and -- and that can be answered yes or no.

8 THE WITNESS: Okay. No, I'm not familiar that
9 everyone's like this.

10 Q (By Mr. Hinds) Have you observed Mr. Jones in
11 your employment?

12 A Yes, I have.

13 Q Does he engage in an identical pattern of religious
14 worship, in terms of prayer, in terms of indicating an
15 expression and belief in the Lord that the Lord will help them
16 through their business tribulations? As to those things, does
17 he do the same?

18 A No.

19 Q He does not?

20 A No.

21 Q Does he pray with Mr. Wilfred?

22 A Y-- on occasion, yes.

23 Q The last question: While Mr. Wilfred was praying,
24 and while he was asking for the Lord's guidance, did he also
25 perform his business functions such as carrying on the

1 business activities of the company?

2 A I -- I don't --

3 Q Let me illustrate. In addition to his prayers --

4 A Uh huh.

5 Q -- he continued his work day, did he not?

6 A On most occasions. There were days that little
7 work was completed.

8 Q That's all I have. Thank you.

9 THE REFEREE: Ms. Dycus?

10 MS. DYCUS: Just have one so I'll ask it from here.

11 EXAMINATION

12 BY MS. DYCUS:

13 Q You indicated on your direct examination that you
14 were here because you were fearful of Tyler being taken away
15 from his mother?

16 A Uh huh.

17 Q Does that fearfulness extend to Tyler having
18 contact with Mr. Wilfred?

19 A I would not -- I don't think that he should --
20 that Harmon should never see his child again, but I don't -- I
21 -- it -- I mean, if Tyler were mine -- if I were in this
22 situation -- if Tyler were my son, I would not feel
23 comfortable with him being able to have him for a weekend un--
24 you know, without somebody there to -- I -- supervised as in
25 maybe helping him know what to do.

1 Q So the concern there that you're raising about
2 visitation is in the area of whether or not he has the
3 caretaking skills?

4 A Caretaking skills and the -- what I've said is he
5 is so intense on some things -- I mean, I would be worried
6 that he would be intense on something that's happening in his
7 life and forget that the child is there.

8 Q And do you believe that with this impulsivity that
9 you've described that there is a danger of his leaving the
10 jurisdiction of the Court with the child?

11 A Yes.

12 MS. DYCUS: I have nothing further.

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

15 THE REFEREE: Thank you, Ms. Kelker. You may step
16 down.

17 MS. EDINBURG: Your Honor, I would call the
18 Petitioner, Sandra Wilfred, to the stand.

19 THE REFEREE: Counsel would -- would counsel
20 approach, please?

21 Is there a possibility of this getting --

22 MR. HINDS: Dr. Gutterman (phonetic), M.D.

23 THE REFEREE: Dr. Gutterman (inaudible).

24 MS. EDINBURG: I'm concerned about the interim
25 orders and I want to get to the finances. I didn't even know

1 he was coming. I don't even know what he's gonna say. I've
2 never had the opportunity to talk to him and I think it's just
3 real unfair to bring in an expert witness at the last minute.
4 And I don't even know that this man exists and it's -- you
5 know, it's -- it's -- if he is gonna testify I'd like the
6 opportunity to talk with him, maybe depose him before the next
7 hearing and have an opportunity to prepare my cross
8 examination, and he is an expert and I'm concerned about, you
9 know, not having proper notice before-hand of him even being
10 involved in the case. I don't think that's fair.

11 MR. HINDS: Judge, if I may respond. I don't know
12 what Lainy is talking about with proper notice. I don't know
13 of any certificate that's required for me to identify
14 (inaudible) to this temporary order hearing. But I would like
15 to say this, Lainy would like to have her side of the case
16 presented so she can have orders of a financial nature and
17 obviously would like the opportunity for me not to be able to
18 present the importance to my client of having access to his
19 child, which now is only four hours.

20 I've made an offer of \$1,500 per month so we have
21 some financial situation put here in place. I believe if we
22 look at the financial affidavit of the mother, we see a \$2,300
23 budget made in her request. Those situations are certainly
24 capable on an interim basis for the Court to give some
25 temporary relief. What bothers me so much is, after all this

1 legal activity -- and she's right, there's been more lawyers
2 than I would like to count -- but after all this activity, he
3 has not had a chance for a professional to come in. We have
4 done the psychiatric evaluations. To make a statement about
5 he and his child, I think it would be just awful that I don't
6 get this man on who's a professional to testify to the psych
7 evaluations and to testify as to my client's mental health,
8 because all we've had is lay people who had some strong
9 opinions in this case, and we haven't had anything and he's
10 accused of a kidnapping --

11 MS. EDINBURG: No, I'm not saying he's accused.

12 MR. HINDS: -- modality -- modality has been
13 stressed here with New Mexico and everything that my client is
14 going to take this child and run and until I can get to a
15 sense of my client's psychiatric health, my case is destroyed,
16 and I want to (inaudible) at least within that portion of it
17 we have already more than enough general information on
18 finances.

19 (WHEREUPON, the tape was changed.)

20 THE REFEREE: We're back on the record now on June
21 the 13th, 1989, 89DR477, in re the marriage of Wilfred. Ms.
22 Dycus?

23 MS. DYCUS: Your Honor, I'm concerned primarily
24 that there will be a delay regardless of what we do with the
25 last half hour.

1 THE REFEREE: Uh huh.

2 MS. DYCUS: And I think that that needs to be
3 minimized and there will have to be some interim orders. As
4 far as the expert testifying now, I don't think it makes that
5 much difference because it wouldn't get done one way or the
6 other.

7 THE REFEREE: (inaudible)

8 MS. DYCUS: I don't think with half an hour left
9 we would get done now with the Petitioner's testimony, if the
10 Court would really base decision-making just on direct
11 examination without cross, but I think we should --

12 MS. EDINBURG: Well --

13 MS. DYCUS: -- use the time to -- to best
14 advantage, which -- you know, I'm -- I'm not sure which is
15 that -- that's going to be. But I don't think -- I don't have
16 compelling argument for the -- the expert (inaudible) 'cause
17 we're not gonna get (inaudible).

18 THE REFEREE: Ms. Edinburg, I -- maybe this would
19 help everyone: That I am of a posture at this time
20 (inaudible) on an interim basis and that we can finish this
21 matter and I -- does that -- I mean, you know, ease any of
22 your concerns?

23 MS. EDINBURG: It eases some of them, but I would
24 also tell you that my client is the one that has the most
25 information about the need for the supervision and the bizarre

1 behavior and the statements are gonna come much louder and
2 clearer from her than -- as it directly relates to the child,
3 and that's what I'm really concerned about.

4 MS. DYCUS: (inaudible) without all the information
5 being (inaudible). I would (inaudible) I would not be adverse
6 to increasing (inaudible) supervision (inaudible) the
7 supervision part Bridges we were talking about much cheaper
8 supervision and (inaudible) the Court (inaudible) now if that
9 goes on for too long (inaudible) budget, plus that is not
10 what's important (inaudible).

11 MS. EDINBURG: Yeah, there's been no support,
12 there's no car --

13 MR. HINDS: (inaudible)

14 MS. EDINBURG: -- there's no --

15 MR. HINDS: -- support comes in different ways.
16 There's debt, there's division of the car. I think -- I --

17 MS. EDINBURG: Well --

18 MR. HINDS: -- understand what the guardian is
19 saying. I -- I'm in a very -- a very (inaudible) that you'd
20 get all the evidence --

21 THE REFEREE: That's right.

22 MR. HINDS: -- and I know you will wisely consider
23 it when it all comes in. Why don't we go ahead and call the
24 mother and get -- get on with the -- some more testimony.

25 THE REFEREE: Okay.

1 MS. EDINBURG: Thank you.

2 MR. HINDS: (inaudible)

3 THE REFEREE: We'll call at this time Ms. Sandra
4 Wilfred. Ms. Wilfred, would you take the stand?

5 MR. HINDS: May I have just a moment with the
6 doctor? (inaudible)

7 (WHEREUPON, the Petitioner was duly sworn by the
8 Referee.)

9 SANDRA WILFRED

10 the Petitioner herein, called as a witness on her own behalf,
11 having first been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. EDINBURG:

14 Q Please state your full name and spell your last
15 name for the record.

16 A Sandra Ann Wilfred, W-I-L-F-R-E-D.

17 Q You're the Petitioner in this action?

18 A Yes, I am.

19 Q And you have requested the Court enter temporary
20 orders in this case --

21 A That's correct.

22 Q -- is that correct?

23 A Uh huh.

24 Q We only have a half hour left, so I want to stick
25 to very important issues. Would you summarize to the Court

1 why you feel that you are a fit and proper person to have
2 custody of your minor child, Tyler?

3 A I've probably taken care of Tyler 90 percent of
4 the time. I feel that I'm a very good mother. Tyler is
5 extremely close to me. I feel that it just -- there's no
6 question that -- that I should continue caring for him.

7 Q Now, when did you adopt Tyler?

8 A We received word January 9th, 1988, that come the
9 next day we'd have a baby. The adoption was final July 21st,
10 1988.

11 Q And during that time, who provided the daily care
12 of the baby?

13 A I was home every day from the -- the day we
14 received the baby until about the middle of May and at that
15 time Harmon had gone through a major business problem, one of
16 many that we've had in the past, and insisted that I come to
17 work, that he really needed me as a partner there at his
18 office, that I -- I had to be there with him, I was the best
19 partner he ever had and insisted that I come to work for him.

20 And I -- I wouldn't agree to leave Tyler full time.
21 I felt that that was too much for a five-and-a-half-month-old,
22 so I went to work three days a week at the business and so I
23 was home with Tyler basically five days -- four to five days.

24 Q Now, you have also requested at the time of the
25 temporary restraining order a motion and again at the time of

1 the motion to modify restraining order or to lift it that
2 supervised visitation be imposed in this case.

3 A Yes.

4 Q Would you tell Referee Ware why you believe that
5 it's imperative that we continue the supervisions?

6 A Well, there are two reasons. The first, I really
7 don't think Harmon would intentionally hurt Tyler, although he
8 did start hitting him at a very young age, which I objected to
9 strongly. He started spanking him when he was only eight
10 months old and we've had to go through some of this training
11 to train Harmon how to deal with an infant. I feel that --

12 Q Let's talk about that. But let's talk about this
13 spanking him when he's eight months. What would he do? What
14 would Mr. Wilfred do?

15 A Especially Tyler, when he was about eight months
16 old, he started to become very active, didn't want his diaper
17 changed, didn't want clothes put on. I've seen Harmon grab
18 him by the shoulders and shake him and say, God has made me
19 the man of the house, I'm in control of you, and smack him,
20 smack his bottom. He never smacked his face, but he -- you
21 know, his bottom or his leg. And I feel that that's just much
22 too young for an eight-month-old.

23 And I was so upset I called Anetha Jones
24 (phonetic), Tom's wife, who runs a daycare, and I said, what
25 am I going to do, how do I -- you don't just tell Harmon don't

1 do this. And she came up with a few suggestions how to
2 distract him and so on, so, you know, if that needs to be
3 verified I could ask Anetha (phonetic) just to testify.

4 I don't feel he would intentionally hurt him, but I
5 feel that he's very careless. He did give Tyler formula full
6 strength that caused him to have diarrhea. He didn't read the
7 instructions. He zipped Tyler's skin into his pajamas before.
8 He's just very careless with him.

9 Secondly, I really feel, and, you know, the day that
10 I left, I had no intention to leave that day. I left because
11 --

12 Q How -- tell Judge Ware -- Referee Ware what -- what
13 happened that led up to your leaving --

14 A Okay.

15 Q -- (inaudible) February 20 (inaudible).

16 A And please understand I have no problem with the
17 church that Harmon goes to. Everyone has a right to their own
18 religious belief. I don't care where he goes to church. But
19 the -- the church service is a very active service and Harmon
20 -- as Laura testified, he's very intense, and when he's been
21 to this church service, he comes home very agitated at times.

22 And he had been to church for four hours on Sunday
23 morning. He came home in the afternoon and was just really
24 agitated about something. He even yelled at me for giving
25 Tyler a balloon, such a dangerous toy, how could you give him

1 a balloon? You knew the cat was going to chase the string and
2 scratch the baby. How could you give him a balloon?

3 So by the time the evening came, Harmon was ready to
4 go back for another four-hour stint at church. I was really
5 glad that he was leaving the house again. Monday morning he
6 announced he wanted to have a meeting with me and he said that
7 God had spoken to him and that unless I was ready to submit as
8 a good Christian wife, meaning to move back into the bedroom
9 with him and start having sex on a regular basis, that he was
10 leaving, that he was moving out of the house, and that he
11 would prepare a list of the possessions he was taking with
12 him.

13 And I said, I don't think that's a good idea. I
14 think we should continue counseling. But if those are my
15 choices, I guess you better leave. He said he'd have his list
16 that evening. At about 6 o'clock he arrived home. I was
17 giving Tyler a bath. He walked in. He said, I don't have my
18 list yet, I'm going to church again, I'll talk to you later.

19 He left for church again Monday night. He was gone
20 for hours. Came back, we talked about where he was going to
21 live, whether he was gonna live with his friend Stu (phonetic)
22 or whether he was going to rent an apartment. No discussion
23 about Tyler at that point.

24 Tuesday morning we were up early. I was changing
25 Tyler's diaper on the floor. Harmon walked in and he said,

1 well, I don't have -- I do have my list done. I don't have it
2 in writing, but there's something on the list that you're not
3 going to like. And I said, well, what is that? He said,
4 well, the first thing on my list, God has given me the
5 authority -- or I have it on God's authority to take
6 possession of Tyler, and I'm moving out and I'm taking Tyler
7 and I'll be gone by the end of the week. And I will never
8 forget those words, that God has given him the authority to
9 take possession of Tyler.

10 And I think that he's really -- he's so into this
11 religion -- Harmon's told me in the past that when he prays
12 that God speaks to him. And I said, Harmon, well, what if I
13 pray, does -- and God speaks to me and it -- it's in
14 disagreement with what you're receiving? Well, what God is
15 telling me is from the devil. That God only speaks to Harmon.
16 And I truly believe that if God told him to take Tyler, he
17 would be gone in a second.

18 Q Now, when you say gone, do you have any knowledge
19 of conversations that you've had with with Mr. Wilfred that he
20 could leave the country, the state, or whatever?

21 A Uh huh. He didn't specifically tell me, I'm taking
22 Tyler to Mexico. He just told me he was taking possession of
23 Tyler. But I know for a fact that he's got hundreds of
24 thousands of dollars hidden. He's got them in bank accounts.
25 He's done this in the past. Whenever he's had multiple

1 business problems, he calls them his war chest. He hides
2 money.

3 Q He calls it his what?

4 A War chest. And he hides money aside from the
5 lender so that he has legal fees to fight for closures or
6 whatever. I know that he has sizeable amounts of cash. We
7 have bank statements that show hundreds of thousands of
8 dollars.

9 Q Now, was there a trip that he took in January to
10 Mexico?

11 A Yes.

12 Q And --

13 A I -- I didn't hear all the detail of it. I was
14 out of town at my grandmother's funeral. I knew he -- he said
15 he and Tom had to get away to pray. And Harmon wanted to go
16 to Hawaii. Tom didn't like Hawaii. But they were going to
17 Hawaii. I got a phone call while I was at my grandmother's in
18 Idaho saying that Harmon had forgotten he was being sued by
19 somebody and had to be in court on Saturday, the day the trip
20 was going to Hawaii, so they were postponing and going to
21 Mexico. I came back from my grandmother's and he had gone --
22 he was gone. He was out of town.

23 Q So, did you suggest to him that he go to Mexico
24 instead of Hawaii?

25 A When they were talking about it, I said I had been

1 to Las Jadas (phonetic) before and yes, it was a very nice
2 place, but I certainly didn't tell him to go to Mexico.

3 Q When he came back, did he make any statements to
4 you about a desire to open a school down there?

5 A Yes, he said he loved it down there, that the
6 weather was wonderful, they had a wonderful time, he bought a
7 video from the place. They stayed in a \$750-a-night house,
8 they had two maids, they had a cook, they had a gardener.
9 They lived in luxury and I'm sure they had a wonderful time.
10 I would have too.

11 And he said they met a man down there who'd moved
12 down from Denver and he was real involved with the local
13 people and they talked with him about starting a school. And
14 that he'd really like to go down there and start a school.

15 Q Do you believe, based on all the information that
16 you have about the financial problems with the two shopping
17 centers that we've heard about --

18 A Uh huh.

19 Q -- and we've also heard discussions about his
20 financial problems, that he would leave everything and go and
21 take Tyler and leave the state?

22 A Yes.

23 Q Why?

24 A I believe he would. I think he's so impulsive --
25 like I said, if God told him to do anything, he would do

1 anything. That's why I'm still afraid of him. I have seen
2 him a couple times -- he's certainly more aggressive with me
3 during the visits. We -- we see each other when we exchange
4 Tyler and the visits on Sunday are not with Bridges. There's
5 a nice young kid who watches him with Tyler and he's gotten
6 very aggressive with me when this -- this kid is supervising.

7 He's been on his best behavior with Bridges. He's
8 been very kind, very considerate, just, you know, Mr.
9 Wonderful with them. But has demanded the car back and
10 -- and other things when we're being supervised by Daniel.

11 Q Now, we've heard talk and testimony from both Ms.
12 Kelker and Mr. Davis about this change of Harmon's behavior.

13 A Uh huh.

14 Q You said he's Mr. Wonderful. Is that what he is
15 -- behavior can be on a -- a regular basis, is --

16 A Absolutely. And he's such a master at it. That's
17 why I married him. He admitted that he married me -- we were
18 talking after we -- we started having marital problems and I
19 said, Harmon, why did you marry me? I said, I married you for
20 security. Security is pretty big on my list. Not just
21 monetary security, but security of the family. He said, I
22 married you to have sex on a regular basis.

23 And he became the person, during the whole time we
24 dated, that I wanted to marry. He -- he turned himself into
25 exactly what I wanted to marry, and he admitted that, that he

1 became that person while we were dating and then once we were
2 married the real Harmon showed up. He's a master at it.

3 Q And -- and what is the real Harmon? What is this
4 other person that we hear about and we're -- we're concerned
5 about? Describe to the Court what kind of behavior would you
6 observe from this other person?

7 A The raging Harmon or the --

8 Q Yes.

9 A -- the calm?

10 Q Yes.

11 A No-- absolutely nothing can happen and he can just
12 turn into a raging person. I don't understand it. I've seen
13 such emotion. I mean, he -- he'll go from this kind, calm
14 person -- like I said, yelling at me for being -- bringing a
15 balloon home to my child, you know, totally irrational
16 behavior.

17 Q Has he ever hit you?

18 A Yes.

19 Q On how many occasions?

20 A He has actually hit me several times on one
21 occasion and has pushed me down a couple times.

22 Q Are you afraid of him?

23 A Yes, I am. Yes.

24 Q Aside from this one incident that you talked
25 about where he smacked Tyler on the bottom when Tyler was

1 eight months old, were there other times that he was
2 inappropriate with -- with -- with Tyler? In terms of
3 aggressive or inappropriate disciplining Tyler?

4 A Nothing specific that I can think of other than
5 with this church they do believe the man is the head of the
6 house and so anything that Harmon says goes and he -- he would
7 say on various occasions, I'm in control of you, I'm in
8 control of you. And Tyler is not an aggressive child. He's
9 been described as a very mellow child.

10 As far as I know, we talked about this last time, I
11 have never seen Harmon read a child care book, never ever seen
12 him read a child care book. I've only seen him read one book
13 regarding children and that was a book about discipline
14 written by Dobson (phonetic).

15 Q Now, was there ever an incident when you were ill
16 last year when Harmon was supposed to care for Tyler and there
17 was a problem in terms of he was trying to make you well, he
18 was trying to heal you? Do you remember that incident?

19 A I remember a time when Tyler was ill. Tyler had
20 an awful flu and he -- it was -- it was diarrhea, high, high
21 fever. And he came down with it on Wednesday. I had taken
22 care of Tyler all day that day. I stayed home from work.

23 THE REFEREE: When was this?

24 THE WITNESS: This would have been -- I'm sorry --
25 probably the end of February.

1 Q (By Ms. Edinburg) Of this year?

2 A Of this year. I'm sorry.

3 Q Okay.

4 A Yeah, it was this year. I shouldn't say that. The
5 middle of February. And real high fever. By evening he
6 seemed much better. When Harmon came home, he said, well,
7 that's understandable, Tom and I had prayed over Tyler and --
8 and he -- he's healed.

9 He was better that evening. We went to bed. Well,
10 he was much worse the next morning. So I took him to the
11 doctor and he had -- they said, well he's got the flu, there's
12 nothing you can do but give him Tylenol and put him in tepid
13 water every hour, which I did all that day.

14 By evening he was still very ill. He had gone to
15 bed at his normal time, which was about 8 o'clock. Harmon
16 went to bed at his normal time. Tyler woke up probably about
17 11 that night crying again with a fever. I'd had maybe two
18 hours sleep in the last two days. And I was up with Tyler
19 until about 4.

20 Finally I was just exhausted. I went downstairs,
21 woke Harmon up, said, you're just gonna have to take over for
22 a while now. I can't deal with this anymore. He did take
23 Tyler. The next morning he -- I think it was the only time
24 he's ever taken Tyler to the doctor. He did take Tyler into
25 the doctor, got some more medicine, brought him back, I cared

1 for him the rest of the day.

2 Tyler didn't get well right away. The flu -- the
3 diarrhea lasted for a long time and Harmon told me at that
4 time that it was my fault that he wasn't getting better. And
5 I said, why is that? What am I doing wrong? And he said,
6 well, you're not praying with me. You -- if you had prayed
7 with me out loud, Tyler would be healed by now, he would be
8 better, so it's your fault he's not getting better. And --

9 Q Was there a time last year where he chased you
10 around the house --

11 A Rebuking the devil out of me, yes.

12 Q Yes. Would you tell Referee Ware about that?

13 A That would have been about July of 1988. Harmon
14 hadn't eaten for two weeks at that point. He was on a fast.
15 He was trying to speak in tongues, which I guess is very
16 common in that church. If -- if you are baptised in the Holy
17 Spirit, you speak in tongues.

18 THE REFEREE: Excuse me. What -- when did you
19 say this was?

20 THE WITNESS: This would have been the end of July
21 of 1988. And he was going on a 21-day fast because he wanted
22 to speak in tongues and it was about the second week into it
23 and his behavior was getting more and more unusual. His mouth
24 was full of canker sores. He could hardly speak. He was just
25 not feeling well.

1 And I was going into the doctor for an X-ray. I was
2 going into the hospital. Woke up the next morning. I -- my
3 mind was on going to the hospital. I was concerned about
4 that. Harmon -- we're both getting dressed in front of the
5 mirror and he starts quoting Bible verses, telling me how the
6 Lord has saved him and from now on that, you know, his whole
7 life is devoted to the Lord and -- basically I was getting a
8 sermon. It was lasting 15, 20 minutes.

9 I finally said, Harmon, I don't want to hear this
10 today. I'm not in the mood to hear this. Well, you're not a
11 real Christian. Real Christians want to hear the word of God
12 all the time. You're not a real Christian. And I must have
13 said something like, I don't give a damn, or something. I
14 don't swear. I probably used damn.

15 Well, then I became the devil. He said that I had
16 the devil in me and he's chasing me around the house with his
17 finger in my face. I rebuke you, devil. Leave her body. And
18 chasing and yelling at me. Tyler was scared to death. I had
19 Tyler in my arms running from him.

20 Finally I started crying and I said, Harmon, I don't
21 know what you're doing but this is really hurting me. And he
22 said, good. He said, I'm glad. He said, because there's
23 cleansing in pain and suffering. The Bible says that you'll
24 be cleansed if you suffer and so I'm going to put you in the
25 furnace for a while. I'm gonna make sure you're cleansed.

1 And I was so upset, we finally called Anetha
2 (phonetic) again, Tom's wife, and she -- she told Harmon to
3 calm down, that that was not the way the church taught people
4 to be converted and that was -- that wasn't what the church
5 really believed in.

6 And Harmon went off to work like everything was
7 fine, came home that night, everything was fine.

8 Q Was that fairly typical? Would there be kind of
9 this big outburst of bizarre behavior and --

10 A Uh huh.

11 Q -- then he'd be real calm --

12 A He would either be very calm or he'd buy me
13 presents or he'd bring me clothes or, you know, after --
14 especially after he hit me in October, he went -- well, excuse
15 me, I'm getting my time mixed up. Let me think. No, it was
16 this time, in July. He went to Vail to come down from this
17 fast. This was -- he -- it went on for another week.

18 And he was so out of it toward the end of it before
19 he went to Vail, he was pulling into the garage with the car
20 and he ran over Tyler's stroller. He didn't ev-- and then he
21 starts yelling at me, why did you put that there? What's that
22 doing there? Well, it'd been there for six months in the same
23 spot. He ran right over it. Didn't even see it.

24 And then he went to Vail to kinda come down from
25 this fast because he was so out of it. I don't remember the

1 exact date. It was the date of Caesar Casa's (phonetic)
2 wedding. I went to the wedding. Harmon was in Vail and he --
3 when he was there I told him, I don't think I want you to come
4 home. I said, it's been so peaceful for three days, I'm not
5 sure I want you here.

6 And he came home. I had a new dress from the Polo
7 Shop, I had a beautiful scarf, he took me out to dinner the
8 next day. It was our anniversary. Just like everything was
9 wonderful.

10 Q And that's the pattern (inaudible) --

11 A Uh huh.

12 Q -- (inaudible) --

13 A Yes.

14 Q -- really nice man, nice behavior --

15 A He builds up to it. You can see it escalating.
16 It'll start slowly with small irritations and then build up to
17 it and the pattern has become more and more intense and more
18 frequent in the last year.

19 Q Now, how many times since Tyler came into your
20 life when you adopted him in January of '98 --

21 A Uh huh.

22 Q -- did Mr. Wilfred have sole responsibility for
23 caring for that child?

24 A There were a few times when I would go shopping.

25 Q What's the most amount of time he ever spent alone

1 with Harmon?

2 A Maybe five hours at the most. Never overnight.
3 And that's one thing that I'm very concerned about with the
4 request, is Tyler's only 17 months old. He cannot stay away
5 overnight.

6 MR. HINDS: Your Honor, in the interest, first
7 of the child and (inaudible), I'm sure Ms. Edinburg would like
8 to have some, I would like the following: The issue is, we're
9 gonna have supervised because the GAL has recommended that
10 that continue. I would ask, Judge, the courtesy that the
11 question of what does she feel, how often the supervision, for
12 how long? And then I would like a brief opportunity just to
13 ask her that question, because that's all we're gonna be able
14 to do in interim orders is, how long should the visitation be
15 on a supervised setting until we get back together.

16 And if I'm not even allowed to ask that question, I
17 think that's just awfully unfair. So that's -- can we do
18 that and then we can get on to all the other historic elements
19 of this family at the next time we get together.

20 MS. EDINBURG: (inaudible)

21 THE REFEREE: In light of the fact that Mr. Hinds
22 has obviously stipulated that there will be supervised
23 visitation --

24 MS. EDINBURG: I'm delighted to hear that.

25 THE REFEREE: -- would you mind yielding the floor

1 to Mr. Hinds so that he can ask his question (inaudible)?

2 MS. EDINBURG: Sure.

3 EXAMINATION

4 BY MR. HINDS:

5 Q Right now, is it your feeling that the child
6 should get to know his father?

7 A Absolutely.

8 Q Do you believe that Harmon loves his child?

9 A I don't know.

10 Q So you have questions of whether he loves the
11 child, but you still think that the child should get to know
12 the father?

13 A Uh huh.

14 Q You do?

15 A Uh huh.

16 MS. EDINBURG: You have to answer (inaudible).

17 THE WITNESS: I'm sorry. Yes, I -- I think that
18 Tyler loves him. That's one thing that really surprised me
19 was the -- the small amount of time that Harmon actually spent
20 with him when we were together, Tyler still recognized him.

21 Q (By Mr. Hinds) And you heard the guardian, Ms.
22 Lycus (sic), indicate that the information she got from
23 Bridges was that the child was attached and bonded to the
24 father. Did you hear her say that?

25 A No, I'm sorry, I didn't.

1 Q Did you hear the guardian indicate there was
2 attachment on the child to the father?

3 A Yes. Yes.

4 Q You agree with that (inaudible) --

5 A Yes. In fact, it surprised me greatly. But, yes,
6 I agree with it.

7 Q Given that the child's attached to the father,
8 would it be acceptable to you at this point until we can
9 complete the -- the hearing, that under a supervised basis,
10 that is, a person acceptable to both of you --

11 A Uh huh.

12 Q -- that instead of the four hours a week that we
13 have three visits of four hours, three visits, four hours, 12
14 hours a week until the Court can get to this to conclude it?
15 Is that a problem for you?

16 A That is.

17 Q Let me ask you this, then, that being a problem.
18 We recognize that contact is important.

19 A Uh huh.

20 Q This is a small child, correct?

21 A Uh huh.

22 Q He's 17 months?

23 A Yes.

24 Q Why would you object to four-hour periods with the
25 child with his father?

1 A Because it's too hard on the child. He's just a
2 baby. I have to work around Harmon's work schedule and his
3 church schedule and fit Tyler in and that is cutting into
4 Tyler's nap time. I would agree to a four-hour visit on
5 Sunday, but I think four hours in the evening, by the time
6 Tyler wakes up from his nap, I'm keeping up till 9 o'clock at
7 night, and that's too long.

8 Q Well, let me ask you this: Suppose the four hours
9 that I'm talking about occurred once on the weekend, once in
10 the afternoon, and we'll say 3 o'clock to 7, twice a week, and
11 that wouldn't interfere with -- if it interferes with his
12 church time that's his problem. It wouldn't interfere with
13 anything as far as you're concerned, would it?

14 A I would like to see one four-hour visit on Sunday,
15 maybe a three-hour visit during the week, but I wouldn't
16 object to two visits during the week. It's just -- it's too
17 hard on the baby. Tyler -- when Harmon has him it's just
18 intense play all the time and -- and I have to think of my
19 child. I -- I don't, you know -- I understand Harmon wanting
20 to see him and I have never kept Tyler from him. The -- the
21 whole month that went by when Harmon didn't see him, he never
22 asked to, and the minute he asked to, we set up a visit
23 immediately. It's never been my intent to keep him away, but
24 I want what's best for the child and I don't want too much.

25 Q One last question.

1 A Uh huh.

2 Q Just so I know and -- has my client said to you
3 that he intends to kidnap and take the child to Mexico or any
4 other country?

5 A He hasn't told me a specific place, but he has told
6 me that God has given him authority to take possession, and to
7 me that means --

8 Q (inaudible) I understand you made that
9 interpretation. Outside of that interpretation that you made
10 from his comment that God has given him authority to take
11 possession, has he told you that he intends to take the child
12 outside the jurisdiction of -- of this state or outside of
13 this country?

14 A He has never said, I will take Tyler to Mexico, no.

15 Q The only indication, from your belief system, is
16 when he said that God empowers me to take authority of the
17 child, your interpretation from that is that means he could do
18 that?

19 A No, he didn't take -- he didn't say that God
20 empowers me to take authority. He said, God has given me
21 authority to take possession, and I consider possession as
22 physical possession, not authority.

23 Q Thank you. That's all.

24 A So --

25 MR. HINDS: You have anything, Ms. Dycus?

1 MS. DYCUS: I have one question.

2 THE WITNESS: Uh huh.

3 EXAMINATION

4 BY MS. DYCUS:

5 Q What is Tyler's current nap -- nap time?

6 A Oh, I wish I could tell you exactly. Right now
7 he's been going down around lunch time and sleeping till 2:30,
8 3 o'clock. He's -- he's getting a little older, he's down to
9 one nap. He's eating lunch and then sleeping. So generally
10 by 3 o'clock it's not a problem having him somewhere, but like
11 Harmon wanted to see him at 1:30 last Sunday and that was a
12 problem and I'm -- I'm not gonna wake a child up after
13 sleeping a half an hour to accomodate Harmon's church
14 schedule. It's just not fair. And I feel that three hours --
15 I really prefer two hours in the evening. I think that's
16 enough for a child. But I wouldn't object to a four-hour
17 Sunday visit. I'd go three but I'd really prefer two in the
18 evenings.

19 Q Thank you. Nothing further.

20 MS. EDINBURG: M-- may I ask just a --

21 THE REFEREE: Yes.

22 MS. EDINBURG: -- few questions?

23 EXAMINATION

24 BY MS. EDINBURG:

25 Q What is Tyler like when you said it's so intense

1 when he gets back? What -- what -- what is -- happens to
2 Tyler when he -- he returns from visits?

3 A Well, we've talked -- I've talked to Cindy at
4 Bridges about his behavior. Every time there's a -- well, I
5 shouldn't say every time -- well -- once we got moved -- we
6 got moved into a -- a permanent place and a home, he's got
7 everything that's his, he -- he's feeling very comfortable,
8 but when we first started the visits, Tyler would get more
9 aggressive. He hit me a couple times when I was at the office
10 at Bridges.

11 Q Tyler hit you?

12 A Tyler hit me. Just, you know -- I don't -- Cin--
13 Cindy said it was probably very normal behavior because a
14 child that age can't express themselves and that sometimes
15 they get a little aggressive after a visit. Almost -- I could
16 almost count on him waking up after a visit in the middle of
17 the night. He did that continually for several weeks. Maybe
18 the last two or three weeks since we've been in our own place,
19 he hasn't done that on a regular basis, but at the last visit
20 he woke up in the middle of the night, just crying Mommy,
21 Mommy, Mommy.

22 The last time he was actually crying and more upset
23 than he's been in the past. When he's woken up before it's
24 just been Mommy and I -- I give him a bottle and can get him
25 calmed down again. We've discussed this with Bridges and she

1 said, yes, that again is very -- it can be very common
2 behavior for a child going through this because they can't say
3 what's happened. They can't express themselves and so they
4 express themselves in other ways, so --

5 Q Now, are you comfortable with a three-hour session
6 twice a week from like 4 to 7 or 3 to 6? Would that work in
7 term's of Tyler's schedule?

8 A It would as long as Harmon would also give him
9 dinner and give him his bath and have his pajamas on by the
10 time I pick him up, because then -- if I pick him up at 6 or
11 6:30 and then I have to bathe him and get him ready for bed,
12 he's exhausted too. I still would prefer two hours, but, you
13 know, I would compromise at three 'cause Harmon's asking for
14 four, so --

15 Q Thank you.

16 MR. HINDS: My only request now, Your Honor, is
17 that the ruling, if there be a moment, that we might use our
18 mutual phones after you advise us what -- to try to get this
19 group together to set this an enormous (inaudible) --

20 THE REFEREE: That is enormous. I -- I thought
21 you were gonna go back to your office and clear all these
22 dates for me, Mr. Hinds.

23 MR. HINDS: You can tell us when you might --

24 MS. EDINBURG: Y-- Your Honor?

25 MR. HINDS: -- be available. We'd appreciate it.

1 MS. EDINBURG: Is the Court at all interested in
2 looking at Worksheets A that I've prepared in terms of two
3 assumptions of Mr. Wilfred's income? One is at 8,000 and --

4 THE REFEREE: No, Ms. Edinburg. At this point in
5 time the Court has indicated to you what the Court is inclined
6 to do with regards to the interim orders. Thank you very
7 much, Ms. Wilfred.

8 THE WITNESS: Thank you.

9 THE REFEREE: We didn't mean to just --

10 THE WITNESS: Oh.

11 THE REFEREE: -- leave you --

12 THE WITNESS: That's all right.

13 THE REFEREE: -- hanging there. I think we're
14 kind of at a stopping place and the Court's notes well reflect
15 that the record of your client is not finished, is that
16 correct, Ms. --

17 MS. EDINBURG: That's correct.

18 THE REFEREE: Ms. Dycus, did you care to make some
19 recommendations to the Court with regards to the interim
20 orders for supervised visitation?

21 MS. DYCUS: Yes, Your Honor. I believe that the
22 -- what they're very close to an agreement is fairly
23 appropriate. I'm a little bit concerned about length of time
24 because the reports I have had is that the visits are very
25 intense, which can be expectable when that's all Mr. Wilfred

1 is getting to see the child.

2 But it is very tiring for the child and in fact
3 initially he could only go for about an hour and a half
4 because he was going a hundred percent the whole time.

5 Nevertheless, if he is doing more than just that
6 intense playing, for example, getting Tyler his dinner,
7 getting him bathed and ready for bed, I think that will
8 actually reduce the intensity of the visit and would make the
9 longer period more appropriate.

10 The -- there's a real problem on making a four-hour
11 visit on Sundays because they cannot go for four hours solid
12 and with a nap time in the middle, I would almost ask each
13 side how they would feel about either keeping that at a
14 two-hour visit or extending it to a five-hour visit over the
15 nap time so that he naps and has some time before and after
16 the nap to spend with the child.

17 THE REFEREE: Would Tyler nap?

18 THE PETITIONER: Not really.

19 THE REFEREE: That's (inaudible) --

20 MS. DYCUS: (inaudible)

21 THE PETITIONER: He's --

22 THE REFEREE: That's always a problem with a child
23 that age going down for a nap in unfamiliar circumstances.

24 MS. DYCUS: Well, now, it's not entirely
25 unfamiliar because this -- Mr. Wilfred is in the home that he

1 was in previously. I don't have a good solution for that.
2 I'm a little bit inclined to say for the time being let's keep
3 it with the shorter visit and extend them with time, rather
4 than making a jump from two to four hours.

5 And that Sunday visit really needs to be planned
6 around Tyler's schedule, not around anybody else's schedule.
7 Nobody's asking for overnights. I'm glad, because
8 developmentally I feel that would be very inappropriate at
9 this point.

10 And as far as -- as frequency, I think three times a
11 week would be appropriate. What the -- the experts have told
12 us about kids this age is that -- actually, kids any age --
13 that frequency is more important than duration. And --

14 THE REFEREE: That's right.

15 MS. DYCUS: -- the younger the child, the more
16 important the frequency is. His attention span is about an
17 hour and half or two hours and his memory is less than a day,
18 so it would be very appropriate to increase that to three
19 times a week. I say that knowing it's going to inconvenience
20 both of the parties, but I do feel that that would be best for
21 the child.

22 As -- as far as a custody order at this point, we
23 have a restraining order giving Mrs. Wilfred exclusive
24 possession. I don't see any need for change in that at this
25 point.

1 MR. HINDS: I think Mr. Harmon (sic) just wants to
2 comment about the visit briefly.

3 THE RESPONDENT: Where I --

4 MR. HINDS: Mr. Wilfred.

5 THE RESPONDENT: Yeah.

6 MR. HINDS: Harmon Wilfred (inaudible).

7 THE RESPONDENT: Where I'm picking the child up is
8 about 20 minutes or so from the house, so as my two hours --
9 now, we've tried to do two and a half hours and Sandy's been
10 accomodating for that so that I've got some drive time, but in
11 the two-hour period, if I'm to feed him and bathe him, that
12 pretty well deals with the whole two hours. In fact, it's
13 kind of a hurry.

14 So if I'm gonna feed him and bathe him and have any
15 time with him at all that's quality time -- in fact, what I've
16 been doing for quality time is jumping in the tub with him, if
17 I'm gonna bathe him, and that's kind of fun. I'm having my
18 second childhood. But -- but I'd like to get at least three
19 hours so that I've got some time to feed him and bathe him if
20 that's what I'm to do and to have the travel time back and
21 forth, because Sandy is not coming to the house and dropping
22 him off. We're a good 20 minutes away. So I'd just like that
23 as a comment.

24 MS. EDINBURG: Thank you.

25 THE REFEREE: All right.

1 THE PETITIONER: May I --

2 THE REFEREE: Yes.

3 THE PETITIONER: Fine. It's also about a 15-
4 minute drive for me to get to that place and it's my
5 understanding the two hours only on Sunday afternoon he
6 doesn't need to be bathed or fed during that time. It's only
7 the evening that there are three hours.

8 THE REFEREE: Well, certainly I agree with Ms.
9 Dycus that everything all of us have been told is the
10 frequencies is more important in establishing the relationship
11 than -- than the length of time.

12 And what I'm going -- what I'm going to do is,
13 hoping that everyone has good sense, which may be only a hope,
14 and pays attention to the child, because, I mean, that's
15 what's important and I think that anything that can be done to
16 increase the bonding and increase the relationship between
17 Tyler and his father is -- is -- is going to be to everyone's
18 benefit, but most importantly it's going to be to Tyler's
19 benefit.

20 I'm going to say three hours on Tuesday and Thursday
21 and Sunday, from 3 to 6. It should be after nap time and
22 before bed time. The child is to be bathed and fed on each
23 one of these visits. The -- the -- the supervision is to be
24 arranged such that the supervisor is amenable or agreeable to
25 both parties and has been approved by the guardian ad litem.

1 With regards to the interim orders on child support
2 and maintenance, the Court is going to order \$1,000 a month
3 child support and \$500 a month maintenance on an interim
4 basis. The previous orders remain in full force and effect,
5 which means that basically physical custody is with the
6 mother pursuant to the temporary restraining order.

7 Now -- now that I have crept past 5 o'clock and
8 everybody's support staff is gone --

9 MS. EDINBURG: May -- may I just ask --

10 THE REFEREE: Mr. Hinds, did you need the
11 telephone?

12 MR. HINDS: Yes.

13 MS. EDINBURG: Is -- is that \$1,500 order
14 immediately, for like, for the month of June?

15 THE REFEREE: That's right.

16 MR. HINDS: I assume that the 750 given two days
17 ago is a credit against that?

18 MS. EDINBURG: Yes, that's fine.

19 THE REFEREE: The 750 that was given two days ago
20 can be the first half of June.

21 MR. HINDS: That's fine.

22 THE REFEREE: I'll make the -- the second half of
23 June payable on the 15th.

24 MR. HINDS: That's fine. Thank you, Judge.

25 MS. DYCUS: Your Honor, one -- one matter I'd like

1 to clarify since the witness is here, that Mr. Davis' subpoena
2 continues so that we can hopefully resolve --

3 THE REFEREE: Mr. Davis, your subpoena is gonna
4 continue. It is my firm hope that this can be resolved
5 between the attorneys and you will not be summoned back here
6 to answer your questions, but if it can't be, then you may
7 very well be -- so your subpoena does continue. You will have
8 to be given notice by counsel.

9 MS. EDINBURG: Your Honor, I have my book so I
10 don't need to call (inaudible) --

11 MR. HINDS: (inaudible)

12 THE REFEREE: All right, folks, I have checked the
13 available dates.

14 I love that.

15 MR. HINDS: (inaudible)

16 THE REFEREE: I'm gonna tell him you said that.

17 MR. HINDS: (inaudible)

18 MS. EDINBURG: The Court will take judicial notice
19 that --

20 MR. HINDS: (inaudible)

21 THE REFEREE: How does Thursday --

22 MR. HINDS: Yeah.

23 THE REFEREE: -- June 15th, at 3 p.m.?

24 MR. HINDS: What are we doing Thursday -- Wednesday

25 --

1 MS. EDINBURG: Thursday.
2 THE REFEREE: Thursday, June 15th.
3 MR. HINDS: (inaudible) June 15th.
4 THE REFEREE: That's this week.
5 THE RESPONDENT: It's this Thursday.
6 MS. DYCUS: Since probably everybody in this room
7 is going to the IBCCC dinner that night, so -- that's not
8 until 6, though.
9 THE REFEREE: This is -- this is not good, huh?
10 MS. DYCUS: No, I think it's fine.
11 MS. EDINBURG: It's not great for me. I --
12 MR. HINDS: Can you do it?
13 MS. EDINBURG: It's not great for me. I -- I have
14 -- I'm prepping a witness that afternoon for a big trial next
15 week.
16 MR. HINDS: All right, hold it a second.
17 MS. EDINBURG: I'm in back-to-back trials. I --
18 MR. HINDS: Excuse me. I would like to say, Your
19 Honor -- are we off the record?
20 THE REFEREE: Oh, no, I'm running the record.
21 MR. HINDS: Oh, no.
22 THE REFEREE: Yes.
23 MR. HINDS: All right. I would (inaudible) --
24 THE REFEREE: I'll turn it off.
25 (WHEREUPON, the tape was stopped and the

1 proceedings were concluded.)

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C E R T I F I C A T E

I certify that I transcribed this record from that tape recording of the above-entitled matter which was heard on June 13, 1989.

I further certify that the aforementioned transcript is a complete and accurate transcript of the tape-recorded proceedings based upon the audio facilities of these tapes and my ability to understand them.

Signed this 25th day of March, 1991, at Denver, Colorado.



Susan Childs