

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

IN THE MATTER OF F.M.

3AN-02-00277 CI

_____ /

VOLUME I

TRANSCRIPT OF PROCEEDINGS

March 5, 2003 -- Pages 1 through 198

March 10, 2003 -- Pages 198 through 223

HEARING REGARDING BURDEN OF PROOF THAT
DEFENDANT IS MENTALLY ILL AND REGARDING
ADMINISTRATION OF MEDICATION

BEFORE THE HONORABLE MORGAN CHRISTEN

Anchorage, Alaska
March 5, 2003

APPEARANCES:

FOR THE PLAINTIFF: Jeff Killip
Assistant Attorney General
State of Alaska
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501

FOR THE DEFENDANT: James B. Gottstein
406 G Street, Suite 206
Anchorage, Alaska 99501

1 PROCEEDINGS

2 4403-41

3 8:52:51 AM

4 THE COURT: We're on record in Case No. 3AN-03-277.
5 It's a case regarding Faith Myers. Mr. Gottstein, before
6 I go any further, I'll just state your appearance. Mr.
7 Gottstein is present, for the record, as is Mr. Killip for
8 the State. Your client requested this be an open hearing,
9 is that correct?

10 MR. GOTTSTEIN: That's correct. She's not here yet,
11 though, and she's supposed to be here. So, I don't know
12 what the hang-up is. Dr. Kletti, wasn't she --?

13 THE COURT: Right. She has the right to be present.

14 DR. KLETTI: Right. She was scheduled for
15 transportation to court this morning.

16 THE COURT: I was told that you all were ready. I
17 didn't realize that you weren't. We need to wait for her.
18 So we'll go ahead and go back off record and do that.
19 Well, actually, maybe I'll take up some housekeeping,
20 first, but we're not going to proceed in substance with
21 her, certainly.

22 I just have the one exhibit list. Counselor, do you
23 have --

24 MR. GOTTSTEIN: The respondent's?

25 THE COURT: Yes. Do you have an exhibit list, Mr.

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1 Killip?

2 MR. KILLIP: Your Honor, given the accelerated pace,
3 the witnesses just showed up. I had a chance to speak
4 with one for almost an hour yesterday, but there are two
5 more I haven't had a chance to talk with and one of them
6 presented me with some photographs. I don't have an
7 exhibit list that I've generated yet, but I can do it
8 right now.

9 THE COURT: Okay, that's fine. We can do it when we
10 go off record for a minute. As long as Mr. Gottstein has
11 it and has a chance to take a look, that's fine.

12 MR. GOTTSTEIN: Your Honor, I would note under AS
13 47.37.30(a)(6) that the petition must list the prospective
14 witnesses who will testify in support of commitment or
15 involuntary treatment, and only Dr. Hanowell was listed.
16 And I would object to any witness other than the one
17 specifically listed testifying.

18 THE COURT: All right. The objection is noted, but
19 again, I'm not going to make any substantive ruling until
20 your client gets here. My intention is to stay on record
21 just to get some housekeeping taken care of.

22 MR. GOTTSTEIN: Can I respond to that, Your Honor?

23 THE COURT: No, not yet.

24 MR. GOTTSTEIN: Okay.

25 THE COURT: Because we're not going to get into

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1 substance yet. I just want to make sure I have
 2 everything, so that I can make use of the next few
 3 minutes.
 4 I have one exhibit list; I'm going to get another
 5 exhibit list. I don't have witness lists. Mr. Gottstein,
 6 you made reference, I think, to one in our telephone
 7 conference we had the other day?
 8 MR. GOTTSTEIN: Yes.
 9 THE COURT: Maybe I could get that much done, so I
 10 could be reviewing those while we're off record. Do you
 11 have one Mr. Killip?
 12 MR. KILLIP: I can give it to you verbally?
 13 THE COURT: Sure.
 14 MR. KILLIP: Yeah, we've got Dr. Hanowell, Dr.
 15 Kletti, and the three family members that were noted in
 16 the original, initiating petition, that filed the initial
 17 petition.
 18 THE COURT: Okay. And they are?
 19 MR. KILLIP: Rachel.....
 20 THE COURT: Is it Humphreys?
 21 MR. KILLIP: Humphreys.
 22 THE COURT: Yep.
 23 MR. KILLIP: Michael Myers and Arial Myers.
 24 THE COURT: Michael and Arial?
 25 MR. KILLIP: Yeah. All those names are in the

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1 pleadings that Mr. Gottstein has had.
 2 THE COURT: Yes. I have read the pleadings.
 3 The only other thing I think I could do before your
 4 client gets here, sir, is to let you both know that since
 5 this has been necessarily very rushed, I wanted both of
 6 you to know that I have had a chance to read all of the
 7 pleadings that you both filed, including the pleading that
 8 you just filed this morning, a minute ago, Mr. Killip.
 9 And I have had a chance quite early this morning to read
 10 the deposition transcript that was given to me. I have
 11 not had a chance to read all the attachments to your
 12 motion, Mr. Gottstein, but I've gone through all of the
 13 pleadings. All right? I thought you might want to know
 14 that before we get started.
 15 I don't think there's any other housekeeping I can
 16 take care of until your client gets here, unless there's
 17 something that you --
 18 MR. GOTTSTEIN: I don't know if you consider the
 19 telephonic testimony of Dr. Mosher housekeeping or not,
 20 but that might --
 21 THE COURT: No. I think it's an evidentiary ruling,
 22 and I don't want to take it up anymore than the other
 23 objection, before she arrives, but thank you for reminding
 24 me of it.
 25 Mr. Killip, anything else you think we can -- that

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1 comes to mind that we can take up before she gets here?
 2 MR. KILLIP: I don't think so, Your Honor.
 3 THE COURT: No? All right, well then, I'm going to
 4 go ahead and go back off record. I apologize to you all
 5 to keep you waiting, but Ms. Myers absolutely has a right
 6 to be here, so we will wait. We'll stand in recess.
 7 (Off record.)
 8 8:58:46
 9 THE COURT: We're back on record. You're Ms. Myers?
 10 MS. MYERS: Yes, Your Honor.
 11 THE COURT: I just need to confirm for the record
 12 that you are present, you have the right to be present.
 13 It is my understanding you choose to be, so thank you.
 14 Are we ready to proceed then, counsel?
 15 MR. GOTTSTEIN: Yes, Your Honor.
 16 MR. KILLIP: Yes, Your Honor.
 17 THE COURT: All right. Mr. Gottstein, has your
 18 client received a copy of the petition?
 19 MR. GOTTSTEIN: I believe she has. Haven't you?
 20 MS. MYERS: I received a great many copies. I
 21 wasn't able to read through all of them.
 22 THE COURT: Okay. Mr. Gottstein, could you move the
 23 microphone closer. I'm not going to be directing too many
 24 questions to your client, but I want to make sure we have
 25 a good recording.

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1 You said you received a great many copies. I
 2 couldn't hear the rest of your response.
 3 MS. MYERS: I received this to read.
 4 MR. GOTTSTEIN: Your Honor, some of that's from me.
 5 Did you receive anything, the paperwork from the hospital,
 6 when they initiated this?
 7 MS. MYERS: The hospital gave me a list of my
 8 possessions that they put in storage and they gave me --
 9 after I requested it several times -- a copy of the
 10 petition that listed what someone thought was grounds for
 11 having me screened and picked up at my home by the police,
 12 which took away my civil rights.
 13 THE COURT: Okay. I wanted to make sure you had a
 14 copy of the petition. It sounds like you have received
 15 it. Is that correct, Mr. Gottstein?
 16 MR. GOTTSTEIN: Well, she's received stuff that I've
 17 given her, but let me show -- and there may be some
 18 confusion about what the extant petition is. I think Mr.
 19 Killip mentioned that in his opposition yesterday. There
 20 seem to have been one that lists two items down at the
 21 bottom, and one at lists three.
 22 THE COURT: Okay, why don't you take a minute and
 23 review them with your client for the record. You're both
 24 at counsel table and I think you have them right in front
 25 of you. I want to make sure that she's seen both of them,

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1 if you would, please.
 2 MR. GOTTSTEIN: Well, Your Honor, I guess I would
 3 like to know which one you have.
 4 THE COURT: I think I -- Mr. Killip, which one are
 5 you proceeding on? Are you proceeding on the petition
 6 where your witness has added a handwritten note at the
 7 bottom?
 8 MR. KILLIP: Yes.
 9 THE COURT: Okay. Thank you.
 10 MR. GOTTSTEIN: Have you seen this? Were you given
 11 this?
 12 MS. MYERS: I was given that, but is it the one that
 13 was signed by my daughter and Arial, or is this the one
 14 that was signed by Dr. Hanowell?
 15 MR. GOTTSTEIN: Dr. Hanowell. Now, there were two.
 16 There was one that had the two --
 17 MS. MYERS: I couldn't read that last.
 18 MR. GOTTSTEIN: Okay.
 19 MS. MYERS: Okay.
 20 MR. GOTTSTEIN: Were you given this?
 21 MS. MYERS: Yes, I have a copy of that.
 22 MR. GOTTSTEIN: Okay. And you have a copy -- I'm
 23 showing her the petition for court approval of
 24 administration of (word indiscernible -- simultaneous
 25 speech).

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1 THE COURT: Thank you, counsel.
 2 MS. MYERS: I was never given anything saying that I
 3 agreed to use psychotropic medication.
 4 MR. GOTTSTEIN: Right. But, were you given this
 5 document?
 6 MS. MYERS: I was given that document. I did not --
 7 I did not have a court order to be given psychotropic
 8 medication, which is my legal right.
 9 MR. GOTTSTEIN: And she has been, actually, Your
 10 Honor.
 11 MS. MYERS: I have been medicated, Your Honor.
 12 THE COURT: All right. Today?
 13 MS. MYERS: Against my will.
 14 THE COURT: Today?
 15 MR. GOTTSTEIN: While she's been in the hospital.
 16 THE COURT: All right. I need to know whether or
 17 not you're able to proceed today. Are you under the
 18 influence of any medication that affects your ability to
 19 proceed today?
 20 MS. MYERS: I don't think so, Your Honor.
 21 THE COURT: Okay.
 22 MS. MYERS: I'm a bit hungry, because I did not wish
 23 to eat the food, just in case....
 24 THE COURT: Um-hmm.
 25 MS. MYERS:that would be damaging to my

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1 thought processes, also.
 2 THE COURT: All right. All right. Mr. Killip and
 3 Mr. Gottstein, are you in agreement that we are proceeding
 4 under 47.30.73.735 today?
 5 MR. KILLIP: I must confirm that, but that sounds
 6 correct.
 7 MR. GOTTSTEIN: For the -- the commitment part of
 8 it.
 9 THE COURT: Correct. Not for the administration of
 10 the medication, but just for the commitment.
 11 MR. KILLIP: Right.
 12 THE COURT: All right. And so the other thing --
 13 and I apologize for doing this in a little bit of a
 14 mechanical way, but we're all here, I think, having tried
 15 to digest these pleadings, and in your cases generate
 16 them, in very short order. So I just want to make sure
 17 we're on the same page.
 18 That is my understanding, and it's my understanding,
 19 Mr. Killip, that you're proceeding here today -- you're
 20 seeking an order -- well, two really. One requiring
 21 involuntary, or allowing involuntary commitment for a 30-
 22 day period?
 23 MR. KILLIP: Yes.
 24 THE COURT: And then the other, which is a separate
 25 issue, is the administration of the medication.

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1 MR. KILLIP: Correct.
 2 THE COURT: So, Ms. Myers, I'm required to inform
 3 you and will on record that if the State seeks a
 4 commitment beyond 30 days, which Mr. Killip has made clear
 5 he is not doing at this point, but at this point -- yes?
 6 MR. KILLIP: We don't have a petition filed.
 7 THE COURT: Right. So, if they do, then you're
 8 entitled to a full hearing or a jury trial. And I want to
 9 make sure that you understand that. And that we had Mr.
 10 Killip's comment that that's not his intention today.
 11 Mr. Gottstein, I have a waiver in the file to have
 12 this hearing be on the usually statutory, 72-hour period
 13 and I want to make sure I recite into the record what
 14 occurred, because the three of us, two counsel and I had a
 15 telephone conference Tues -- Mon -- Tuesday? Monday.
 16 MR. GOTTSTEIN: Monday.
 17 THE COURT: Monday. I beg your pardon. This is
 18 Wednesday, yes. So, for the record, I want to make sure
 19 that I just take a minute to say that I had a conference
 20 call with counsel and with Mr. Gottstein on Monday
 21 evening, which is right when I learned that this petition
 22 had been filed and that Mr. Gottstein had filed his
 23 motions. I think he filed them, though correct me if I'm
 24 wrong, the preceding Friday at a hearing at API that
 25 Master Duggan was not able to accommodate the length of

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1 hearing he thought was going to be entailed by your --
 2 your requests that your motions be heard. Is that
 3 correct?
 4 MR. GOTTSTEIN: Your Honor, the motion to dismiss
 5 and pretrial brief was filed before 9:00 AM on Friday, and
 6 I believe the motion in limine was filed before 10 on
 7 Friday.
 8 THE COURT: All right, that's fine. And Master
 9 Duggan recommended that this be kicked over to the
 10 Superior Court directly here. It's my understanding that
 11 you agreed with that recommendation. That was your
 12 request?
 13 MR. GOTTSTEIN: Yes, Your Honor.
 14 THE COURT: Okay. I just want to make sure that the
 15 record is also clear that we are operating under some
 16 fairly significant time constraints. I was able to take
 17 this hearing up yesterday, on my calendar I could have, at
 18 any rate, but didn't because I had not yet received your
 19 motions or Mr. Killip's oppositions. I required that Mr.
 20 Killip file his opposition by yesterday, by I think noon
 21 or midday, anyway, and he did that. And I have received
 22 them and I think I explained to you both, already, that I
 23 have had a chance to review them. But -- and I moved a
 24 trial otherwise set for today so we could accommodate this
 25 hearing today. It's a very important matter and I wanted

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1 to get to it just as soon as I could get to it. But the
 2 other problem we've got is that Mr. Gottstein is leaving
 3 town, later this afternoon, so we're trying to get this in
 4 as quickly as we can.
 5 All right. Do either one of you want to add
 6 anything that we discussed in our conference call the
 7 other day? Am I missing anything?
 8 MR. GOTTSTEIN: Well, I think we've got the
 9 telephonic participation matter still pending for Dr.
 10 Mosher. Dr. Jackson has already been approved, but we
 11 have the pending motion for the telephonic participation
 12 of Dr. Mosher.
 13 THE COURT: Okay. I'm going to take that up as we
 14 come to that witness.
 15 Mr. Killip, anything else from the telephone
 16 conference?
 17 MR. KILLIP: I think our position would be,
 18 generally, we don't have an opposition to telephonic
 19 participation, but it's our position that the issue is
 20 really -- or the issues are limited to the commitment
 21 criteria and the petition on the meds, and that's it.
 22 We're not here to challenge medical science. So, to the
 23 extent that Mr. Gottstein is going to call these clients
 24 to challenge how medicine is practiced in Alaska, we have
 25 a standard, open objection to that.

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1 THE COURT: All right. Well, I certainly take
 2 telephonic testimony all the time. And so I don't have
 3 any problem with that. Certainly it's not opposed, so to
 4 the extent you want to call this witness telephonically
 5 and just want a ruling on that for planning purposes, I
 6 can tell you I don't have any qualms with that.
 7 MR. GOTTSTEIN: Thank you, Your Honor.
 8 THE COURT: And I'll grant that motion. But I don't
 9 want to take up any of the other issues regarding the
 10 witness until we come to the witness. Okay?
 11 All right. So, Mr. Killip, that means since we've
 12 clarified which statute you're proceeding under and we're
 13 all in agreement, then that you have the burden of proof
 14 here, to go forward, to prove the necessary elements by
 15 clear and convincing evidence. So sir, I need to know how
 16 you intend to proceed. Are you going to call these
 17 witnesses you just referenced?
 18 MR. KILLIP: Yes.
 19 THE COURT: All right. Are you ready to do that
 20 now?
 21 MR. KILLIP: I could start with Ms. Humphreys, Your
 22 Honor.
 23 MR. GOTTSTEIN: Your Honor, I renew my objection to
 24 Ms. Humphreys. She wasn't listed, as required by the
 25 statute.

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1 THE COURT: And you think you've been prejudiced by
 2 that in some way?
 3 MR. GOTTSTEIN: Yes, I haven't been able to take her
 4 deposition. I mean, she wasn't listed.
 5 THE COURT: But she's one of the people who signed
 6 the original petition, or provided the information for
 7 that?
 8 MR. KILLIP: Yes, Your Honor.
 9 THE COURT: Is that the basis for her testimony now?
 10 MR. KILLIP: Yes.
 11 THE COURT: All right. I'm going to allow her
 12 testimony, then.
 13 MR. KILLIP: Okay.
 14 THE COURT: Is she here?
 15 MR. KILLIP: Yes.
 16 MR. GOTTSTEIN: Now, are all the other witnesses
 17 going to sit in during the testimony, or should they --
 18 THE COURT: I'm, sorry, but I don't know who these
 19 people are who are in the back of the courtroom. Do you
 20 have other witnesses who are here who you are planning to
 21 call to testify?
 22 MR. KILLIP: No.
 23 THE COURT: All right. Well it certainly is a
 24 public hearing, by your client's waiver and the public is
 25 welcome to attend the hearing. If there are other people

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1 who are going to testify, they should be seated just
 2 outside until the time comes for them to testify.
 3 MR. GOTTSTEIN: Okay.
 4 MR. KILLIP: Um-hmm, yeah. I would ask that Dr.
 5 Klett be our advisory witness, be allowed to stay.
 6 THE COURT: Yes, that's fine.
 7 MR. KILLIP: He's going to testify, also.
 8 THE COURT: All right. Well, I think there's some
 9 objection about that, but we'll come back to that.
 10 MR. GOTTSTEIN: But you're going to rule against it,
 11 anyway.
 12 THE COURT: I haven't heard the reasons for it, yet.
 13 Your witness?
 14 MR. KILLIP: I'm sorry?
 15 THE COURT: Your witness?
 16 MR. KILLIP: Yeah.
 17 THE COURT: I'm waiting for your witness to come
 18 forward.
 19 MR. KILLIP: I'm sorry. Yeah, the State calls
 20 Rachel Power.
 21 MS. HUMPHREYS: Humphreys.
 22 MR. KILLIP: Excuse me, Rachel Humphreys.
 23 THE COURT: Yes, please, I'm sorry. This is a
 24 foreign environment for you. Why don't you come right on
 25 up here and sit at the witness stand, please?

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1 MS. HUMPHREYS: Okay.
 2 THE COURT: Try to make yourself comfortable, to the
 3 extent that's possible in a courtroom. If you come right
 4 around to this chair please, ma'am, and remain standing
 5 and raise your right hand, we'll administer the oath,
 6 please.
 7 THE CLERK: Do you swear or affirm that the
 8 information you are about to give in this matter before
 9 the court is the truth, the whole truth, and nothing but
 10 the truth?
 11 MS. HUMPHREYS: I do.
 12 THE CLERK: Okay. You need to get closer to the
 13 mike, please. State your name, spelling your last name
 14 for the record.
 15 MS. HUMPHREYS: Rachel HUMPHREYS, H-U-M-P-H-R-E-Y-S.
 16 THE COURT: Ma'am, please try to speak into the
 17 microphone as we're proceeding, as best you can. And Mr.
 18 Killip, you may inquire.
 19 MR. KILLIP: Thank you, Your Honor.
 20 RACHEL HUMPHREYS
 21 testified as follows on:
 22 DIRECT EXAMINATION
 23 BY MR. KILLIP:
 24 Q Ms. Humphreys, how are you familiar with Faith
 25 Myers?

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1 A She is my mother.
 2 Q Okay. Is it fair to say that this is -- is it
 3 difficult to be here today?
 4 A Oh, yes.
 5 Q Could you tell me, what's your understanding of
 6 what, if any, mental health issues your mother may have?
 7 A She's been sick since I was a kid. My dad said that
 8 it was schizophrenia, paranoid schizophrenia.
 9 Q And can you tell the court whether you've lived with
 10 your mother over a period of time and what the -- I guess
 11 the summary of what those dates are?
 12 A I lived with her growing up.
 13 Q Okay. Until what age, approximately?
 14 A I think I was 18, something like that.
 15 Q The usual age.
 16 A Yeah.
 17 Q And how old are you now?
 18 A I'm 30.
 19 Q Okay. And what, if any, personal observations did
 20 you make during that time about your mother's mental
 21 health?
 22 A Growing up, she, you know, she seemed fine. She had
 23 times when I was told that she was sick and we had to step
 24 in and help out more and take care of household type
 25 duties more, and not upset her.

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1 Q Okay. And how would you characterize your love for
 2 your mother, assuming that that is the case?
 3 A I love my mom.
 4 Q Okay.
 5 A She's different than some people, and that's okay.
 6 Q How would you characterize your concern for her
 7 welfare?
 8 A I am concerned for her welfare. I want her safe.
 9 Q And since you left the home when you were about 18,
 10 can you summarize, I guess, the general observations that
 11 you've made of her mental health?
 12 A She pretty much continued about the same as she
 13 always had, until she moved up to Alaska and she got
 14 divorced from my dad. And I moved up here in '97, and she
 15 seemed to be about the same, you know. She was still
 16 working and still functioning about, you know, the way
 17 everybody does.
 18 And I think it was the spring of '98, or it was
 19 about Mother's Day, she started getting really -- she
 20 started staying at my house. She didn't want to stay in
 21 her own house anymore. She said there was a gas leak, and
 22 so obviously I didn't want her to stay in her house if she
 23 had a gas leak. And I actually overheard her on the
 24 telephone. She was taking care of my children, because
 25 that was her profession, she was a daycare provider. And

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1 I heard her on the telephone, telling someone that she
 2 hadn't been on her medication and she was having some
 3 problems. And she said that right in front of me and I
 4 was really upset. And so I was trying to find other
 5 daycare, and then suddenly she got really sick and that
 6 was the first time I think she voluntarily went to the
 7 respite care at API.
 8 And then -- then she -- I'm sorry, I'm having a hard
 9 time remembering all along. She seemed to be doing pretty
 10 good. She had ups and downs. Her last time that she kind
 11 of had a down spiral was, I think it was 2000. And at
 12 that time she ended up choosing to be living in her car at
 13 the Totem Theater, she was staying in her car. And she
 14 came over to my house to use my shower, and we were going
 15 to have Thanksgiving dinner the next day. And she came
 16 over for Thanksgiving dinner and started telling my
 17 children that it was okay to rebel against authority. And
 18 so I asked her not to come back to the house, because I
 19 couldn't have her telling the children that it was okay
 20 not to follow what the police told you to do.
 21 And I really limited my children's involvement with
 22 her at that point. More recent -- and then she -- in
 23 December of 2000, she was involuntarily placed at API, and
 24 she was there until spring. And that time she seemed to
 25 be doing great. You know, she had --

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1 Q After her release?
 2 A Yeah, after that. Yeah. She had an apartment and
 3 she seemed happy and she had a boyfriend and life seemed
 4 to be going really well. And I was visiting her very
 5 regularly. I had the two grandchildren with me. I guess
 6 this was -- this was after the kids were born, so 2001,
 7 they were born in August. And I was visiting her very
 8 regularly at that point. Probably almost once a week or
 9 once every two weeks, I think. At least it was a couple
 10 times a month, I know. And she seemed to be doing very
 11 well.
 12 And just before she told us that she was being
 13 kicked out of her apartment, and she seemed to be unsure
 14 why --
 15 Q When was this, approximately?
 16 A I think it was August or September of 2002.
 17 THE COURT: Can I back up, Mr. Killip? Just
 18 chronologically, you said when she was released in the
 19 spring of 2000, she was doing very well....
 20 A 2001.
 21 THE COURT: I beg your pardon, 2001 -- yes, you did
 22 say that. 2001, she was doing very well.
 23 MS. HUMPHREYS: She seemed to be, yeah.
 24 THE COURT: Was your impression -- was she employed
 25 at that point?

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1 MS. HUMPHREYS: No. At that point I think she went
 2 on social security. I'm not sure, exactly, when that was.
 3 THE COURT: Okay.
 4 MS. HUMPHREYS: She never held another job that I
 5 know of, after taking care of my kids.
 6 THE COURT: Okay. Pardon the interruption.
 7 MR. KILLIP: Thank you, Your Honor.
 8 Q I think you were talking -- you were going to
 9 describe what happened in April, or excuse me, August of
 10 2002.
 11 A Oh, right. That's -- we were helping her move out.
 12 We were concerned that she didn't seem to have a place to
 13 move to. But, you know, she was going to be evicted, so
 14 we had to help her move to something, you know, so we were
 15 helping her move. And in that process, we opened one of
 16 the big cupboards and there was several, I'm going to say
 17 maybe nine medicine bottles in her cupboards, mostly full.
 18 And we asked about those and she said that she had been
 19 weaning herself off of her medication. And so --
 20 Q How was she doing at that time?
 21 A She had been seeming okay, but she wasn't taking as
 22 good a care of herself and she was pretty passionate about
 23 -- she said she was being abused by people. Specifically
 24 by her boyfriend and also by -- I don't know exactly who
 25 she had said that my dad had abused her and it was just a

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1 really -- that was something that she was really upset
 2 about. But if you avoided the subject, which I tended to
 3 do, we could get along quite well. And our visits were
 4 mostly just time for her to see the grandkids and just
 5 kind of a, you know, a friendly, family visit.
 6 Q Okay. You said that over the years you have noticed
 7 kind of an up and down, kind of pattern.
 8 A Yeah.
 9 Q Now, in your estimation, and based on the picture
 10 you had, where did it look to you like it was going?
 11 A It looked like she -- before we had suspected -- I
 12 had suspected that maybe she was not taking her full
 13 dosage or something, because of her -- some of the things
 14 that she was saying and some of the -- sometimes she
 15 wasn't taking as good a care of herself. And that's just
 16 like, it was always one of the signs, that she wasn't
 17 doing so well, is that she would not take as good a care
 18 of herself. You know, she wouldn't wash her hair as
 19 often, or just little things, you know. But, it was just
 20 one of those signs that we kind of knew might be pointing
 21 to that. And when we found out that she had all that
 22 medicine, we had told her that she should tell her doctor
 23 that she's not using it and return it. Because our
 24 concern was that somebody else might take it and get sick.
 25 Or, we didn't know what. Or to dispose of it, somehow.

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1 And it's my understanding that Arial called her doctor,
2 because she knew who he was, and told him that she wasn't
3 taking her medicine. And then I was told that he was no
4 longer going to be her doctor, because she refused to take
5 her medicine.
6 And I asked her where she was going to go, when she
7 didn't have a place, and she said that -- a couple of
8 times she said that she was just going to move to Seattle
9 and change her name and be homeless. And I said well, we
10 didn't want her to do that because we were, you know, we
11 were concerned about her. And she said she'd check in and
12 she'd call. But it appeared that actually she was
13 planning to go stay at these cabins in Hope, and then she
14 was going to stay with her friend Rowena (ph) on the
15 weekends.
16 And so she did that, and she would call on some
17 weekends, and I think we got together a couple of times
18 since then. The ones I remember were just before
19 Christmas and I just took Alyssa (ph) over at that time.
20 And she seemed to be okay. She had some presents for the
21 kids and we just had a nice little family gathering type
22 thing. And then I didn't really hear anything until
23 January, I heard from Arial that --
24 Q January of this year?
25 A Yeah, of this year, that they had to get her an

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1 apartment. That they'd received a phone call from my
2 grandfather that said that she had no place to live and no
3 vehicle and so they told me that they got her an
4 apartment.
5 And I heard from mom -- well, actually I was gone
6 the night of the 7th, but my husband received a phone call
7 from her and she was at Harley's Cafe, which is real close
8 to our house. And she wanted me to come visit her there
9 and talk to her, but I wasn't going to be home until
10 really late. And so he told her that since it was going
11 to be so late, he didn't, you know, that I wouldn't be
12 able to see her that night. And so she wanted me to come
13 the next day, to her apartment. So I --
14 Q And approximately when was this? What day,
15 approximately?
16 A That was the 7th, it was a Friday.
17 Q Of which month?
18 A I'm sorry, February, February. So the 8th I had a
19 really busy day planned so I couldn't manage to get over
20 to see her until the evening of the 8th. And so I just
21 stopped in briefly to let her know that I would have more
22 time on the Monday, the next Monday, and that I planned to
23 visit with her then. And so that was the first time I saw
24 her apartment.
25 Q Where is her apartment? Or where was it? Or where

Page 25

1 is it?
2 A It's off of Spenard, kind of area. It's kind of
3 between Spenard and Northern Lights.
4 Q Okay. So that general area.
5 A The first -- she -- there was a big thing under her
6 table and she said it was a bug condo. She was teaching
7 somebody about bugs. I'm not real clear who. And so she
8 had set up this thing under her table. And I asked if
9 there were real bugs in it, and she said no. Because she
10 knows I don't like bugs.
11 Q How would you characterize your overall impression
12 of her apartment at that time with respect to cleanliness
13 and.....
14 A It was really -- it -- well, to me, it was really
15 dirty. There was piles of stuff everywhere, and it's a
16 small place. And so, you know, to some degree, well you
17 go it's a small place and she has a lot of stuff. But
18 there was piles of dirt and pine cones and pine needles,
19 and stuff in corners, and there was that bug condo thing,
20 looked like garbage type stuff in there, and just, I don't
21 know. And she was cooking something on a disposable pie
22 plate, which --
23 THE COURT: On a what?
24 MS. HUMPHREYS: You know, the pie tin that you would
25 get, you know, one of the disposable aluminum ones?

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1 THE COURT: And that was on the stove?
2 MS. HUMPHREYS: Yeah. And I was a little
3 overwhelmed, so I decided to come back Monday and as I
4 thought about it, I thought well, gee, I wonder if she has
5 everything she needs. So then the Monday that I went to
6 visit, the 10th, I went in and asked her for a tour of her
7 apartment, with the intent to give her the things she
8 needed.
9 MR. KILLIP: Excuse me, Rachel. Can you tell us
10 your perception of how your mother was doing, at that
11 time? On these dates?
12 A She was really quiet on Saturday, happy to see me.
13 Monday she seemed kind of distracted when I went to visit
14 her. And she got a little upset when I was asking -- you
15 know, cause I said, so do you need this or do you need
16 that. She started to get a little defensive. And I told
17 her that my intent was to give her a housewarming present
18 of some of the things that she needed. So I -- she had no
19 food in her refrigerator. No food, nothing in the
20 refrigerator, except looked like some clothes and some, I
21 don't know, some stuff.
22 THE COURT: In the refrigerators?
23 A I don't know. Like a bundle of something on one
24 side and it looked like some clothing.
25 THE COURT: In the refrigerator?

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1 A Yeah.
 2 THE COURT: Okay. I'm just trying to understand
 3 your testimony.
 4 A And there was nothing in the freezer but a block of
 5 ice, so I asked her if she'd eaten breakfast and she
 6 hadn't. And so I said let's go to the grocery store. Her
 7 laundry was being done in the sink in the kitchen, and a
 8 bunch of it was wet on the floor. And the condition of
 9 the apartment was pretty much the same as, you know, just
 10 what I saw the day before. And she didn't have a shower
 11 curtain, so I told her I would get her one of those. And
 12 asked her about dishes, and pots and pans and she said she
 13 didn't really have anything. So we went grocery shopping
 14 and I had some coupons and we bought some stuff. And I
 15 asked her what kinds of things she needed, cause I knew
 16 she had some -- well, you know, I wanted her to eat what
 17 she would eat. I didn't want to buy stuff she didn't want
 18 to eat. And so we went and we went grocery shopping, and
 19 it seemed like she had a -- she was really distracted
 20 during that whole trip. It was hard for her to decide on
 21 things. And so we got her all the stuff that we thought
 22 she needed and got her some quarters so she could dry her
 23 laundry.
 24 And we went back to her house and she left some of
 25 the bags of groceries outside on the porch. And I said

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1 you need to bring these in and put them inside and put
 2 them away. And she thought that they were for Dorance
 3 (ph). And I said no, this is because you don't have food
 4 in your house; you need to eat.
 5 THE COURT: She thought they were for who?
 6 Q She thought --
 7 A Dorance, her boyfriend.
 8 THE COURT: Oh.
 9 A And I said no, they're for you. I had noticed that
 10 she had been putting food out for the animals. She said
 11 they were for the stray animals. And I said that -- I
 12 tried to make clear that the food was for her and not for
 13 the animals and not for -- she said she also fed homeless
 14 people. I said that I wanted to be sure that she was
 15 eating, because I was providing for her.
 16 And I went back Wed -- I went back later and I
 17 brought her some meat from our freezer -- we had a freezer
 18 full of meat, and so I took over some meat and some pots
 19 and pans and I don't know, some stuff.
 20 I went back Wednesday cause I'd got her a shower
 21 curtain and some other things and I -- when I came up to
 22 her front door, there was all this stuff blowing off of
 23 her door, and garbage piled off to one side of the door,
 24 and lots of pans set out for the animals. And a cabbage
 25 was hanging from the side of the house, off the front

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1 door. It had been cored and it was hanging off by a piece
 2 of plastic or something. There was mail that was opened
 3 that wasn't hers on the door, and I mentioned that. And
 4 there was other mail that was hers and some money in a bag
 5 and some stuff. And I asked her what the mail was doing
 6 outside, and she said it was there for someone to take to
 7 the post office. So I said I would take it to the post
 8 office and mail it for her. And I asked about the other
 9 mail that wasn't hers, and I said you know, you can't open
 10 other people's mail. And she said she didn't do it and I
 11 said okay. And I asked about the cabbage and she said
 12 that was for the moose. She had promised a little moose a
 13 cabbage. And I said you cannot feed a moose from your
 14 front door, somebody will get hurt. If you really really
 15 have to give the moose a cabbage, you should take it out
 16 into the woods where it's not going to hurt anybody. And
 17 she agreed -- she seemed -- she was agreeable that day.
 18 Kind of still -- I don't know how to describe her.
 19 Pleasant.
 20 But when I looked in the house, there was all this
 21 stuff hanging outside, and when I opened, you know, I
 22 opened the door and she was cutting up some potatoes into
 23 a pan that I -- you know, to cook. And I opened the door
 24 and there was all this garbage in the house. And -- all
 25 over the front -- you know, you open it and there's the

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1 kitchen, and it's all over the kitchen. And I said Mom,
 2 what is the garbage from? And she said well, it's from
 3 the garbage can -- or what is all this? And she said it's
 4 garbage. And I said well, why -- where did this come
 5 from? Because it wasn't -- any of the boxes were nothing
 6 that I had purchased for her. I mean, I knew what was
 7 there from the time before and it was nothing I had got
 8 her. And she said well, it's garbage. I'm looking for a
 9 book. And so I -- I said you can't have garbage in your
 10 house. You know, there was piles of it. It was like,
 11 separated into different stuff. I don't know.
 12 I asked her if she still had food. I gave her the
 13 things I had come to give her and I left. I didn't spend
 14 much time, that time.
 15 I came back Friday --
 16 Q That would have been the 14th?
 17 A Valentine's Day. And Arial was with me. And some
 18 of the front porch was cleaned off a little bit. There
 19 was no more cabbage, there was no more money out there,
 20 there was no -- but the pile off to the side was still
 21 there, covered with like a tarp or something, it looked
 22 like, but it was clear. I don't know what it was exactly.
 23 Q Arial is your sister-in-law?
 24 A Yes. And I had the baby with me -- my baby. Well,
 25 she's 18 months. And we went by. I kind of was just

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1 checking to make sure she still had food. I wanted to
 2 make sure she still had stuff to eat. It really disturbed
 3 me that she had no food the first time. And so she said
 4 she was getting ready to go get a battery and I offered to
 5 take her because she was all ready to go. And I asked her
 6 if she got her shower curtain up, and on the way to go
 7 check that out, she -- and to make sure she had enough
 8 hangers -- because I'd given her hangers, too. The time
 9 before she'd only had one hanger. And so the closet -- to
 10 check to see if she had enough hangers or if she maybe
 11 needed more, there was a cake and a strawberry sitting on
 12 top of the shelf of the closet. And I said well, what is
 13 that? And she said that's for the critters that come to
 14 visit me. And it looked like some watercress or some of
 15 the greens that I bought her wilted on the floor of the
 16 closet. And I said mom, you can't have -- you can't be
 17 feeding things in the house. You're going to have all
 18 kinds of creatures and critters and problems. And she got
 19 really upset and she said you can't tell me how to live.
 20 You live by your standards and I'm going to live by mine.
 21 And I said but, mom, your landlord is not going to allow
 22 you to stay here if you don't maintain a certain level of,
 23 you know. And she said well, this is my place, I paid for
 24 it, and I can do whatever I want here. And you keep your
 25 house the way you want. And she kind of got after Arial

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1 about what she felt Arial was not as good about doing.
 2 And she said, you know, you don't keep your house real
 3 clean to me or, you know, just stuff like that. And I
 4 said well, I kind of -- okay, you know, well..... I said
 5 well, you at least need to clean up the garbage outside
 6 because, you know, that can't stay there. And I said you
 7 need to really -- and it looked like when we came in that
 8 there was food -- those trays that had been set out for
 9 the stray animals outside were inside under like, the
 10 kitchen table. And I said you're not feeding those strays
 11 in the house, are you? And she said no. And I said well,
 12 you've got to be really careful. Somebody's going to get
 13 hurt by you attracting all these stray animals. I said
 14 they're wild animals. Somebody's going to get hurt. And
 15 she said well, animals were better than people, because
 16 animals, you know, you know -- so she refused to think
 17 that any animal would hurt a person. And she said that if
 18 they did, that the people deserved it, or something like
 19 that, you know. It wouldn't be her fault. It wouldn't be
 20 anything to do with the fact that she'd been attracting
 21 them by setting out this food.
 22 And I tried to explain to her that she wasn't the
 23 only person there. The apartments -- there's four on each
 24 one, and there were, like, three of them. And I said
 25 there's a lot of people here, who could be hurt by this.

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1 And she got really really angry then. And at that point -
 2 - and this has never happened before, but at that point, I
 3 was actually afraid that maybe she was going to hit
 4 somebody. And so I just kind of asked Arial to open the
 5 door --
 6 Q Excuse me. Let me just stop you there. What, if
 7 anything, did you observe about your mother's conduct
 8 towards your baby?
 9 THE COURT: Towards your what?
 10 Q Towards her baby.
 11 A She -- I was holding my baby and she was so angry,
 12 and she was like jumping, and she kind of, like, started
 13 to move towards me, but she stopped. And she was just so
 14 angry and she started screaming at us that -- and she said
 15 that children are monsters and she started screaming at
 16 Alyssa, you know, Alyssa, what I'm talking about. Lyssa
 17 knows. And I got really concerned at that point.
 18 Q Who's Alyssa?
 19 A My 18 month old, that I was holding. And I told her
 20 at that time, I said mom, I can't come back. This is too
 21 much. And I had -- I said Arial, you need to open the
 22 door. And Arial was concerned, also, and so she wouldn't
 23 let -- she wouldn't go out ahead of me. She instead chose
 24 to stand in the middle while I got the baby out. But I
 25 had intended for her to go so that I would -- because

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1 she's pregnant, and I didn't want her to, you know, I --
 2 I've never felt like that, but it was just everything
 3 about the atmosphere was like she was so angry and I
 4 thought she was going to hit somebody.
 5 So we left and she followed us out of the place,
 6 screaming at us and she said she didn't want a ride from
 7 us and I was nothing but a do-gooder and just to -- and
 8 she just screamed at us until we completely left. And
 9 neighbors were kind of watching and..... And that was
 10 pretty much the last time I saw her.
 11 At that point, I didn't know what to do. I was
 12 really concerned. We toyed with the idea of asking at
 13 that time for screening, but we had made another
 14 appointment to go to a class to find out, maybe, some
 15 options. And that was the following Friday. And so we
 16 decided to wait and see what we could do.
 17 And I got a phone call, I think it was Wednesday,
 18 the next week. I think that was -- Wednesday or Thursday,
 19 it might have been. And that was from the landlord's
 20 wife. Or, not the landlord, the manager's wife. And her
 21 name -- Florence. And she introduced herself and she said
 22 please take your mom away. We're afraid of her. She's
 23 scaring everyone here. She's -- we don't know where she
 24 came from, but please take her back to your house, because
 25 she's -- we don't know what to do. The police have been

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1 over here. And she was so distraught, it was hard to find
 2 out what was really going on. I tried to ask her what was
 3 going on. So I called Arial and Arial said she'd talked
 4 to Wally, who was the manager, and she had gotten, I
 5 think, a little more clear idea what was going on. But we
 6 held off until we went to the class on Friday and then we
 7 went in for the screening. Because we didn't -- we had
 8 asked for -- we went to find out about guardianship and we
 9 asked if we could go for the three day -- the quicker one,
 10 and they said no. And so we decided the best thing to do
 11 was to have her screened. And then we decided -- and then
 12 we pursued with the other guardian paper -- I don't know
 13 how to say it. We -- I petitioned for the guardianship
 14 thing.
 15 Q How would you characterize your concerns for your
 16 mother's welfare at that time?
 17 A At the time -- which time?
 18 Q At about February 19th.
 19 A I was really worried. I thought, well, maybe she
 20 was just having a bad day Friday and, you know. But then
 21 when I heard from her neighbors, I was really worried.
 22 Because I thought, she was going to be evicted. I have no
 23 doubt that they weren't going to let her stay there if she
 24 had anymore problems. I thought, she's going to be at
 25 loose ends again, you know.

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1 Q Right
 2 A I didn't know what was going to happen.
 3 Q So what happened nex -- following February 19th?
 4 What's the next thing that happened?
 5 A After the class on the Friday, we went to a
 6 guardianship class, to find out what we could do. And we
 7 went to the probate and they told us that we couldn't go
 8 for the quicker one, we had to just file a regular thing.
 9 We decided that we would file for the screening and
 10 then we ended up doing that at night, because I had to go
 11 get my children. And the time, they told us, would be at
 12 least an hour, and that would have -- I wouldn't have had
 13 any way to get my kids. And so we -- they said we could
 14 come back that night, so we did. And after we handed the
 15 paperwork to the police and the police called us and said
 16 to go back and lock up her place. And when we went in to
 17 make sure all the stuff was turned off --
 18 Q Now, this date, again, would be what? February --?
 19 A It was the Friday. It must have been the 21st.
 20 Q Okay.
 21 A When we went in, I noticed the closet was open and
 22 there was a light coming out of the crawl space. And I
 23 thought that was strange. And the crawl space was ajar.
 24 And so I opened it, so that I could turn off the light,
 25 and there was -- in the crawl space there was a sheet laid

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1 out and a pillow and some blankets in a bag, and a bunch
 2 of bags set out, and books open, and some snack bars and a
 3 liter thing of something. I don't know what was in that.
 4 I assumed water, but maybe it was soda, I don't know. And
 5 then just like this whole little room set up down there.
 6 And it's not in the house, it's under the house. It's
 7 directly under this set up -- there was some clothes down
 8 there -- was the plastic that covers the ground. It's
 9 just -- and you could tell that other people kind of used
 10 it for storage, you know, in some of the other units, but
 11 it was just like, you know, storage type stuff. It wasn't
 12 like -- I don't know how to explain it. You know, like
 13 normal things you keep in storage, camping gear, you know,
 14 that kind of thing. So --
 15 Q So, what did it look like to you?
 16 A It looked that somebody was staying down there. And
 17 -- it was really -- at that point, I was pretty upset. So
 18 I turned off the light and I came out. We noticed that
 19 the -- when we came in to do all that, the landlord asked
 20 us to check for signs of fire, because he said the fire
 21 alarm had been going off two or three times a day, for
 22 several days.
 23 MR. GOTTSTEIN: Object. For what purpose?
 24 A He just asked to see if there was something wrong
 25 with the fire --

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1 THE COURT: Did you object?
 2 MR. GOTTSTEIN: Yeah, I object. I mean, I don't
 3 mind her saying that, but it's hearsay.
 4 A He asked us to look for fire -- cause of fire.
 5 MR. GOTTSTEIN: But, the part about --
 6 THE COURT: I'll allow her just to describe what you
 7 did within the apartment.
 8 MR. GOTTSTEIN: (Indiscernible -- simultaneous
 9 speech.)
 10 A Okay. We noticed that all the ceiling fans had been
 11 dismantled. We noticed that the fire detector, smoke
 12 detector had been -- the lid taken off and no battery in
 13 it. We did find a Hibachi -- small cooking stove with
 14 papers on it and a box of empty matches on top.
 15 THE COURT: Inside?
 16 A Inside.
 17 Q Anything else inside the Hibachi?
 18 A I don't know, just some cardboard. Oh, there was --
 19 when you took the papers out, there was some, like, ashes
 20 in it. Big, flakey ones, you know?
 21 Q Um-hmm.
 22 A Not the little ones like you'd get from a wood fire.
 23 We found a note on the table that was -- had some Cheetos
 24 on top of it and some little stuff. And it was kind of
 25 disturbing.

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1 Q Can you describe that note?
 2 A It was about a little boy who told the truth and
 3 went away and no, he didn't go away. Instead he came back
 4 and he cut off his mommy's head. And something about a
 5 star and it was just this, like, I don't know, little
 6 story or something.
 7 MR. GOTTSTEIN: Object. Relevance.
 8 THE COURT: I'm going to allow it. If your
 9 objection is relevance, I'll overrule that. But I'm not
 10 sure, Mr. Killip. Could you please elicit this further?
 11 I don't know if we're talking about a handwritten note or
 12 handwriting that could be recognized. Or if we're talking
 13 about something out of a published book. I don't
 14 understand this testimony.
 15 A It was handwritten.
 16 THE COURT: Could you further explain that? The
 17 note?
 18 Q Could you describe -- yeah.
 19 A It's on an 8 by -- you know, the normal sheet of
 20 paper. And it had been written in, like, permanent black
 21 ink, type marker.
 22 THE COURT: It was a handwritten note?
 23 A Yes.
 24 THE COURT: Could you recognize the handwriting?
 25 A It was printed, and I'm real familiar with Mom's

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1 cursive handwriting; I'm not as familiar with her printed
 2 handwriting.
 3 THE COURT: Okay. That's what I needed. I think I
 4 understand now. Thank you.
 5 A Okay.
 6 Q Thank you. Yeah, what else did you observe about
 7 the apartment, at that time?
 8 A We checked to make sure the stove was off. We
 9 noticed these little offerings. Well, I say offerings,
 10 because I don't -- that's what they looked like. Little -
 11 - like little shrines or something, little -- one had a
 12 picture next to it and some food set out and some, like,
 13 little pebbles, or something. And one had -- I mean, they
 14 were just all different ones. And they were kind of all
 15 through the house.
 16 Q Pictures of what? Do you recall?
 17 A There was a picture of Mom next to one, actually
 18 two, I think. And --
 19 Q Okay.
 20 A Little food, you know, next to them.
 21 Q Everything that you observed on that day in her
 22 apartment, what did that tell you about what you thought,
 23 how she was doing?
 24 A I was really disturbed by seeing all of this. I
 25 didn't know what that was. Just that it was -- I think

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1 the thing that disturbed me the most was the crawl space.
 2 But, there was a sweater in the heater -- baseboard type
 3 heater. There was some sweater shoved into that. Just
 4 the whole place, kind of, you know, she's always lived in
 5 small places and she's always had to compensate by putting
 6 her stuff in piles -- you know, stacks, or in whatever way
 7 you can. But I was concerned because none of this looked
 8 like anything she usually did. And these little offerings
 9 throughout the house, and the food throughout the house,
 10 and the -- it just didn't look good. And there were,
 11 like, these little natural areas set up with the pine
 12 cones and little box -- like, empty boxes of something
 13 with little things in it. And just everywhere, there was
 14 just these little piles of stuff. And they're not normal
 15 piles, you know what I mean? When I say -- you know -- I
 16 don't know. It just seemed strange. I was really worried
 17 about her, at that point.
 18 Q Okay. And based on your contact with your mother
 19 over the years, how would you characterize your assessment
 20 of how she was doing, relative to how she's done
 21 throughout?
 22 A Her -- when -- growing up, she would, kind of have
 23 the little ups and downs, and that never really affected
 24 anyone more than just the little bit of having to take
 25 care -- you know, take up a little more, or to take more

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1 care what you said, but the last few years, each time has
 2 become more and more upsetting. Like when she became
 3 homeless the last time. But this time was the first time
 4 that we had -- this is the worst I've ever seen it. I've
 5 never seen her get so angry with her neighbors. There
 6 were -- one of the neighbors handed us a sign that she had
 7 left outside on a tree. Or that they said she -- you
 8 know. And the call from the landlord, saying that she was
 9 threatening people.
 10 The -- in November there had been a call from SeaTac
 11 police saying that she had refused to get on -- go through
 12 the security at the airport. Actually, the airport called
 13 first and wanted me to talk to her so that they could get
 14 her on the airplane and by the time I got home, because I
 15 wasn't home at that time, by the time I got home to call,
 16 I don't know. The police called then and said that they
 17 had taken her into custody because of it. And just
 18 everything has been so much more -- so much worse. And,
 19 you know, some things I write off as, you know, just being
 20 eccentric, and some things I go, this is not just
 21 eccentric, this is unhealthy.
 22 Q Ms. Humphreys, so what happened next after February
 23 19th? When was the next time you went back to her
 24 apartment, if you did?
 25 A Oh. We went back the day after we secured her

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1 apartment, because we wanted pictures of where she was
 2 sleeping down in the -- or, I assume -- I don't know if
 3 she was sleeping down there, but the little area in the
 4 crawl space, so we took pictures the next day. And that's
 5 the last time I've been over there.
 6 Q And who went with you at that time?
 7 A Arial went with me and Michelle also went to help
 8 with the pictures. Her name is Michelle --
 9 THE COURT: Is Michelle a friend, or family member?
 10 A Yes, she's a friend of Arial's.
 11 THE COURT: Okay.
 12 Q And did you take any photos on the 19th?
 13 A Not on the 19th. We took them -- we did take a
 14 couple of photos on the 14th, of the outside and the
 15 kitchen area.
 16 Q Okay. So photos were on the 14th and the 21st,
 17 then?
 18 A Um-hmm. Or 22nd.
 19 Q So it'd be the 22nd? Okay. And based on your
 20 recollection, was there much of a change in the place
 21 between the 19th and 22nd when you returned to take photos
 22 for the second time?
 23 A No.
 24 Q Not really?
 25 A It was the night of the 21st, and we just went back

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1 the next morning to take pictures.
 2 Q Oh, I see. Okay.
 3 Your Honor, if I may approach the witness. I'll
 4 show these to Mr. Gottstein first. I've got some photos,
 5 that I've marked Plaintiff's exhibits 1 through 7, and it
 6 looks like they're generated on several photos per page.
 7 So we probably have twenty-ish photos.
 8 THE COURT: All right.
 9 MR. GOTTSTEIN: Do you have a copy for me?
 10 Q No, those are the only ones.
 11 THE COURT: Let me take it one step at a time. Have
 12 they been marked, counsel?
 13 MR. KILLIP: Yes.
 14 THE COURT: Okay. So, are they marked 1 through 7,
 15 each page?
 16 MR. KILLIP: Yes.
 17 THE COURT: All right. Let Mr. Gottstein take a
 18 minute to take a look at them, please.
 19 THE COURT: Mr. Killip, how much longer with this
 20 witness, please?
 21 MR. KILLIP: Just going to have her talk about the
 22 photos, and that's it.
 23 THE COURT: All right. Why don't we do -- when we
 24 get that far, just so you know, then I'll take a quick
 25 break, so people can stretch their legs. Mr. Gottstein?

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1 MR. GOTTSTEIN: Yes, I was concerned about the time,
 2 too. I mean, how much time does he have for his case,
 3 since we have a limited -- ?
 4 THE COURT: Okay. Well, let's get through this
 5 witness, and then we can set our watches. Have you had a
 6 chance to look at the photos?
 7 MR. GOTTSTEIN: I haven't seen all of them yet. No,
 8 Your Honor. It seems like I should be provided a copy,
 9 though, Your Honor.
 10 THE COURT: Well, you're being given an opportunity,
 11 now, to look at them, sir. Mr. Killip are those -- I
 12 don't know what you're got there. Are those contact
 13 sheets, or can color photo copies of those be made after
 14 the hearing, so that Mr. Gottstein has a complete record?
 15 MR. KILLIP: Yes, I believe so.
 16 THE COURT: Okay.
 17 MR. KILLIP: I don't have the capability at my
 18 office to do that. I can do black and white.
 19 THE COURT: All right. I don't know what they would
 20 depict, or whether that would be useful, but I'll take a
 21 look at them here in a minute. Ma'am who actually took
 22 the photos?
 23 A Arial.
 24 THE COURT: All right.
 25 MR. KILLIP: If I may approach, Your Honor?

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1 THE COURT: Yes.
 2 Q Ms. Humphreys, I'm handing you the exhibits marked 1
 3 through 7. Will you please take a look at those? Do you
 4 recognize what I've handed you?
 5 A Yes, these are the photos that we took. Or Arial
 6 took while I was there.
 7 Q And so these are the photos that Arial took when you
 8 were present?
 9 A Yes.
 10 Q And they were taken on which date?
 11 A These ones are marked 2/14, so they were taken on
 12 the 14th. The rest of them were taken --
 13 Q What number is that, is 2/14?
 14 A Number 1.
 15 Q Okay.
 16 A And the rest of them were taken that Saturday. Have
 17 you had a chance to look at each one of those photos?
 18 A Yes.
 19 Q And are each one of those photos a fair and accurate
 20 representation of what you observed of your mother's
 21 apartment, at the time the photos were taken?
 22 A Yes.
 23 Q Your Honor, we would move for admission of State's
 24 exhibits 1 through 7.
 25 THE COURT: Any objection?

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1 MR. GOTTSTEIN: None, Your Honor.
 2 THE COURT: All right. 1 through 7 will be
 3 admitted. Can I look at them, please?
 4 (Plaintiff's exhibits 1 through 7 are admitted.)
 5 Q Ms. Humphreys, I just want to ask you one question.
 6 You referenced the note on the table, about the boy and
 7 the mother. Did you recognize that note in any of those
 8 photographs?
 9 A Yes. It's in some of the photographs. We did move
 10 the stuff off of it to take a picture of the note. And
 11 the note on the manila file was not in the house; it was
 12 handed to us by the neighbor.
 13 Q I see.
 14 A And her name and photo number is on the --
 15 THE COURT: Is that the sign you're referencing?
 16 The sign on the tree?
 17 A Yes. The sign on the tree.
 18 THE COURT: What does -- is that depicted in one of
 19 these photos?
 20 A Yes, it's on a manila envelope, and it says
 21 something about tree spirits and killing is too good for
 22 you, or something.
 23 THE COURT: All right. Do you have anything further
 24 for this witness, Mr. Killip?
 25 MR. KILLIP: No, Your Honor.

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1 THE COURT: All right. Mr. Gottstein?
 2 RACHEL HUMPHREYS
 3 testified as follows on:
 4 CROSS-EXAMINATION
 5 BY MR. GOTTSTEIN: Yes, thank you. I know that you love
 6 your mother very much. And you want to do the best that
 7 you can for her. Isn't that correct?
 8 A Yes.
 9 Q And if -- and you believe that -- that having her
 10 admitted and having her have to take her meds is in her
 11 best interests. Is that correct?
 12 A Yes.
 13 Q And isn't that because the doctors are telling you
 14 that's the best thing?
 15 A I have never spoken with her doctors, in a sense
 16 that they could tell me anything.
 17 Q Um-hmm. Wouldn't it be true that if it turned out
 18 that the medications were really damaging her or had the
 19 potential for really damaging her, that that would change
 20 your mind about --
 21 MR. KILLIP: Your Honor, I'm going to object again.
 22 It's the State's position that science is not being at
 23 issue today. It's whether the Department has met its
 24 burden for each of the petitions today.
 25 THE COURT: Overruled. You can answer the question.

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1 Did you get what the question was?
 2 A The question is about --
 3 THE COURT: If you had reason to believe that the
 4 medications could be harmful, would that change your
 5 opinion?
 6 A I think that this last -- however long without being
 7 medicated, she's been the worst she's ever been. And the
 8 medicine seemed to make her cope better.
 9 Q What if the medications that she's been getting
 10 really are the cause of some of her problems, at this
 11 point. Would that change your mind?
 12 A I don't see how the medicines could have affected
 13 her when she's not been on them for so long. This is the
 14 worst she's been, and she's not been on any medicine. I
 15 asked her that week of the 12th through the 14th
 16 somewhere. And she said no, she had not been on any
 17 medicine.
 18 Q And how long do you think that she hasn't been on
 19 her medication?
 20 A We found several, like nine or ten of these almost
 21 full bottles in her apartment in August of 2002.
 22 Q Okay, thank you. Now, you've had the chance to
 23 observe your mother now. Doesn't she seem all right now?
 24 A She sometimes does seem okay. It's an overall of
 25 how she's doing, you know.

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1 Q You mentioned that you filed a petition for
 2 guardianship. Has she been served with that?
 3 A I'm not sure.
 4 Q I have no other questions.
 5 THE COURT: Just for the record. As you know, Mr.
 6 Gottstein, you're entitled to know everything that's in
 7 the court's file. I don't have a petition for
 8 guardianship, either.
 9 Anything further for this witness?
 10 MR. KILLIP: Just briefly, Your Honor.
 11 THE COURT: All right.
 12 RACHEL HUMPHREYS
 13 testified as follows on:
 14 REDIRECT EXAMINATION
 15 BY MR. KILLIP:
 16 Q Ms. Humphreys, are you interested in knowing about
 17 your mother's progress?
 18 A Yes.
 19 Q Okay, so if -- how would you describe your interest
 20 in getting information about her progress?
 21 A I would like to know how she's doing. I can't --
 22 it's hard for me to make any judgments of what to do, not
 23 knowing how she's doing overall. The little visits that I
 24 have don't really tell me how she's doing.
 25 Q Okay. Have you -- can you describe what, if any,

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1 efforts you've made to try and obtain that information?
 2 A Well, the doctors can't tell me anything, so.....
 3 Q And what's your understanding, the reason for that?
 4 A Obviously that that's a doctor-patient privilege.
 5 Q Okay. It's that permission thing. That's your
 6 understanding?
 7 A Yes.
 8 Q Okay. Thank you.
 9 THE COURT: Anything further for this witness, Mr.
 10 Gottstein?
 11 MR. GOTTSTEIN: No, Your Honor.
 12 THE COURT: Mr. Killip, this witness may be excused.
 13 Yes?
 14 MR. KILLIP: Yes, thank you.
 15 THE COURT: All right. Thank you, ma'am. You may
 16 return back to the gallery.
 17 Your next witness, please?
 18 MR. KILLIP: Thank you, Your Honor. I want to call
 19 Michael Myers. And I will get him.
 20 THE COURT: All right. So, my understanding, Mr.
 21 Killip, is that you're going to be given another -- until
 22 11:00 and that will leave two hours.....
 23 MR. KILLIP: 11:00.....
 24 THE COURT:for Mr. Gottstein.
 25 MR. KILLIP: Okay. This will be a short witness.

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1 THE COURT: Okay. I'm going to step off the bench
 2 for just a minute. So we'll be off record for about two
 3 minutes.
 4 (Off record.)
 5 10:13:21
 6 THE COURT: Mr. Killip?
 7 MR. KILLIP: Yes, Michael Humphreys.
 8 MR. MYERS: Myers.
 9 MR. KILLIP: Excuse me, Myers.
 10 THE COURT: Could you please stand, sir, and raise
 11 your right hand?
 12 THE CLERK: Do you swear or affirm that the
 13 information you are about to give in this matter before
 14 the court is the truth, the whole truth, and nothing but
 15 the truth?
 16 MR. MYERS: Yes.
 17 THE CLERK: Would you please state your name,
 18 spelling your last name for the record?
 19 MR. MYERS: Mike Myers, M-Y-E-R-S.
 20 THE COURT: Have a seat. And if you could scoot the
 21 microphone so that you're comfortable and to speak right
 22 in it.
 23 Mr. Killip, you may inquire.
 24 MR. KILLIP: Thank you.
 25 MIKE MYERS

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1 testified as follows on:
 2 DIRECT EXAMINATION
 3 BY MR. KILLIP:
 4 Q Mr. Myers, how do you know Faith Myers?
 5 A She's my mother.
 6 Q Okay. And you're familiar with these proceedings,
 7 as you were a party to initiating them? Is that correct?
 8 A I'm not sure how it all works, but I'm fairly
 9 familiar with it.
 10 Q Okay. And how would you describe your level of
 11 happiness being here today?
 12 A My personal level, well, I'm not happy about it at
 13 all, but I don't think it's really relevant.
 14 Q Okay. And how would you describe your concern for
 15 your mother today?
 16 A Well, mom's not doing very well. She's not taking
 17 care of herself. She hasn't been for quite some time.
 18 For years, a couple years. And she gets off and on and
 19 off and on. It kind of spirals and it gets worse, gets
 20 better. I don't know. I'm concerned about her, but
 21 there's not much I can do, really, for her, because, you
 22 know, all I can say is Mom, you're doing this, or Mom
 23 you're doing that. I mean, I'm her son, I'm not her
 24 parent.
 25 Q Yeah. Your Honor, I don't know why I couldn't be

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1 given a copy of this.
 2 THE COURT: I don't know what you've just handed Mr.
 3 Gottstein. There was nothing stated on record. Is that
 4 an exhibit that's been marked?
 5 MR. KILLIP: Yeah, exhibit No. 8 that I marked, that
 6 I just handed to Mr. Gottstein.
 7 THE COURT: Okay.
 8 MR. KILLIP: Which I just received about an hour
 9 ago, so I haven't had a chance to make a copy of it.
 10 THE COURT: All right. Are there any other exhibits
 11 you're going to offer today?
 12 MR. KILLIP: No, Your Honor.
 13 THE COURT: All right. Mr. Gottstein, why don't you
 14 take a minute to read it over. It looks like it's a
 15 single piece of paper for the record. Is it a handwritten
 16 note or letter?
 17 MR. KILLIP: Yes, handwritten note.
 18 THE COURT: Marked as 8, I take it?
 19 MR. KILLIP: Yes. If I may approach the witness?
 20 MR. GOTTSTEIN: Jeff, could you let Faith look at
 21 it?
 22 MR. KILLIP: Oh, sure.
 23 May I approach, Your Honor, Mr. Myers?
 24 THE COURT: Yes, you may.
 25 Q I'm handing you what's been marked as Plaintiff's

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1 exhibit No. 8.
 2 A Yeah.
 3 Q Can you take a look at that please?
 4 A Yeah.
 5 Q Do you recognize it?
 6 A Yeah.
 7 Q Can you tell me what it is?
 8 A It's a -- it's like a little story she wrote.
 9 Q That who wrote?
 10 A I'm sorry, that my mom, Faith, wrote.
 11 Q And when did you first see that?
 12 A She gave it to me in API, like, two days ago.
 13 Q Okay. And so you recognize -- does it look any
 14 different from when you first got it? Any alterations or
 15 deletions since you first received it?
 16 A Except for the yellow thing that's been added here,
 17 that's it.
 18 Q Okay. Okay. Your Honor, we would offer that
 19 Plaintiff's exhibit No. 8 at this time.
 20 THE COURT: Any objection to 8?
 21 MR. GOTTSTEIN: No, Your Honor.
 22 THE COURT: Eight will be admitted.
 23 (Plaintiff's exhibit 8 is admitted)
 24 MR. GOTTSTEIN: I'd like a copy, though.
 25 THE COURT: You'll be given one.

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1 MR. KILLIP: Okay. I have nothing further for Mr.
 2 Myers. Thank you.
 3 MR. GOTTSTEIN: I have no questions.
 4 A Am I done?
 5 THE COURT: Hang on. Your name is Michael Myers?
 6 A Um-hmm.
 7 THE COURT: Do you know who Eric C. Myers is?
 8 A That's my son.
 9 THE COURT: All right.
 10 A Little creepy, huh?
 11 THE COURT: I have nothing further.
 12 MR. KILLIP: Thank you.
 13 THE COURT: You may be excused, sir.
 14 MR. KILLIP: The State calls Dr. Hanowell, and I
 15 will get him from the hallway.
 16 MR. GOTTSTEIN: Your Honor?
 17 THE COURT: Yes, counsel?
 18 MR. GOTTSTEIN: Well, I guess I should wait for
 19 counsel to get back.
 20 THE COURT: Yes, he's just stepped out, I think, so
 21 one minute.
 22 Who is this witness, please?
 23 MR. KILLIP: This is Dr. Robert Hanowell, a
 24 psychiatrist at API.
 25 THE COURT: Mr. Gottstein?

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1 MR. GOTTSTEIN: Yes, I would ask that Dr. Kletti be
 2 excused, Your Honor.
 3 MR. KILLIP: Yeah, we would ask that he be granted
 4 permission to stay as State's advisory witness.
 5 THE COURT: You may stay.
 6 MR. GOTTSTEIN: May I speak further on this, Your
 7 Honor?
 8 THE COURT: Yes.
 9 MR. GOTTSTEIN: You said you read the deposition, so
 10 I think you understand some of the problems that went on
 11 here. And I'm just concerned that Dr. Hanowell's
 12 testimony may influence Dr. Kletti's testimony, who is
 13 also listed. And I don't know why he would need an
 14 advisory witness here for Dr. Hanowell.
 15 THE COURT: Well, we don't want to spend a whole lot
 16 of time on this, but just quickly. What I didn't
 17 understand from the deposition, Mr. Killip, I think
 18 because it wasn't stated, because both of you understood,
 19 what is the relationship of these two physicians, please?
 20 MR. KILLIP: Yeah. Dr. Hanowell is staff
 21 psychiatrist at API.
 22 THE COURT: Yes.
 23 MR. KILLIP: And Dr. Kletti is the medical director.
 24 So, for -- he supervises all of the staff psychiatrists
 25 and he's responsible for the implementation of the

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1 services -- the medical services that are provided there.
 2 THE COURT: All right. I think it's appropriate
 3 that the witness -- that both may stay.
 4 Sir, you need to stand, though, please, and raise
 5 your right hand.
 6 THE CLERK: Do you swear or affirm that the
 7 information you are about to give in this matter before
 8 the court is the truth, the whole truth, and nothing but
 9 the truth?
 10 DR. HANOWELL: Yes, ma'am.
 11 THE CLERK: Would you please state your name,
 12 spelling your last name for the record?
 13 DR. HANOWELL: Robert Hanowell, H-A-N-O-W-E-L-L.
 14 THE COURT: Counsel, you may inquire.
 15 MR. KILLIP: Thank you, Your Honor.
 16 THE COURT: If it's easier, you may inquire from
 17 counsel table, either way.
 18 MR. KILLIP: Okay, thank you.
 19 THE COURT: But scoot the microphone closer. Thank
 20 you.
 21 DR. ROBERT HANOWELL
 22 testified as follows on:
 23 DIRECT EXAMINATION
 24 BY MR. KILLIP:
 25 Q Dr. Hanowell, your name and your occupation, how

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1 long have you been so employed?
 2 A My name is Robert Hanowell. I'm a psychiatrist at
 3 API, and I've been employed at API since December of 1997.
 4 Q And briefly, what are your responsibilities there?
 5 A I am currently staff psychiatrist on the Susitna
 6 Unit, and have been -- have been for most of my time at
 7 API. For approximately a year and a half, I was attending
 8 staff psychiatrist on the Chilkat Unit.
 9 Q Okay. And can you briefly explain how API is
 10 divided with these units? Susitna Unit, what does -- you
 11 know, what does that mean?
 12 A Yes, sir. Susitna Unit is a unit for individuals
 13 who will be having greater lengths of stay than a few to
 14 several days. Those individual who will be staying only a
 15 few to several days would be treated only on the Denali
 16 Unit. If someone's going to need a greater length of
 17 stay, they would be transferred to the Susitna Unit. If
 18 they're going to need a very lengthy period of stay, they
 19 would eventually be transferred to the Katmai Unit. The
 20 Chilkat Unit is a unit for adolescents.
 21 Q Okay. Thank you. And briefly, can you explain or
 22 describe your education?
 23 A Yes, sir. I received my Bachelor's degree in
 24 biological sciences from the University of California
 25 Davis in 1985. Pardon me -- pardon me, yes, in 1985. I

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1 received my M.D. degree from Loyola University Stritch
 2 School of Medicine in Maywood, Illinois. In June of 1989
 3 I subsequently did a year of internship at a program at
 4 LaGrange Community Hospital in LaGrange, Illinois.
 5 Subsequently I did four years of psychiatric residency at
 6 -- through the University of California San Francisco
 7 program in Fresno, California.
 8 Q Okay. And are you licensed to practice psychiatry?
 9 A Yes, sir.
 10 Q And for how long have you been so licensed?
 11 A I've been licensed in the State of Alaska since
 12 December of 1997. I've held previous licenses in South
 13 Dakota and California.
 14 Q So, how long have you practiced psychiatry?
 15 A Including my period of residency training, since
 16 1990. Excluding my period of residency training, since
 17 1994.
 18 Q Okay. And your education and training in psychiatry
 19 includes pharmacology?
 20 A Yes, sir.
 21 Q Okay. Have you ever been qualified as an expert in
 22 the field of psychiatry before?
 23 A Yes, sir.
 24 Q Approximately how many times?
 25 A I'm uncertain of the precise time, but more than 100

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1 times.
 2 Q And do you diagnose and treat mental illness on a
 3 daily basis, on your job?
 4 A Yes, sir.
 5 Q And that includes pharmacologically, with
 6 medications?
 7 A Yes, sir.
 8 Q And is your testimony today, on these petitions, is
 9 it going to be offered based on your clinical observations
 10 and overall professional evaluation, in light of your
 11 training and experience?
 12 A Yes, sir.
 13 Q Okay, thank you. Your Honor, we would offer Dr.
 14 Hanowell as an expert in psychiatry, at this time.
 15 THE COURT: I want him to clarify his last question.
 16 You said that you were going to testify today based upon
 17 your clinical observations. Do you mean clinical
 18 observations of this patient? This litigant, Ms. Faith
 19 Myers?
 20 A Yes, Your Honor.
 21 THE COURT: So, you have had an opportunity to
 22 observe her while she's been at API?
 23 A Yes, Your Honor.
 24 THE COURT: Could you just elaborate just a little
 25 bit about the extent of your contact with her while she's

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1 been there?
 2 A Yes, Your Honor. I did the initial admission
 3 psychiatry assessment on Ms. Myers. That was on February
 4 22nd. I have met with her on three additional occasions,
 5 as well. I've also interacted with her on a less formal
 6 basis on a much more frequent basis, seeing her on the
 7 unit, and greeting her, etc.
 8 THE COURT: Mr. Gottstein?
 9 MR. GOTTSTEIN: Yes, Your Honor. I object as to his
 10 qualifications with respect to psychopharmacology. And
 11 may I examine -- question the witness further?
 12 THE COURT: Yes.
 13 VOIR DIRE EXAMINATION
 14 BY MR. GOTTSTEIN:
 15 Q Isn't it true that -- let's start with the older
 16 neuroleptics -- are harmful and of limited efficacy on
 17 knocking down psychosis?
 18 MR. KILLIP: Your Honor, again I would object,
 19 standard objection. We're not challenging the practice of
 20 medicine, here. If he has a specific concern about how
 21 API is practicing medicine, then he has an opportunity to
 22 file a complaint, allege a cause of action and pursue
 23 that. But we have two petitions before the court today,
 24 and the only issues are criteria for commitment and the
 25 criteria for administration of psychotropic medications.

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1 Have they been met? So we would object to the relevance.
 2 THE COURT: The line of questioning that I want you
 3 to pursue, that I've given you permission to pursue right
 4 now, is qualifications of this witness as to psychotropic
 5 medication.
 6 MR. GOTTSTEIN: Psychopharmacology. That's exactly
 7 what I'm intending to do.
 8 THE COURT: All right.
 9 MR. GOTTSTEIN: I asked a question about certain
 10 medications.
 11 THE COURT: Actually, you asked his opinion about
 12 the efficacy of the medications, I think. And I want you
 13 to just focus on his qualifications, please.
 14 MR. GOTTSTEIN: Well, it seems to me, Your Honor,
 15 that knowledge about the efficacy is part of his
 16 qualifications.
 17 THE COURT: I don't agree. I'm not going to allow
 18 him to answer this question.
 19 MR. GOTTSTEIN: Okay.
 20 THE COURT: Please move on.
 21 Q Okay. Dr. Hanowell, I think you said in your
 22 deposition that you attended a conference at Alaska
 23 Psychiatric Institute at which Robert Whitaker spoke. Is
 24 that correct?
 25 A I attended part of the --

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1 MR. KILLIP: Your Honor, I object again. I know
 2 where he's headed. Robert Whitaker is a journalist from
 3 Boston, no medical training. He wrote a book about --
 4 it's entitled Mad in America and takes studies -- pieces
 5 of studies that suit his argument, out of context, and
 6 he's selling it -- this pitch of, basically, medicines and
 7 psychiatry are inappropriate. Specifically with anti-
 8 psychotics. They don't work, they shouldn't be used. And
 9 this is a lay person that's telling, you know, he's
 10 expressing his legitimate right to express an opinion, but
 11 this is not the forum to be examining a journalist from
 12 Boston's view of how psychiatry should be practiced at
 13 API.
 14 MR. GOTTSTEIN: Your Honor, may I speak to that?
 15 THE COURT: Yes.
 16 MR. GOTTSTEIN: There were a number of specifics
 17 that were mentioned, and I've got a list of them, although
 18 the actual references aren't there, but actually -- those
 19 are in the -- some of those are in the brief and the
 20 attachments.....
 21 THE COURT: Yes.
 22 MR. GOTTSTEIN:and some of them -- and I
 23 believe Dr. Hanowell testified that he has not read any of
 24 these studies. And therefore I don't think he should be
 25 qualified as an expert on these.

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1 THE COURT: Okay. I read the deposition transcript
 2 and I read your briefs. And there were a number of
 3 studies listed. I think what he testified to is that he
 4 couldn't recite these studies off the top of his head.
 5 That's my recollection of the testimony. But what I'd
 6 like you to focus on is not entering into a debate about a
 7 book that may or may not have been written by somebody
 8 from Boston. Because we cannot accommodate that today and
 9 still give your client her due process rights.
 10 What is appropriate is identifying what skill and
 11 training this witness has in the area of -- the second
 12 part of the petition, which is going to be relevant,
 13 regarding his opinions on administration of psychotropic
 14 drugs. You can ask about his skills in that area, his
 15 training in that area. That's what's appropriate right
 16 now, please, sir.
 17 Q Have you had any specialized training in
 18 psychopharmacology?
 19 A To the extent that I attend psychiatric residency,
 20 yes, sir.
 21 Q Okay. I don't think he's qualified, Your Honor.
 22 THE COURT: All right. Mr. Killip?
 23 MR. KILLIP: Yeah. Well, we renew our offer to
 24 qualify him as an expert, Your Honor.
 25 THE COURT: But, what are you wanting to qualify him

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1 an expert for, specifically?
 2 MR. KILLIP: Psychiatry, which would include --
 3 THE COURT: I don't think he's been challenged in
 4 that regard. I think Mr. Gottstein's challenge is just
 5 specific as to his credentials for testifying regarding
 6 the efficacy of these drugs. Yes?
 7 MR. GOTTSTEIN: Yes, and safety. And long-term
 8 outcomes.
 9 THE COURT: Can you spend another couple minutes
 10 talking to -- or eliciting testimony from this witness
 11 about his knowledge of the studies regarding long term
 12 outcomes from these drugs?
 13 MR. KILLIP: Okay. Thank you, Your Honor.
 14 DIRECT EXAMINATION (continued)
 15 BY MR. KILLIP:
 16 Q Dr. Hanowell, is it fair to say that the -- there
 17 are more studies out there than the ones listed by Mr.
 18 Gottstein in these litigation documents that you've seen,
 19 on the issue of pharmacology and efficacy?
 20 A Yes, sir.
 21 Q Okay. What's your best guess as to how many studies
 22 are out there on the efficacy of, for example, anti-
 23 psychotics?
 24 A Probably in the range of hundreds to thousands.
 25 Q Okay. And can you describe your training -- your

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1 education and training with respect to using these
 2 medicines to treat mental illness? Can you summarize that
 3 training and education that you have?
 4 A Yes, sir.
 5 Q During my four years of psychiatric residency, I was
 6 trained on the use of these medications, both on an
 7 inpatient and an outpatient basis. Not only did I attend
 8 innumerable didactic -- well, innumerable lectures on the
 9 topic of clinical psychiatry and clinical
 10 psychopharmacology, but I also was mentored and supervised
 11 by people I considered to be experts in that area. I
 12 worked with -- during my residency training, I worked with
 13 hundreds of patients, doing psychopharmacology, and being
 14 supervised by -- again, by people with tremendous
 15 expertise in that arena.
 16 I should also note that even subsequent to my
 17 residency training, I have attended numerous lectures and
 18 seminars on -- involving clinical psychopharmacology.
 19 Q Okay. And how would you characterize your
 20 understanding and your treatment of mental illness with
 21 medications, with respect to how the rest of the United
 22 States psychiatric community is doing it?
 23 A I always strive to adhere to the standard of care.
 24 Q Okay. So, is it fair to say that what you're doing
 25 is consistent with your understanding of what is generally

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1 accepted today, for treating mental illness with
 2 medications?
 3 A Yes, sir.
 4 Q Okay. Thank you, Your Honor.
 5 THE COURT: I'm going to ask a couple questions.
 6 Sir, to how many patients have you prescribed these types
 7 of drugs?
 8 A Since I began residency? Since I began residency
 9 training?
 10 THE COURT: Yes.
 11 A It's difficult for me to say, but certainly more
 12 than a thousand.
 13 THE COURT: All right. Have you been in a position
 14 where you were able to observe yourself and document
 15 yourself the outcomes?
 16 A Yes, Your Honor.
 17 THE COURT: All right. Would you be able to testify
 18 about those outcomes and about the side effects that
 19 you've seen?
 20 A Yes, Your Honor.
 21 THE COURT: Would you be able to testify about the
 22 extent to which, in your practice, you've seen these drugs
 23 be helpful to patients and/or not helpful to patients?
 24 A Yes, Your Honor.
 25 THE COURT: Mr. Gottstein?

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1 VOIR DIRE EXAMINATION
 2 BY MR. GOTTSTEIN:
 3 Q Isn't it true that normally for these long-term --
 4 you consider the long-term prognosis for patients
 5 prescribed these medications to be poor for recovery from
 6 mental illness?
 7 A That's a difficult question to answer. I always try
 8 to consider every patient as an individual. So it's
 9 difficult for me to answer in general -- a general
 10 question like that.
 11 Q Have you read any of the studies on long-term
 12 outcomes?
 13 A Yes, but I couldn't quote them. I couldn't quote
 14 specific authors and dates of the studies, etc., but I
 15 have read such studies, yes, sir.
 16 Q And do they -- what do they suggest in terms of
 17 long-term outcomes for people prescribed with these
 18 medications for recovery?
 19 A I think that again, based on what the articles I've
 20 read over the years, I think the literature is a little
 21 bit mixed, so it's difficult for me to say exactly what
 22 they say as -- collectively.
 23 Q I mean --
 24 A I think --
 25 THE COURT: You may finish your answer.

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1 A I think it's safe to say that some people do
 2 extremely well with these medications and can even, in
 3 some cases, return to full-time work or full-time studies,
 4 family responsibilities, etc. And regrettably, some other
 5 people do not do as well.
 6 Fortunately, we do know that in the past Ms. Myers,
 7 for example, has benefited from such medication.
 8 THE COURT: I'm going to find that this witness is
 9 qualified for the reasons offered and ask Mr. Killip to
 10 continue with his examination.
 11 MR. KILLIP: Thank you, Your Honor.
 12 DIRECT EXAMINATION (continued)
 13 BY MR. KILLIP:
 14 Q Dr. Hanowell --
 15 THE COURT: I'm going to make just a little bit
 16 clearer record, if I might, Mr. Killip. Pardon my
 17 interruption.
 18 I find that this witness is qualified and find that
 19 his clinical practice, in particular, because he's able to
 20 testify, or says he can, about his use of these drugs in a
 21 clinical setting and his observations of their outcomes, I
 22 find that that will be helpful to me. And so that's the
 23 basis, or at least one of the bases, and probably the most
 24 important one for my decision that I find him to be
 25 qualified.

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1 MR. KILLIP: Thank you, Your Honor.
 2 THE COURT: Yes.
 3 Q Dr. Hanowell, how are you familiar with Faith Myers?
 4 A Ms. Myers is my patient at API, currently.
 5 Q And when was she admitted to API, approximately?
 6 A On February 21, 2003.
 7 Q And when did you first meet with her?
 8 A On February 22, 2003.
 9 Q Okay. And did you review her psychiatric history,
 10 at about that time?
 11 A Yes, sir.
 12 Q And what was your understanding of her psychiatric
 13 history on the date that you met with her the first time,
 14 on February 22nd?
 15 A I was aware that she'd been previously admitted to
 16 API and that she carried a diagnosis of schizophrenia of
 17 paranoid type. And that -- and that she'd previously
 18 benefited from anti-psychotic medication.
 19 Q And can you describe how many times you met with API
 20 -- you mentioned it before.
 21 A Yes, sir. I've met with Ms. Myers formally on four
 22 occasions since her admission, and informally on a number
 23 of other occasions, greeting her on the unit, etc.
 24 Q Okay. And you feel like you've had -- can you
 25 describe what, if any observations -- well, let me back up

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1 for a minute. What were the presenting issues --
 2 psychiatric issues upon admission to API?
 3 A Yes, sir. Ms. Myers had been admitted on an order
 4 for screening investigation. In the order for screening
 5 investigation, it was alleged that she was exhibiting
 6 evidence of psychosis and that she was not attending to
 7 her basic needs. It was also alleged that she had been in
 8 some way threatening towards fellow tenants and to the
 9 landlord at her apartment complex. Her family members had
 10 served as petitioners and they were concerned about her
 11 well-being and safety.
 12 Q Okay. And what, if any, observations have you
 13 personally made -- clinical observations -- of Ms. Myers
 14 during the course of those four meetings with her, since
 15 her admission on February 21st?
 16 A Yes, sir. On -- during my meeting with her on
 17 February 22nd, my initial meeting with her, she was noted
 18 to be angry with me. She initially refused to speak with
 19 me. However, we eventually did have a very brief
 20 conversation. During that conversation, I did attempt to
 21 ask some routine questions that I would normally ask
 22 during such an interview.
 23 Q Like what?
 24 A I did ask about whether or not she'd been having any
 25 experiences, such as hearing things or seeing things.

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1 Q Hearing things or seeing things that are not
 2 objectively present, is that what you mean?
 3 A Yes, sir. Yes, sir. And she responded by making a
 4 reference to Shakespeare, to Hamlet's soliloquy in
 5 reference to Yorik. And I wasn't sure what she meant by
 6 that, so I asked her to clarify. And she indicated that
 7 Shakespeare or Hamlet had been referring to ghosts. And I
 8 said okay, well, does that mean that you have been hearing
 9 or seeing ghosts? And she said that she didn't wish to
 10 speak with me any further at that juncture.
 11 Q Okay. What about your next -- anything else that
 12 you observed at that time?
 13 A She did appear to have some -- what we refer to as
 14 "inappropriate affect." That means that even though she
 15 was -- her affect -- her outward appearance of her
 16 emotional state didn't appear to match her inward
 17 emotional state, as near as I could tell.
 18 Q Okay. And when was your next visit with her?
 19 A My next visit with her was with the treatment team
 20 in the treatment team meeting on the 24th of February. On
 21 that occasion, she -- I did observe a number of pieces of
 22 evidence that she was suffering from mental illness. She
 23 did state that she was aware that she was only going to
 24 live for another year and a half. And I attempted to
 25 explain that. And she seemed to indicate, at least I

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1 understood her to indicate that that had been revealed to
 2 her by God. And I asked her more about this. She
 3 subsequently became somewhat angry with me and indicated
 4 that I should pay attention to my family, because my
 5 family was also dying. And subsequently she made
 6 reference also, if memory serves to -- she certainly did
 7 make reference to the notion that she had -- that there
 8 were cameras in her apartment, or had been cameras in her
 9 apartment, and that she had been sort of like, more or
 10 less, been under surveillance by the government.
 11 Q Um-hmm. Okay. Any other observations you made at
 12 that time?
 13 A She did become rather angry, briefly, to the point
 14 of -- just almost to the point of belligerence, but then
 15 that -- she was able to deescalate from there.
 16 Q Okay. When was your next meeting with her?
 17 A That was on, I believe, February 27th, and I met
 18 with her briefly, for approximately 15 minutes or so, on
 19 the unit, and we discussed the issue of -- again --
 20 actually, I really should have added that during both my
 21 previous meetings with her, I did bring up the issue of
 22 medication. I brought it up again on the 27th, and she
 23 again indicated that she didn't wish to pursue taking
 24 medication and didn't really wish to discuss the matter.
 25 Q Let me just stop you there, for a moment. The first

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1 time you brought it up, which would have been on your
 2 first meeting, is that correct? During your first
 3 meeting? Is that what you said?
 4 A I believe I did bring up the issue on the 22nd. I
 5 have to say I'm not 100% certain that I brought it up,
 6 because she didn't wish to speak with me. So I'm not sure
 7 if I even got that far. But I think I did bring it up. I
 8 don't recall precisely. But on the 24th I certainly did
 9 bring it up, and we discussed the matter.
 10 Q Okay. And can you specifically tell us what you
 11 told her, and what you asked her, if anything?
 12 A On the 24th, I brought up the issue that she had
 13 benefited from medication in the past and, you know, asked
 14 if she'd be willing to consider that again. She indicated
 15 that she would not and really -- by her response to the
 16 question and her level of anger, it was clear that she
 17 didn't wish to discuss the matter.
 18 One of the treatment team members asked her at that
 19 point if she believed -- oh, I'm sorry. I should also add
 20 that she did make reference to the notion that she didn't
 21 need medication, that she needed basically good nutrition.
 22 And I'm paraphrasing that. That's not exactly what she
 23 said, but something to that effect.
 24 And one of the other treatment team members -- I'm
 25 sorry, I'm going by memory here -- but one of the other

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1 treatment team members said -- asked her if she believed
 2 that she had a mental illness. And she indicated that she
 3 did not.
 4 Q Okay. And by that time, had you formulated a
 5 diagnosis -- your own diagnosis for her condition, at that
 6 time?
 7 A Yes, sir.
 8 Q And what was your diagnosis, or what is your
 9 diagnosis?
 10 A At this juncture, her diagnosis is schizophrenia,
 11 paranoid type.
 12 Q Okay. Okay, and so the third meeting took place
 13 when?
 14 A I believe on February 27th.
 15 Q Okay. And what happened at that time?
 16 A We met briefly and I discussed with her briefly some
 17 of the things that were going on with the legal
 18 proceedings and I mentioned to her that I might be
 19 testifying that day at a deposition. I subsequently again
 20 tried to broach the -- or bring up the issue of
 21 medications, and she again indicated that she didn't wish
 22 to discuss the matter and didn't need to take medications.
 23 Q Okay. Well, let me ask you this. What do you -- do
 24 you understand your obligations for informing each patient
 25 completely about medication options, side effects, choice

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1 possibilities?
 2 A Yes, sir.
 3 Q Okay. And what do you normally do in a situation
 4 like this, where you're trying to convey that information?
 5 A Well, normally I would try and, again, have a
 6 discussion with the patient about the medication and about
 7 the potential benefits, the potential prob -- side
 8 effects, etc., and we'd reach an agreement. I'd often
 9 ask, you know, what have you taken in the past? What do
 10 you think has worked for you? What medications, you know,
 11 seem to have the least side effects for you? I mean, what
 12 medications did you like and did you find helpful? I
 13 really try and, you know, engage my -- the person in the
 14 process of treatment. I mean, they're an important
 15 partner with me in their own treatment. I mean, I'm not -
 16 - when it comes to psychopharmacology, it's a joint
 17 effort.
 18 Q Um-hmm.
 19 A At least ideally, ideally it is. I would like to
 20 add just one thing, if I may. I didn't mention this. On
 21 the 27th I should also add that when we had the discussion
 22 about the medications, she did -- or Ms. Myers did make
 23 another statement which I thought supported her diagnosis,
 24 that being that she believed that someone that she knew
 25 may in the past have been replace by an imposter. Not

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1 presently, but in the past.
 2 Q Okay.
 3 A I mean, she believed that in the past he may have
 4 been replaced by an imposter.
 5 Q Okay, thank you. All right, so the 27th -- anything
 6 else you want to tell the court about your observations
 7 about what happened on the 27th, the third meeting that
 8 you had?
 9 A Just that if she had not been defensive about the
 10 issue of discussing medications, I would have gone on to
 11 discuss -- I would have done my best to engage her in that
 12 process of what she felt had been helpful, side effects,
 13 etc.
 14 Q Okay.
 15 A But I was unable to do so, because of her reaction
 16 in response to my bringing the topic up.
 17 Q And the -- what, if any, evidence of delusions or
 18 anything like that do you have, or have you observed?
 19 A Well, the examples that I gave. In addition to
 20 that, this was observed by nursing staff, not by me, but
 21 it was documented in her chart. On March the 1st, Ms.
 22 Myers unfortunately became very upset and was reported by
 23 nursing staff to become very upset. She became making
 24 reference to being pregnant and believing that we were
 25 somehow trying to harm her child. At that point she --

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1 nursing staff reported to me that she became extremely
 2 angry, yelling at the top of her lungs, per their report,
 3 and approached -- she apparently reportedly approached one
 4 of the nursing staff in a very sort of threatening,
 5 menacing way.
 6 I asked the member of the nursing staff to describe
 7 that to me, and she stated that she had her fists clenched
 8 at her side and her body leaning forward and moving
 9 towards the person very rapidly, into their personal
 10 space. At that point, she did -- the on-call doctor did
 11 order emergency medication for her. It was an inter-
 12 muscular injection, I believe, of haldal, 10 milligrams,
 13 and ativan, two milligrams.
 14 Q Okay.
 15 A This was done on an emergency basis, because of the
 16 nature of the situation.
 17 Q I understand. How much medication has the depart --
 18 or the hospital provided to Ms. Myers since her admission,
 19 other than this crisis, emergency application of
 20 medication?
 21 A To my recollection, none.
 22 Q Okay. And, in your opinion, is Ms. Myers'
 23 condition, does it qualify as an organic, mental or
 24 emotional impairment?
 25 A I do feel that she does have a mental disorder, as

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1 defined by the DSM4 or DSM4TR.
 2 Q Okay. And what is that, that you just referenced?
 3 A That is the Diagnostical -- oh sorry, Diagnostic and
 4 Statistical Manual of Mental Disorders, 4th Edition.
 5 Q Okay.
 6 THE COURT: When you say that you feel she has a
 7 mental disorder, is that the same as a mental illness?
 8 A Yes, Your Honor.
 9 THE COURT: And your specific diagnosis is
 10 schizophrenia of a paranoid type?
 11 A Yes, Your Honor.
 12 Q Does her condition -- excuse me, Your Honor. If I
 13 can continue?
 14 THE COURT: Yes, please.
 15 Q Dr. Hanowell, does her condition have substantial,
 16 adverse effects? And if so, what are those?
 17 A Yes, sir, regrettably it does. Some examples of
 18 this are the reports that Ms. Myers had apparently been
 19 having conflict with her -- with the tenants in her
 20 building, reports of threatening remarks or threatening
 21 behavior in relation to the tenants and the landlord.
 22 Other examples are -- would be that it was reported
 23 that again, that she wasn't eating well and that she was
 24 leaving food around -- leaving food around the house or
 25 around the front porch, creating a potential health

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1 hazard.
 2 It was also reported that she may have been sleeping
 3 or staying in the crawl space of the house, which
 4 apparently has a di -- or pardon me, the apartment, that
 5 apparently has a dirt floor. That, of course, in winter,
 6 could be quite dangerous.
 7 Q Dr. Hanowell, I don't mean to interrupt, but we have
 8 -- I've been instructed we have until 11:00, so we've got
 9 ten more minutes. And I've got several more questions, so
 10 I'm going to try and move quickly.
 11 What is your opinion about whether, as a result of
 12 this mental illness, whether Ms. Myers is gravely
 13 disabled? Specifically, what is your opinion about
 14 whether she is -- the likelihood of danger or physical
 15 harm from self-neglect?
 16 MR. GOTTSTEIN: Object, leading.
 17 THE COURT: I'll overrule it. It's one of the
 18 elements he must show and I need to know what this
 19 opinion's witness -- do you understand the question? Do
 20 you believe that this witness presents a threat of harm to
 21 herself or to others?
 22 A Yes, Your Honor.
 23 THE COURT: Why?
 24 A In terms of grave -- her grave disability, that in
 25 and of itself could pose a risk to her personal safety.

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1 Again, the reports that she was not eating well, that she
 2 may have been sleeping on the ground in the crawl space.
 3 There are additional reports that in November she
 4 apparently had a conflict with airport security in
 5 Seattle, resulting in her emergency hospitalization in
 6 Seattle. Obviously in this -- in 2003 having any kind of
 7 conflict with airport security could be extremely
 8 hazardous to one's safety.
 9 Apparently during that incident not only was there
 10 conflict with airport security, but there apparently was
 11 also an incident where she had, according to family, gone
 12 out -- walked out towards an area where there was a great
 13 deal of traffic, and it was actually at that point that I
 14 guess airport security intervened and took her into
 15 custody and arranged for her hospitalization.
 16 THE COURT: Counsel?
 17 MR. KILLIP: Thank you, Your Honor.
 18 Q Concerning your opinion about danger -- so you were
 19 testifying to danger to self? Is that my understanding,
 20 just now?
 21 A Danger to self as part of grave disability.
 22 Q Okay. And what about danger to others?
 23 A This is also a concern of mine and of the treatment
 24 team. There have been -- excuse me. Pardon me. There
 25 was a report by the family, by the petitioners, for the

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1 order of screening investigation. It was reported that
 2 approximately a week prior to admission, Ms. Myers'
 3 daughter had had a conversation with her, during which she
 4 became very belligerent and angry. And Ms. Myers'
 5 daughter, Ms. Humphreys, became fearful of her safety and
 6 her daughter's safety. She left Ms. Myers' apartment at
 7 that juncture.
 8 In addition, this incident on March the 1st on our
 9 unit makes me also worried. Whenever someone requires
 10 emergency intervention with inter-muscular medication
 11 because of severe agitation and entering someone's
 12 personal space, yelling at the -- reportedly yelling at
 13 the top of her lungs, or yelling very loudly, anyway, that
 14 is what we often feel is more or less pre-assaultive
 15 behavior. And that does make me worried for the potential
 16 for Ms. Myers to harm someone else, if not -- if she is
 17 not provided the treatment that she needs.
 18 Q Um-hmm. Are you aware of a less-restrictive
 19 alternative available for treatment for her, presently?
 20 A Regrettably, I am not at this juncture.
 21 THE COURT: Less restrictive than what, counsel?
 22 Q Than API and medications that I'm going to ask him
 23 about.
 24 THE COURT: Okay. I want to be clear on your
 25 testimony, here.

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1 MR. KILLIP: Sure.
 2 THE COURT: I think I want to know whether or not
 3 you're aware of a less restrictive alternative and answer
 4 it in the alternative, if you would, please. One level
 5 I'm understanding is the question about whether or not
 6 this patient should be involuntarily committed, and then
 7 it's yet another level as to whether or not you think
 8 there's a less restrictive alternative to administering
 9 psychotropic medication.
 10 A Okay.
 11 THE COURT: Can you answer that question?
 12 A Yes, Your Honor.
 13 THE COURT: In other words, is it an alternative
 14 that she be involuntarily committed at API and not have
 15 this medication administered to her?
 16 A I feel that that would be insufficient to address
 17 her needs.
 18 THE COURT: Why?
 19 A I'm sorry.
 20 THE COURT: Is there some water down there? Okay.
 21 That's okay. Those are trick pitchers; they tend to flood
 22 people.
 23 A Yes, it would be -- I guess if perhaps I could kind
 24 of --
 25 THE COURT: In other words, because we're under such

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1 time constraints.....
 2 A Sorry.
 3 THE COURT:let me explain. I want to know,
 4 because I have no medical training, I'm just a judge. If
 5 this person is -- if you're concerned that the environment
 6 is posing a potentially -- a threatening situation to her
 7 that could harm her because of where she was living, and
 8 moving her, even involuntarily, into API where she's in,
 9 what I think you said in your deposition would be a
 10 structured environment, where we know she's going to be
 11 able to be fed appropriately and not sleeping in a crawl
 12 space and what not. Is that an alternate that would
 13 provide adequate treatment for her, as opposing to
 14 administering that medication?
 15 A Regrettably, it would not be.
 16 THE COURT: Okay. Why not?
 17 A It would be, if I could maybe just draw a parallel
 18 between general medicine and psychiatry. It would be
 19 similar to hospitalizing the person with diabetes and not
 20 giving them insulin or giving them oral medication to
 21 treat their diabetes.
 22 THE COURT: So you have an opinion that this
 23 medication would assist her?
 24 A Yes, Your Honor.
 25 THE COURT: Is that based upon her history?

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1 A Yes, Your Honor.
 2 THE COURT: Can you explain that more? What do you
 3 know about her history and how she's done with -- on
 4 various medications?
 5 A I know from personal experience, having worked with
 6 Ms. Myers in the -- from December 2000 to February or late
 7 January in 2001, Ms. Myers did very well and did exhibit
 8 improvement in the symptoms of her illness with a
 9 medication called zyprexa.
 10 THE COURT: Called -- I'm sorry?
 11 A Zyprexa.
 12 THE COURT: Okay. Was she able to be -- well, how
 13 long did she take it before she was released from API? Do
 14 you know?
 15 A I believe, Your Honor, I believe it was roughly six
 16 weeks, but I -- it may have been a little bit longer than
 17 that. I don't recall precisely.
 18 THE COURT: All right. Are you able to testify
 19 about a longer term? Did you see her after she was
 20 released from API so you know how she did when she was out
 21 of that facility?
 22 A I did not, Your Honor. But her family has indicated
 23 that she had benefited from medications on an out-patient
 24 basis. I would have been very active in calling her
 25 former out-patient doctor at Southcentral Counseling, but

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1 she had not been willing to sign any kind of releases of
 2 information, except, I believe, to Mr. Gottstein.
 3 THE COURT: All right. What about side effects?
 4 Has she reported side effects from that drug?
 5 A That's an interesting question, because when I first
 6 spoke with her about this matter, she indicated to me
 7 that, if I understood her correctly, and the family has
 8 also indicated the same, that she's indicated the same to
 9 them, that it kind of prevents her from seeing danger.
 10 And, I guess, from my perspective, it almost seemed like
 11 her concern about the medication was that it maybe made
 12 her symptoms of paranoia less, so kind of a paradoxical
 13 sort of concept of what a -- what a side effect is.
 14 However, that was during my first three
 15 conversations -- or first -- at least two of the
 16 conversations with her. She made reference to -- she
 17 didn't make reference to any specific side effects, such
 18 as -- she may have mentioned some drowsiness, I don't
 19 recall. She may have mentioned some drowsiness, but no
 20 symptoms such as muscle spasms or muscle stiffness or
 21 tremor, or anything of that nature.
 22 On my last conversation with her on March the 3rd
 23 regarding medications, she mentioned that she had broken
 24 out in hives. And that really surprised me that she said
 25 that, because I'd asked her previously about the issue of

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1 side effects and so on. Or I'd asked her -- she'd talked
 2 to me previously about her concerns about the medication,
 3 she never once mentioned that. So that surprised me.
 4 THE COURT: Um-hmm. Mr. Killip, I've interrupted
 5 you again. Do you have more questions?
 6 MR. KILLIP: Yes, thank you.
 7 DIRECT EXAMINATION (continued)
 8 BY MR. KILLIP:
 9 Q Do you believe that Ms. Myers will be -- her
 10 condition can be improved by a course of treatment?
 11 A Yes, I do, sir.
 12 Q And is API an appropriate treatment facility for her
 13 condition?
 14 A Yes, sir.
 15 Q And, to your knowledge, was she advised of her
 16 opportunity to accept voluntary treatment, from API?
 17 A Yes, sir.
 18 Q And she declined?
 19 A Yes, sir.
 20 Q What group or category of medications are you
 21 recommending for her, presently?
 22 A An anti-psychotic medication.
 23 Q Okay. And you've mentioned zyprexa as being one.
 24 You have a few to choose from?
 25 A Yes, sir.

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1 Q Okay. And your attitude about working with Ms.
 2 Myers would be the same? Try and create a partnership
 3 with her?
 4 A Yes, sir.
 5 Q Okay. Concerning your opinion about her capacity to
 6 agree to the medications, the hospital has alleged that
 7 she is not competent to voluntarily agree to the
 8 medications. In your opinion, do you feel that presently
 9 Ms. Myers has a capacity to assimilate relevant facts and
 10 to appreciate and understand her situation?
 11 A Regrettably not at this juncture, sir.
 12 Q And that would be based on your previous testimony?
 13 A Yes, sir.
 14 Q In your opinion, do you feel like she can appreciate
 15 that she has a mental disorder or impairment, presently?
 16 A No, sir.
 17 Q What about her capacity to participate in a
 18 treatment decision, by means of a rational thought
 19 process?
 20 A Regrettably, I don't feel she's capable of that at
 21 this juncture, sir.
 22 Q What about the ability to articulate reasonable
 23 objections to the proposed medications?
 24 A I would say that she would not be able to do that.
 25 She may have objections, and certainly I would take them -

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1 - I would consider them, by all means, I would consider
 2 them. But I don't feel that -- in the spirit of that
 3 question, I think the answer would have to be no, that I
 4 don't feel she's capable of doing that.
 5 Q Okay. And one of the requirements of the hospital
 6 is to give each patient complete information about these
 7 medications, so they are informed. Completely informed so
 8 they can make a decision. And Alaska law requires certain
 9 information be conveyed to the patient. I'm just going to
 10 run through those things. Basically the hospital has to
 11 give all information that's material to the proposed
 12 treatment, including (1) an explanation of diagnosis and
 13 prognosis. Has that information been conveyed to Ms.
 14 Myers?
 15 A I don't know if I specified -- I didn't specifically
 16 tell -- mention the word schizophrenia, but I did feel
 17 that she had an illness that needed treatment and it was
 18 an illness that could benefit from the zyprexa that she
 19 took before, and it would help her thinking, as it did
 20 before.
 21 THE COURT: And you told her that?
 22 A That's my recollection, yes, ma'am. I may be
 23 paraphrasing, but yes, Your Honor.
 24 Q Okay. And did you inform her about the proposed
 25 medication options?

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1 A Yes, sir.
2 Q Okay.
3 A To the best of my ability, given the circumstances,
4 because she wasn't really willing to discuss the issue at
5 length.
6 Q Right, okay. What about a review of Ms. Myers'
7 history, including her medication history. Was that
8 conducted by yourself?
9 A Yes, sir.
10 Q Was that information conveyed to her?
11 A To the best of my ability, given the circumstances.
12 I attempted to talk with her about the medications that
13 she's taken in the past and which she found most agreeable
14 or least agreeable.
15 Q Um-hmm.
16 A But she really wasn't willing to participate in that
17 process, in a meaningful way.
18 Q Okay. And an explanation of medication
19 interactions?
20 A Again, I didn't really get that far, because of her
21 resistance to my discussion of the topic.
22 THE COURT: Do you know if she's taking any other
23 medications?
24 A My recollection is that she currently is not.
25 Q Thank you. And then information about alternative

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1 treatments, including risks of nontreatment, any
2 information in that regard conveyed by you to her?
3 MR. GOTTSTEIN: Asked and answered, isn't it?
4 THE COURT: I think it is asked and answered, Mr.
5 Killip. I think you've established that and you're just
6 about out of time here, sir. Do you have additional
7 questions for this witness?
8 MR. KILLIP: It's right out of the statute, number
9 5.
10 THE COURT: Yeah? Yes?
11 MR. GOTTSTEIN: The judge did it.
12 MR. KILLIP: Okay.
13 THE COURT: Actually, that's right. I did it. I
14 asked, that's right. Anyway.
15 Q And what about information concerning her right to
16 withhold consent, to give or withhold consent?
17 A I did try to engage her in the process of giving --
18 I did try to engage her in the process of going about --
19 I'm sorry, I'm not phrasing this right, I'm not wording
20 this very well. But I did attempt to engage her in that
21 process, yes, sir.
22 Q Okay.
23 A But was -- again, was not -- didn't get very far
24 with it. I couldn't get very far with it.
25 Q Okay. So, what's your best guess as to how long you

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1 would like her to stay at API for treatment?
2 A It's always difficult to predict. My hope would be
3 that she have as brief a hospitalization as possible, to
4 address her needs and to make sure that when she leaves,
5 that she no longer is in a state of grave disability or a
6 danger to others or herself.
7 Q Okay. Do you know about how long she was at API the
8 last time?
9 A My recollection is around six weeks, but I -- I'm
10 sorry, I don't have the record with me.
11 Q Okay.
12 A It's just going by memory.
13 Q And what's your opinion about what her condition --
14 what will happen with her condition if she continues not
15 to receive the medication that you would like her to have?
16 A I feel that she'll continue to persist in her
17 current state of grave disability for an unclear period of
18 time, perhaps indefinitely.
19 Q Okay. And what, if any, information did you give
20 Ms. Myers about fish oil?
21 A We spoke briefly about that issue on 27th, on
22 February 27th. And I knew that Ms. Myers was interested
23 in nutrition, and that's a good thing, by the way. I
24 mean, I think it's great that she's concerned about her
25 nutrition.

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1 THE COURT: If you'd read this portion of the
2 deposition transcript, if that'll save you any time?
3 MR. KILLIP: Okay, thank you. Thank you, Your
4 Honor.
5 THE COURT: Sure.
6 MR. KILLIP: And if I may, I'd like to show Dr.
7 Hanowell exhibits 1 through 9 -- or excuse, me, 1 through
8 8.
9 THE COURT: Eight, right. Those are here, sir.
10 Q If you could take a moment just to look at those.
11 Exhibits 1 through 7, Dr. Hanowell, have been admitted and
12 identified by a previous witness as photographs of Ms.
13 Myers' apartment, shortly after the time -- or about the
14 time she was admitted at API. And I just wanted to ask
15 you to look at those and if you had an opinion about
16 whether what you see depicts symptoms consistent with your
17 diagnosis of Ms. Myers. Specifically the condition of her
18 home.
19 A It does appear to be in a state of disrepair. Also,
20 as I mentioned -- as earlier in my testimony I mentioned
21 that the family had reported that she was leaving food
22 around the house. The family had also indicated that she
23 believes -- she has stated in the past that she believes
24 there are children -- in addition to animals, that there
25 are children in her house that she is spending time with

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1 and teaching. And I see here, that some of these pictures
2 show food being left out, and it looks like there's a name
3 or a word on one of those plates of food.
4 Q So just generally, Dr. Hanowell, what you see, is it
5 consistent with symptoms that you've observed in your
6 practice over the years for paranoid schizophrenia?
7 A Yes, sir. Regrettably, people with that illness can
8 sometimes, when decompensated, have -- be living in
9 conditions like this.
10 Q Okay. Thank you, Your Honor. And if you could --
11 Dr. Hanowell, if you could take a look at exhibit No. 8, a
12 single piece of paper. Just take a look at that. And
13 that was identified as a note that was given by Ms. Myers
14 to her son, Michael Myers. And if you have an opinion
15 about whether what you read is consistent with the
16 symptoms of paranoid schizophrenia.
17 A Yes, sir. I do feel that people who are in an acute
18 exacerbation of their illness can sometimes write such
19 statements, yes, sir.
20 Q Okay.
21 A Or similar statements, excuse me.
22 Q Thank you, Dr. Hanowell.
23 A Thank you, sir.
24 THE COURT: Mr. Gottstein?
25 MR. GOTTSTEIN: I'll be brief, I hope.

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1 DR. ROBERT HANOWELL
2 testified as follows on:
3 CROSS-EXAMINATION
4 BY MR. GOTTSTEIN:
5 Q Dr. Hanowell, you haven't changed your testimony
6 here today that you can't predict dangerousness, have you?
7 That you testified to in your deposition?
8 A I don't recall exactly what I said in the
9 deposition. I'm sorry, but I can't recall precisely what
10 I said in the deposition. I'm sorry, sir.
11 THE COURT: I've read the deposition.
12 Q Okay. Now, you indicated that you talked about her
13 -- admitting her involuntarily, is that -- that's the
14 trick --
15 THE COURT: That's the trick water pitcher. Do you
16 need a paper towel?
17 Q But it isn't really possible to sign voluntarily
18 into API without agreeing to take medications, is it?
19 A It certainly is.
20 Q Doesn't the form say that it gives the hospital
21 authority to administer psychiatric medications when you
22 deem it necessary?
23 A Well, I have admitted many patients without
24 prescribing medication.
25 Q Okay. Now, but isn't it true -- that was maybe a

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1 misunderstanding on my part -- that you can sign in
2 voluntarily, but you really can't -- that you might be
3 stuck there, right? In other words, when you sign in
4 voluntarily, if they decide to leave, and you think they
5 should stay, that you will hold them. Is that correct?
6 A If I feel that there's clear evidence that the
7 person poses a danger to themselves or others, or if
8 they're gravely disabled and they wish to leave against
9 medical advice, I can't -- I can't indefinitely detain
10 them. I have to file a petition and go before the
11 Magistrate.
12 Q So, I would imagine that some people are surprised
13 to find out that when they sign in voluntarily, they can't
14 leave voluntarily. Is that correct?
15 A I'm not sure. I'm not sure. Possibly.
16 Q Nobody's ever expressed that to you?
17 A I don't recall specifically, I'm sorry. But I
18 imagine someone could be, certainly, under those
19 circumstances.
20 Q So, now, I really want you to think about it. With
21 all your patients that have signed in voluntarily and then
22 found out that they couldn't leave, no one has expressed
23 surprise or anger about that?
24 A Oh, anger, yes. Surprise I'm not sure about, but
25 anger, yes.

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1 Q Well, wouldn't you equate that with surprise?
2 A I don't know. It's a difficult question for me to
3 answer.
4 Q Did they think that they could leave?
5 A I'm sorry, I --
6 Q And then got angry when they found out they
7 couldn't?
8 A Well.....
9 Q Isn't that kind of the way it goes?
10 A I certainly have had people who have become angry
11 when they learned when I was petitioning for commitment,
12 yes, sir.
13 Q When they came in voluntarily?
14 A When they came in voluntarily. I had people who --
15 Q Okay. Now, I think you testified that at one point
16 Ms. Myers got -- clinched her fists and came forward and
17 then controlled herself before she actually did anything.
18 Is that correct? To you?
19 A Again, I wasn't present to witness that, but --
20 Q No, no. I'm talking about with you. Did you say
21 that --
22 MR. KILLIP: Your Honor, I would object. I don't
23 think that was a fair characterization of his prior
24 testimony, but certainly he can elaborate.
25 THE COURT: My understanding is the same as Mr.

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1 Killip's. I thought that that incident took place in
2 front of a nursing staff member. Is that correct?
3 A Yes, Your Honor.
4 MR. GOTTSTEIN: But I think Dr. Hanowell testified
5 to something similar that happened to him where she got
6 very angry and approached him and then -- then stopped
7 herself.
8 THE COURT: Did you, sir?
9 A No sir. Not to my recollection, sir.
10 Q That's -- okay. And I don't think that you
11 testified as to prognosis, what her prognosis is. You
12 were asked that question, but I don't think you actually
13 answered.
14 A Well, I think if she resumes medication, I think her
15 prognosis for being discharged from the hospital -- excuse
16 me, sir, excuse me. Being discharged from the hospital
17 and resuming her life and doing the things that she wishes
18 to do with her family and friends, I think the prognosis
19 is very good for her being able to do that. As far as,
20 you know, beyond that, it's difficult for me to say.
21 Q So, she ended up, I think someone said, that she was
22 on social security disability income. Would you expect,
23 on the medications, that would be able to get off SSDI and
24 have a -- resume her employment and have a normal life, on
25 the medications?

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1 A I wish that that were so. I certainly would never
2 attempt to say that that could never happen, because
3 certainly there are some people who have surprising
4 responses to medication, but I think that would probably
5 be unlikely.
6 Q Okay, thank you.
7 A But I would love it if it were to occur.
8 Q No further questions, Your Honor.
9 THE COURT: Mr. Killip?
10 MR. KILLIP: Thank you, Your Honor. I have nothing
11 for Dr. Hanowell. I'm done with Dr. Hanowell, thank you.
12 THE COURT: You may be excused, sir. Thank you.
13 A Thank you, Your Honor.
14 MR. KILLIP: Yeah. I know we started late this
15 morning --
16 MR. GOTTSTEIN: Because they didn't bring her on
17 time.
18 MR. KILLIP: And you had indicated that we would
19 have until 11:00 to finish with Dr. Hanowell's direct,
20 anyway.
21 THE COURT: Um-hmm.
22 MR. KILLIP: And we ran almost 10 minutes over with
23 that. But I wanted to call Dr. Kletti for about five
24 minutes of direct.
25 THE COURT: I'll give you five minutes.

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1 MR. KILLIP: Thank you, Your Honor.
2 THE COURT: Please remain standing sir, and raise
3 your right hand.
4 THE CLERK: Do you swear or affirm that the
5 information you are about to give in this matter before
6 the court is the truth, the whole truth, and nothing but
7 the truth?
8 DR. KLETTI: I do.
9 THE CLERK: Would you please state your name,
10 spelling your last name for the record?
11 DR. KLETTI: Nich
12 olas Kletti, K L-E-T-T-I, M.D.
13 THE COURT: Mr. Killip, you may inquire when you're
14 ready.
15 MR. KILLIP: Thank you, Your Honor.
16 DR. NICHOLAS KLETTI
17 testified as follows on:
18 DIRECT EXAMINATION
19 BY MR. KILLIP:
20 Q Dr. Kletti, could you briefly describe your
21 education and training in medicine?
22 A Yes. I attended medical school at the University of
23 Chicago, Pritzker School of Medicine, and graduated there
24 in 1986. I did a one year internal medicine at Michael
25 Reese Hospital in Chicago, teaching affiliate of
University of Chicago, and completed residency training in

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1 psychiatry at Massachusetts General Hospital in Boston in
2 1990. I'm board certified in psychiatry in 1991.
3 Q And you work at API, you're the medical director?
4 A Yes, I am.
5 Q And for how long have you had those -- had that
6 responsibility?
7 A I've worked at API since May 2000, been medical
8 director there since August 2000.
9 Q Ever been qualified as an expert in psychiatry
10 before in court?
11 A Many times.
12 Q Approximately how many times?
13 A Easily 100, probably more, like 200 times.
14 Q Okay. And as part of your training, education and
15 training, does that include treatment with medicine?
16 A Yes. As Dr. Hanowell mentioned, my training
17 involved numerous lectures, numerous trainings in
18 psychopharmacology, extensive experience under supervision
19 of experts in psychopharmacology, and continuing medical
20 education after residency training in psychopharmacology.
21 Q Okay. And Dr. Kletti, your testimony today would be
22 based on clinical observations and your overall
23 professional evaluation in light of your training and
24 experience?
25 A Yes, it would.

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1 Q We would offer Dr. Kletti as an expert in
2 psychiatry, Your Honor, which would include pharmacology.
3 MR. GOTTSTEIN: I would object on the pharmacology,
4 Your Honor. Same objection as with Dr. Hanowell.
5 THE COURT: Overruled. I find that this witness is
6 qualified.
7 MR. KILLIP: Thank you, Your Honor.
8 Q Dr. Kletti, how are you familiar with Faith Myers?
9 A I was the admitting physician for Ms. Myers on her
10 second API hospitalization in December of 2000, and know
11 her from there. I also know her as medical director --
12 since my tenure as medical director, whenever she's been
13 hospitalized. The medical director reviews every case,
14 every day in morning report and particularly with cases
15 such as this, where there's disagreements between the
16 patient and the attending physician, I often get involved,
17 meeting with the patient, talking with the staff, talking
18 in general.
19 THE COURT: So there's just one time that she's been
20 admitted since you've been medical director?
21 A Twice. Her December 2000 admission and then this
22 admission. I know her through --
23 THE COURT: Oh, you became director in August of
24 2000. I beg your pardon.
25 A Yes.

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1 Q And Dr. Kletti, approximately how many meetings have
2 you had with Ms. Myers?
3 A I've probably had three direct meetings with her. I
4 think two in the December 2000 admission, and I met with
5 her once during this admission. But I hear about her case
6 and progress every day. I've done extensive chart reviews
7 on her case, and so on.
8 THE COURT: All right.
9 Q What's your understanding of her current diagnosis?
10 A I do believe that Ms. Myers is suffering from
11 schizophrenia, paranoid type, and that she is in an acute
12 phase of her illness right now, where she is actively
13 psychotic and I do believe that she is in need of
14 treatment with psychotropic medications, at the present
15 time.
16 Q Okay. And what's -- what type of medications would
17 be appropriate for her, in your opinion?
18 A The standard of care in the psychiatric community,
19 and there are always groups in any scientific field that -
20 - there are people who still don't believe that evolution
21 exists, that there's flat earth society.
22 MR. GOTTSTEIN: Objection, Your Honor.
23 THE COURT: I understand your point.
24 A Okay.
25 THE COURT: And the standard of care is?

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1 A The standard of care in treatment of schizophrenia
2 is -- the mainstay is treatment with antipsychotic
3 medications. There is no one particular antipsychotic
4 medication that is proven far superior to any other
5 antipsychotic medication. Although, for individual
6 patients there can be differences that work, as Dr.
7 Hanowell testified.
8 Ms. Myers has done well on zyprexa before. She had
9 a very successful treatment in December 2000 to February
10 2001, was discharged on early release with an outpatient
11 order to continue taking her medications, which kept her,
12 actually, very stable in the community for the next six
13 months, at which time she stopped her medications again,
14 as she told me, in my last interview with her.
15 THE COURT: When did she tell you that?
16 A This was Friday -- last Friday, when I met with
17 her.....
18 THE COURT: And what she told you --
19 AFebruary 28th.
20 THE COURT: Okay. On February 28th she told you she
21 stopped taking her medications six months after leaving
22 API?
23 A Right.
24 Q Thank you, Your Honor. Dr. Kletti, you were present
25 for Dr. Hanowell's testimony and Rachel Humphreys'

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1 testimony this morning, and also for Dr. Hanowell's
2 deposition. Is that correct?
3 A Yes, I was.
4 Q Okay. Is the evidence that was -- and the
5 information that was presented during all three of those
6 witness testimonies consistent with your own professional
7 evaluation of Ms. Myers?
8 A Absolutely. Ms. Myers meets the standard, I feel,
9 for involuntary medication. She's -- as -- I won't repeat
10 Dr. Hanowell's testimony, but I'm very concerned about her
11 safety in the community. I'm also concerned about
12 continuing delays in treatment, as there is much evidence
13 in psychiatric literature that untreated psychosis for
14 extended periods of time is harder to recover from, and
15 that these continuing delays may impact her prognosis.
16 Q Dr. Kletti, in your opinion, is the treatment plan,
17 as described by Dr. Hanowell, appropriate?
18 A Absolutely.
19 Q Okay. Is there anything else that you want to
20 relate to the court about Ms. Humphreys' situation?
21 A No, I think it's been covered. I have a number of
22 safety concerns for Ms. Myers and others in the community.
23 While she's at API those safety concerns are ameliorated,
24 obviously. However, the ongoing delays in her treatment,
25 I don't think, are in her best interest, I don't think are

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1 something that her family wants to see, I don't think that
 2 it's something that ultimately she would want to see, once
 3 she's recovered from her illness.
 4 THE COURT: Is there any literature anywhere, any
 5 study, any expert, who could tell me why these medications
 6 work for some patients?
 7 A No.
 8 THE COURT: All right. So, what we're talking about
 9 is clinical observations. Is that right?
 10 A Correct. But, you know, and this gets raised as a
 11 criticism in psychiatry sometimes, that we don't
 12 understand exactly how these medications work. But until
 13 20 years ago, we didn't understand how morphine worked, or
 14 penicillin or aspirin, or -- it's only been since
 15 molecular genetics has really become a fairly scientific
 16 field that we understand how some medications work. The
 17 brain being so much more complex than most things studied,
 18 that it may take us some time to....
 19 THE COURT: Yes, and I appreciate that. I just have
 20 one other question, Mr. Killip, if I might interrupt you,
 21 since I have been all morning. Is there any literature
 22 you're aware of, or any training that you had that would
 23 indicate that while these medications sometimes work for
 24 some patients, but not others, is there a greater
 25 likelihood that it will be effective here because it has

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1 been in the past for Ms. Myers?
 2 A That's definitely true. Within an individual's
 3 history, if something worked for them before, it's much
 4 more likely to work again for them.
 5 THE COURT: All right.
 6 A I should also note that there has been -- since
 7 1990, there have been much better medications for
 8 treatment of psychosis developed. Mr. Gottstein would
 9 probably contest that, but the initial first generation of
 10 anti-psychotic medications did carry a fairly heavy burden
 11 of side effects. Since 1990, zyprexa being one of them,
 12 the side effect profile is much greater.
 13 THE COURT: Are you aware of Ms. Myers having any
 14 side effects other than the ones that have been previously
 15 testified to?
 16 A Not at all. The major side effects of zyprexa are
 17 sedation and weight gain. She's gained really no weight
 18 since December 2000 to this hospitalization. And
 19 certainly we didn't see any sedation when we discharged
 20 her in February 2001.
 21 THE COURT: All right. Anything further?
 22 MR. KILLIP: No, Your Honor, thank you. Thank you,
 23 Dr. Kletti.
 24 THE COURT: Mr. Gottstein?
 25 DR. NICOLAS KLETTI

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1 testified as follows on:
 2 CROSS-EXAMINATION
 3 BY MR. GOTTSTEIN:
 4 Q Dr. Kletti, you kind of suggested that people that
 5 disagreed with you were like people that didn't believe in
 6 evolution. Have you read this book, Blaming the Brain:
 7 The Truth About Drugs and Mental Health by Elliott S.
 8 Valenstein, Ph.D.?
 9 A No, I have not. I am very familiar with the
 10 argument, the anti-psychiatry arguments, though.
 11 Q Have you read this book, Toxic Psychiatry, by Dr.
 12 Peter Breggin?
 13 A I've read segments of --
 14 MR. KILLIP: Your Honor, excuse me. I object. Same
 15 objection.
 16 THE COURT: I'm going to let Mr. Gottstein go ahead
 17 and make this point. He's got a time allotment, as do
 18 you, and I'm going to let him explore this area.
 19 Q Have you read From Placebo to Panacea: Putting
 20 Psychiatric Drugs to the Test?
 21 A I read some of the materials that you provided in
 22 the deposition from that.
 23 Q And isn't it true -- and it's in -- it's attached to
 24 the deposition. Isn't it extensively documented with an
 25 extensive bibliography?

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1 A As is the standard of care literature.
 2 Q Sure, sure.
 3 THE COURT: Mr. Gottstein, if I could interrupt.
 4 That reminds me, in the deposition, and there's an
 5 affidavit attached referencing the exhibits to the
 6 deposition, which I did not receive. Just to remind both
 7 counsel, I don't have those.
 8 MR. GOTTSTEIN: I don't think the hospital -- they
 9 wouldn't release them. And I don't think it matters, at
 10 this point, Your Honor. I'm not concerned.
 11 THE COURT: All right. That's fine. Just so you
 12 both understand.
 13 Q And so, you haven't read Your Drug May be Your
 14 Problem by Peter Breggin, M.D. and David Collin, Ph.D. Is
 15 that correct?
 16 A No, but I'm very familiar with Dr. Breggin's
 17 position on this.
 18 Q And The Brain Disabling Treatments in Psychiatry:
 19 Drugs, Electroshock and the Role of the FDA?
 20 A No, I have not read that one.
 21 Q Okay. Now, you said that zyprexa was -- was safer
 22 than the older drugs. Is that correct?
 23 A It's side effect profile is considerably more
 24 favorable and much more tolerant for patients to take.
 25 Q But isn't it true, actually, that the FDA ordered

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1 the manufacturer of zyprexa not to make the claim that
 2 zyprexa was anymore safe or anymore effective than these
 3 other ones, specifically haldal?
 4 A It is no more effective than any of the other anti-
 5 psychotic medications, but it is considerably safer from a
 6 side effect profile. From, I suppose, a fatality
 7 standpoint, all the anti-psychotic medications are
 8 extremely safe, even in large overdose. So, I mean, it
 9 would be natural that the FDA would say it was no better
 10 than haldal in terms of safety profile, because both of
 11 them are extremely safe medications.
 12 Q No further questions, Your Honor.
 13 THE COURT: All right. Mr. Killip?
 14 MR. KILLIP: No, Your Honor. Thanks.
 15 THE COURT: All right. So you may be excused.
 16 Thank you for your testimony.
 17 I think you're out of time, Mr. Killip.
 18 MR. KILLIP: The State rests. Thank you, Your
 19 Honor.
 20 THE COURT: All right. Mr. Gottstein?
 21 MR. GOTTSTEIN: Move to dismiss. No, actually, I
 22 think we want to hear from Ms. Myers, and I have two
 23 witnesses, in addition, that I think the court really
 24 would like to hear from. They're both telephonically. We
 25 need to really figure out when they might be available. I

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1 assume we're going to take a short break?
 2 THE COURT: I can do that now if you want to
 3 reconnoiter and contact your witnesses by phone to see
 4 when they're going to be available. Are they in the same
 5 time zone so you're concerned about lunch, or --?
 6 MR. GOTTSTEIN: The one I'd like is Dr. Mosher, and
 7 I wonder if we might call him.
 8 THE COURT: Do you want to call him now?
 9 MR. GOTTSTEIN: If he's available now, that would be
 10 great.
 11 THE COURT: Sure. Why don't we give it a shot. Do
 12 you have his phone number?
 13 MR. GOTTSTEIN: Yeah. It's 858-550-0312.
 14 THE COURT: And that's in what time zone?
 15 MR. GOTTSTEIN: Pacific, California.
 16 THE COURT: Okay. So I'm required to either get a
 17 billing number from you or to call him from my chambers to
 18 have him call, in here.
 19 MR. GOTTSTEIN: Yeah, he can call back.
 20 THE COURT: All right.
 21 MR. GOTTSTEIN: You know, he just got back from --
 22 THE COURT: That's fine. What we'll do is go off
 23 record. I'm going to have my assistant in my chambers
 24 phone him and ask him to call in, so we can patch him in.
 25 And that will give everyone a three or four minute break

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1 to stand up and stretch their legs. Okay? We'll go off
 2 record.
 3 (Off record.)
 4 11:31:32
 5 THE COURT: Ma'am, could you come around to the
 6 witness stand, please?
 7 Would you go back on record and just note that I
 8 attempted to -- my assistant, rather, attempted to reach
 9 Mr. Gottstein's first witness, is it -- it was Dr. Mosher,
 10 I believe, but we got an answering machine. So she left a
 11 message asking him to phone back, and when he does, I'm to
 12 get an email letting me know.
 13 In the mean time, we'll go forward with your
 14 testimony, ma'am. Could you please stand and raise your
 15 right hand to take the oath? Thank you.
 16 THE CLERK: Do you swear or affirm that the
 17 information you are about to give in this matter before
 18 the court is the truth, the whole truth, and nothing but
 19 the truth?
 20 MS. MYERS: I do.
 21 THE CLERK: Would you please state your name,
 22 spelling your last name for the record.
 23 MR. GOTTSTEIN: Thank you.
 24 THE COURT: Wait. We need to have the witness state
 25 your name and spell the last name for the record, please.

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1 MS. MYERS: My name is Faith Jo Ellen. My maiden
 2 name is Tusing, and I have been married to Mr. Myers and
 3 Mr. Collins, and at present I don't have a surname.
 4 THE COURT: All right.
 5 FAITH MYERS
 6 testified as follows on:
 7 DIRECT EXAMINATION
 8 BY MR. GOTTSTEIN:
 9 Q Did you take -- would you like to have these notes
 10 with you? Would that be okay with the court? That she
 11 took during the testimony?
 12 THE COURT: Oh, they're her notes that she took
 13 during the course of the testimony?
 14 MR. GOTTSTEIN: Yes.
 15 THE COURT: Mr. Killip, any objection?
 16 MR. KILLIP: No, Your Honor.
 17 THE COURT: That's just fine.
 18 Q Faith, you heard your daughter testify about growing
 19 up. Could you kind of start there in terms of when you
 20 were a mother, and then I kind of want to walk through
 21 your life?
 22 A Yes.
 23 Q I think you can probably just talk without --
 24 A I think it will pick it up.
 25 THE COURT: Oh, you'll be fine. That's close

1 enough. You can leave that on my desk.
 2 A When I was first raising my children, Michael was
 3 about four and Rachel would have been three and a half
 4 years older than that. My husband had been working out of
 5 town for a number of years, and only came home on the
 6 weekends. And we had just purchased a small home, on
 7 escrow, and I was trying to teach and manage and I owned a
 8 small child care facility in the basement of my home. And
 9 my prime objective was to learn not only how to raise
 10 children who had a heritage that they could be proud of,
 11 but also to learn to be a good teacher.

12 At that time I had only had one year of college,
 13 which kind of ended in my dropping out of college. And we
 14 were not very well off economically; we were struggling to
 15 get by, so I worked at the same time that my husband
 16 worked.

17 I went back to school, part-time, and have been
 18 going back to school part-time for almost 25 years, until
 19 I received my Associate of Science degree in early
 20 childhood education in 1996. I believe it was in 1996
 21 that I graduated.

22 And the reason I say all this is because it is a lot
 23 to do to raise two young children with your husband out of
 24 town and go to college part-time, and take 15, 16 credits.

25 And it was at that point that I had a great deal of

1 difficulty integrating all of those activities together.
 2 It was very stressful to me, and if you add to that the
 3 personal factors of not having a husband around home and
 4 trying to raise the children who were lonely for their
 5 father, trying to make new friends, because I did not have
 6 a real strong group of friends, at that time. I did make
 7 friends later. But the friends that I had made in the
 8 churches, I felt that I had received bad advice from them.
 9 And I was learning new ways to raise my children.
 10 Learning new ways to look at life and think about what was
 11 going on --

12 Q Now, you said that you had difficulties. Did you
 13 seek some kind of treatment at that time?

14 A I do believe that I went to a counselor at the
 15 college at that time, my second year of college, because I
 16 was having home difficulties. At that time, he advised me
 17 to go away from my family for two or three weeks and
 18 consider a divorce. And because of personal problems and
 19 all the things that were going on in my life, I had what
 20 most people would call a breakdown. As I say, that was a
 21 tremendous load for anyone to carry.

22 Q And then what happened?

23 A My family doctor, who I had worked for, for many
 24 years, I had a cleaning woman business. I was a char, if
 25 you would say, in English terms. I went to people's homes

1 and I cleaned for them. And that was before I started my
 2 child care center. And I still occasionally did that.

3 Q But you said you had a breakdown. I'm kind of
 4 wonder -- I'm wondering what happened as a result of that?

5 A My family physician in the spring -- I quit school
 6 and came home to rest, after the fall semester. In the
 7 spring I was still very, very sick. And my family
 8 physician, when I went to talk to him, referred me to a
 9 psychiatrist, Dr. John Braddock.

10 Q And then what did Dr. John -- what was your
 11 treatment under Dr. Braddock?

12 A Dr. Braddock said that what had happened was that I
 13 had not had any rest, that I had just simply worked myself
 14 to a frazzle. My husband had been unemployed. He had
 15 been working for no wages for a friend and we were
 16 suffering economic problems. We were both working hard.
 17 He had come home to take care of me in December and quit
 18 his job to come home and take care of me. But he had not
 19 found a job and he could not get on unemployment very
 20 early, as many people who try for unemployment know. And
 21 so we were still struggling and --

22 Q I'm sorry to interrupt Faith, but what I'm really
 23 looking for is what the treatment that Dr. Braddock -- for
 24 example, did you get prescribed any medication?

25 A Dr. Braddock put me in a general hospital ward room,

1 not a psychiatric hospital. I was there for five days, I
 2 believe. He put me on navaine. He started me on six
 3 milligrams -- I think it -- well, no, that's not true. He
 4 started me on five pills and he usually gave me two
 5 milligram pills each, so that would have been 12
 6 milligrams or something close to that, I think. That he
 7 worked his way down. And that had the effect of knocking
 8 me out and making me sleep, because at that point I was so
 9 frightening of what was going on around me, that I could
 10 not sleep, I could not eat. And so what he did was, in
 11 effect, allowed me to sleep, and then after two or three
 12 days of resting and sleeping, he brought the dosage way,
 13 way down and he did not believe that I would need to be on
 14 that medication longer than six months, at the most.

15 He called what I had a war-like experience.
 16 Somebody who didn't speak the language in a war-like zone,
 17 where a great many scary things were going on, and he felt
 18 that had been what had caused the breakdown. And he said
 19 that as soon as I rested and had good nutrition, built my
 20 body back up, that I would be able to resume my life and
 21 he fully intended to wean me down immediately to one
 22 milligram or two milligrams to just one pill of two
 23 milligrams each, and then off, right away, within six
 24 months, if not earlier.

25 Q Did that happen?

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1 A It did not happen, because the stressors in my life
2 immediately picked up and he did not feel that it was wise
3 to take me off right away. So he kept me on for -- well,
4 in effect, I had been on it for 22, 23 years, before I
5 went off of it and they put me on risperidone.
6 Q Okay. Let's -- can we back up a little bit and just
7 kind of -- but briefly though, because we're pressed for
8 time -- can you kind of really briefly describe, kind of,
9 what happened between -- what your life was like when you
10 were on the navaine, and then to -- when we get to the
11 risperdal. Just --
12 A Well, when I was on the navaine, if I was on
13 anything above three pills, which would be six milligrams,
14 I would be so sleepy that I could not perform my function
15 as a child care teacher very well.
16 Q So you were employed during all this time?
17 A I was self-employed, sir. I took care of children
18 in my home. The state was aware that I was on medication,
19 because I was very honest about it, and they were
20 monitoring and watching me.
21 The effect of the medication that I found the worst,
22 during all that time, because you have to understand that
23 navaine is a tranquilizer, a major tranquilizer. And I
24 really could not judge being tranquilized, any of the
25 other effects, except for its somnolence, that it made me

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1 very, very drowsy. And it was very hard to get up and go
2 to work and do what I needed to do.
3 Q But -- but -- you managed to do that for 22 years?
4 A Yes, I did, sir.
5 Q Okay.
6 A I worked for the school district, also, for four
7 years, so I did manage to be competent in my profession,
8 go to college, get a degree. The problem that I see from
9 the navaine is that looking back now on not having
10 medication in my system for six months and then during
11 1999, the fall of '99 to December of 2000, being off of
12 that medication for a year and a half, is that when I look
13 back on my childhood of my children, the childhood of my
14 children, I cannot remember very much about what they were
15 like. It's almost like the whole family life has been
16 taken from me and my memory. It had the effect of just
17 totally wiping out my memory of those years.
18 Q Okay. Now, you mentioned the risperdal. Can you
19 kind of describe how it came about that you switched from
20 navaine to risperdal, if that's what happened?
21 A When I resigned from Tundra Tykes, as a teacher --
22 Q Can we back up? So, now you're in Alaska, so when
23 did you move --?
24 A I moved to Alaska in 1991 -- July of 1991, shortly
25 after my daughter's wedding. I had worked for the school

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1 district, Whitman Elementary School in Idaho, for four
2 years. I had a very good prospect of a job up here,
3 followed my husband up here to Alaska. He was already up
4 here. I came up and immediately was hired at Tundra
5 Tykes. And worked there, worked my way up from assistant
6 teacher to the lead preschool teacher, and I worked there
7 for about six and a half years. Pretty close to six
8 years, I think, six and a half years.
9 I resigned in November of 1997 and subsequently -- I
10 had been applying for a license for my own child care
11 center before that time, and immediately set about
12 starting another child care center in my home, which was a
13 small apartment. I did that with my daughter and a friend
14 and their children for two years.
15 And during that time, in 1997, in the fall of 1997 -
16 - well, actually, my daughter mentioned the spring of
17 1998, sorry. In the spring of 1998, I had been having
18 trouble since 1997 with a leaky oven, that I was sure was
19 letting out fumes, and even though I complained about it,
20 nothing seemed to be done. I was suffering what I later
21 found out to be maybe carbon monoxide poisoning. And in
22 1998, after I had started my child care center and had
23 been working for several people in some other types of
24 freelance jobs, in order to make ends meet, the -- some of
25 the events that happened in the spring of 1998 reminded me

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1 very much of the events that happened to me when I had my
2 first breakdown. And because of that, and because of the
3 carbon monoxide leaks, I asked my daughter if I could stay
4 at her residence.
5 Q Okay. Can we -- I'm really interested in how the
6 navaine got switched to risperdal. Could you describe
7 that, please?
8 A Well, I guess what I'm trying to say is that I was
9 very competent, doing what I could do. I held two or
10 three jobs trying to make ends meet after my resignation
11 from Tundra Tykes. And in August of that year, after I
12 had purchased a new van, I was rear-ended, and this is all
13 pertinent, if you can have patience with me.
14 Q I'm sorry, I'm sorry, Faith. It's just that we
15 really have a short timeframe.
16 A I know. But I was rear-ended in the van with two of
17 the children in the van with me and got whiplash, and at
18 that point, my doctors gave me a great many medications
19 that, along with the carbon monoxide that occasionally
20 came and went in my apartment, actually made me very, very
21 disabled. And so in the fall of that year, somewhere
22 around Halloween --
23 Q What year was this?
24 A This was in 1998, sir, in the fall of 1998.
25 Q Okay.

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1 A In the fall of 1998, I was having a great many side
 2 effects from the medication that they were giving me for
 3 the whiplash and as a consequence of that, I was advised
 4 by my daughter-in-law, Arial, and Rachel, who both were
 5 worried that I was going off my medication of navaine, but
 6 the problem was that something in my medication was making
 7 me deathly ill. And in order to know what it was that was
 8 making me ill, sir, I had to -- excuse me, Mr. Gottstein,
 9 I had to eliminate, scientifically, what it was that was
 10 affecting me. And so I was testing and all of the drugs -
 11 - because I am highly allergic to chemicals.
 12 Q Faith, my --
 13 A And at that time, my daughter-in-law referred me to
 14 Southcentral Counseling, to Jan Adasiak, who was the prime
 15 motivator in asking me to take risperidone, get on
 16 disability, and every other medicine I took thereafter,
 17 came from, usually, my doctor, Jan Adasiak.
 18 Q Okay. Now, did Dr. Adasiak discuss why she wanted
 19 you to take risperdal instead of navaine?
 20 A They did. They said that they felt I had been
 21 struggling valiantly to conceal a psychiatric condition,
 22 that I needed to just plain rest and heal. They also said
 23 they had worries that I would have tar-dive dyskinesia if
 24 I did not switch from the navaine to another medication.
 25 At that time I was perfectly satisfied, other than

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1 the allergic reactions I was having that made me so ill.
 2 Q Okay, now, then what happened when you started on
 3 the risperdal?
 4 A They kept me on the navaine and the risperidone at
 5 fairly high dosages for me. I was on the navaine and she
 6 put me on a generic brand, which I never take the generic
 7 brand, I always take the Rorig brand for years. So she
 8 switched me to the generic brand and then she gave me, I
 9 think, four to six milligrams of risperidone, or it might
 10 even have been 10, it's hard to remember clear back to
 11 then. She said it was a normal dose, but to me it was a
 12 very high dose.
 13 Q And then what happened, as a result of that?
 14 A Well, the navaine medication seemed to be fighting
 15 with the risperidone medication. I was having a lot of --
 16 seeing lights, dizziness, it was hard to drive sometimes.
 17 When I would drive, I might have to stop driving and pull
 18 off the road, because I might feel that there would be a
 19 great wave of drowsiness come over me. I was starting to
 20 see, instead of the lights, red light being red light, my
 21 brain would register red light as green light and green
 22 light as red light.
 23 Q And that had never happened before you got on the
 24 risperdal?
 25 A No, sir, that had never happened. I had never been

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1 overwhelmed while driving, so that I was unable to drive.
 2 I had never had lights flashing in front of my eyes. I
 3 had never had disorientation to the point that I could not
 4 remember the route to a familiar place. Because at that
 5 point, with the two medicines fighting, I was not able to
 6 remember familiar routes, and I would have to go all the
 7 way around the city, trying to find the right route back
 8 home. And I remarked on it to my family. I said, you
 9 know, there's something about the medicine that I'm
 10 taking. And, of course, my family has swallowed a lot of
 11 the medical model, which I don't anymore, about the fact
 12 that the medicine is what makes you well, and they were
 13 unwilling to consider that the medicine might be toxic to
 14 me at that point.
 15 Later on, I went to my son, who had moved back from
 16 Fairbanks. He had been in Fairbanks. At the time that I
 17 -- before I took the risperidone, when I was having
 18 reactions to the whiplash medications, my son and Arial,
 19 his wife, had asked me to come to Fairbanks. And at the
 20 time, because of the memory problems from carbon monoxide,
 21 I could not, sometimes, remember to write down what we had
 22 for snack or what we had for lunch. I did what I needed
 23 to do for the children, but my memory was having troubles
 24 for record keeping.
 25 And so, they invited me up there in the beginning of

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1 December of 1998, before I went on risperidone. And the
 2 clear air in Fairbanks, and being in a place where I had
 3 good food and rest and really no medication, you know,
 4 other than the navaine, I actually went back to my
 5 regular, competent, functioning self, and was able to
 6 finish all my record keeping the way I was supposed to do
 7 it.
 8 However, when I came back down, Dr. Adasiak had
 9 already signed me up to change over to the risperidone,
 10 and that was prior to the battle between the -- I'm sorry,
 11 I'm putting it so strangely, but the battle between the
 12 navaine medication and the risperidone medication.
 13 I told my son, when they moved back down from
 14 Fairbanks, that I was having a major problem, having those
 15 two medications within my system. And he suggested that
 16 maybe we should try just one medication. And the decision
 17 was made. He took me to Dr. Adasiak's, the decision was
 18 made to go off the navaine and onto just the risperidone.
 19 And within two weeks, I think even less than that, I was
 20 hearing voices, some familiar voices, a lot of commanding
 21 voices, one in particular that ordered me all over the
 22 city, claiming to be God.
 23 Q Now, had this ever happened before, to you?
 24 A No. No, sir, it never had. It was as though the
 25 risperidone punched a big hole in my brain that let all of

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1 these spirits or voices into my brain. And it didn't get
 2 better, sir, it just got worse and worse and worse.
 3 Q So, of course, the doctors let you off of it, right?
 4 A No, sir, they kept me on it. I kept telling them
 5 what the problem was. I asked my son --well, my son
 6 remembers what it was like the day that I broke down and
 7 told him, please take me to API, to a hospital, take me
 8 somewhere, to somebody who can take care of this, because
 9 otherwise you'll have your mother running through the
 10 streets with blue hair, screaming her head off.
 11 Q When was this?
 12 A This was just before he took me to API the first
 13 time.
 14 Q And what date -- do you remember what date it was?
 15 A I believe it was May the 5th of 1999.
 16 Q And you went voluntarily?
 17 A I asked him to take me, because I needed help.
 18 Q Um-hmm. Okay. And then what happened?
 19 A He didn't want to take me. He was afraid to take me
 20 to the psychiatric hospital. It was probably the hardest
 21 thing he ever had to do, to bring me there and leave me
 22 there, when he didn't want to leave me there. But I
 23 needed help. Something was hurting me very badly.
 24 And I came into the psychiatric hospital expecting
 25 that maybe someone would be able to help me with what the

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1 medicine was doing to me. And Kletti, at the time -- no,
 2 it wasn't Dr. Kletti. That was the second visit. It was
 3 another doctor and he came in and talked to me and
 4 referred me to Southcentral Crisis Treatment within 24
 5 hours. He said I didn't belong at API. And so my course
 6 of treatment after that was at Southcentral Crisis
 7 Treatment Center. I think I stayed there between seven to
 8 10 days and then I was released to home.
 9 And at that time, I moved out of my apartment, which
 10 I had planned to do anyway, because of the toxic fumes
 11 that the new landlord kept bringing into the building.
 12 And because of that, I went to live with my son.
 13 Q Um-hmm. Now, I'm really -- this is -- I'm
 14 particularly interested in the medication aspect. So,
 15 were you still taking the risperidone, at this point?
 16 A They would not -- Dr. Adasiak would not take me off
 17 the risperidone, and I never saw the elder Dr. Samson. I
 18 only saw Jan Adasiak. I only had her word for it that Dr.
 19 Samson even knew I existed.
 20 Q Okay. So, then what happened? And again, I'm
 21 really focused -- what I'm planning on doing, is I want to
 22 go through this and then I want to give you a chance just
 23 to respond to some of the things that you've said. Or not
 24 that you've said, but that you've heard today. And then -
 25 - but I really want to go through what's happened with the

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1 medications, okay?
 2 A Yes. I talked to Dr. Adasiak in May, and they had
 3 been after me, kept telling me that I was depressed, I was
 4 depressed, I was depressed. And I kept saying, how can I
 5 be depressed? I'm so happy with my life? My life is
 6 wonderful. I enjoy it. And they finally said well, we
 7 want to put you on paxil, because you are depressed. And
 8 I said well, okay, you know, and this was in, somewhere
 9 around, I think, after I had been in the psychiatric
 10 institution that they put me on paxil. I did not see any
 11 effect at all of paxil. However, the effect of
 12 risperidone continued. To me the paxil had no effect at
 13 all. I could not judge having paxil, as well as
 14 risperidone, as well as the navaine, which they put me
 15 back on. So, I was taking three medications: paxil,
 16 navaine and risperidone. And I had requested to go off of
 17 everything, or at least, go back just to navaine. So now
 18 I had three medications and it was difficult to make
 19 decisions. I had to learn new ways to make decisions,
 20 because those voices would continually try to control and
 21 manipulate my actions. It was largely a control and
 22 manipulation problem. It seemed like the voices were
 23 always trying to control and manipulate my actions, and I
 24 had to fight against them taking total control of my life.
 25 Q Okay. But you -- you feel that you did that?

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1 A That I fought?
 2 Q Yeah, that you were able to control?
 3 A To the very best of my ability, I tried very
 4 hard.....
 5 Q Okay.
 6 Ato do that. It was very daunting, though, and
 7 very stressful and very exhausting. And as of the middle
 8 of the summer, when I saw that Dr. Adasiak no longer heard
 9 my requests and had an agenda of her own, then I decided
 10 that, on my own, I would wean myself off the medication,
 11 as much as I could do safely. And I weaned myself off the
 12 paxil.....
 13 Q So this was the summer of '99?
 14 A Yes, sir. The summer of '99. At that time, I had
 15 already submitted my request for disability, but it had
 16 not been granted, yet. I had sold my house.
 17 Q Was this recommended by Southcentral? Both these
 18 actions?
 19 A Not the selling of the house, but going on
 20 disability, yes, sir. That was one of their prime
 21 objectives for me. At the time I did not want to, because
 22 I wanted to work. However, it soon became evident to me
 23 that I had -- I was in a losing battle, that I could not -
 24 - that I could not continue to work on the medications
 25 that I was on. It was like trying to fight a battle I

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1 could not win.
 2 Q Okay. And then you started weaning yourself from
 3 paxil, and then what?
 4 A Then I took myself off risperidone in August, I
 5 believe it was. Somewhere around July or August of 1999.
 6 And I was going to stay on the navaine, because I had
 7 never thought that the navaine had been a problem before.
 8 However, like I say, the navaine has a very tranquilizing
 9 effect.
 10 So, I moved into a friend's house over the course of
 11 September and October and spent some time with her little
 12 girl. And during the course of that time, it became
 13 evidence to me that I also had to go off the navaine in
 14 order to wean myself off the total effects of all of the
 15 medications, which were still harming me. And my friend,
 16 at the time, said to me that that first week, before
 17 anybody knew that I was off the medication, that I was
 18 actually much improved. However, as soon as I told the
 19 staff at Southcentral Crisis -- or Southcentral Counseling
 20 that I had taken myself off the medication, it was as
 21 though I was fighting a battle. And instead of having the
 22 peace and tranquility that I had during that first week,
 23 for the next two, three -- I don't know, how many years
 24 has it been now? I've been fighting the same battle. And
 25 that was a battle to stay off medication.

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1 Q Okay. And then what happened?
 2 A The voices just got worse, and --
 3 Q And this was after going off risperidone?
 4 A Yes, sir. As soon as they knew that I went off the
 5 medication, all of a sudden I had to fight a tremendous
 6 amount of voices, I had to fight all kinds of, what I
 7 thought later on might be just like paranormal effects
 8 that other people might be able to do. You know? I have
 9 no idea exactly what it is that is happening in effect. I
 10 only know how it affects me. And during the course of the
 11 two or three years that I studied all these effects that
 12 were happening to me, I was able to categorize some of the
 13 different families of symptoms that were coming at me.
 14 But during this whole time, it was very exhausting, trying
 15 to fight all this that was coming at me that was keeping
 16 me from working, keeping me from living a normal life,
 17 keeping me from being able to enjoy my life.
 18 Q Okay. Now, you're off everything now. Is that
 19 correct?
 20 A That's correct.
 21 Q And then what happened? And this is August of '99?
 22 Somewhere around there? Fall of '99?
 23 A October of '99.
 24 Q Okay.
 25 A So for November and December, as I said, I was

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1 fighting a battle. My girlfriend asked me to move back in
 2 with my son, which I did. My son sent me down to Nevada
 3 to stay with my parents for a little while. And that was
 4 very restful. However, I still noticed certain effects
 5 that followed me down there. I came back from that trip
 6 and went to find out about -- went to one of the women's
 7 advisory centers that talks about abuse, because I needed
 8 to know if there was such a thing as emotional and mental
 9 abuse. And I felt it was relevant to gather that
 10 information for my own personal knowledge. But my
 11 daughter-in-law misunderstood why I went to find that out
 12 and thought that I was accusing them of not being good,
 13 you know, good family to me, and so they asked me to leave
 14 the home.
 15 And later on, because I was homeless, I kind of
 16 bounced around for a while. Southcentral Counseling tried
 17 to help me, but at that time I had lost my trust in
 18 Southcentral Counseling and so I went to find my own place
 19 to stay. And that's -- until July, the end of July, I
 20 stayed with another friend in her home. And I was off the
 21 medication all that time. However, I was still, like I
 22 say, noticing a great many effects that were happening to
 23 me, that I had never seen happen before under the navaine.
 24 There were a few times I recognized when I had been around
 25 certain areas of the city in Idaho, but not a great many

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1 of them that I recognized. And so, these were all very
 2 new to me, these symptoms, I guess you would call them
 3 symptoms. I guess I would call them special effects, I
 4 don't know. What would you call that?
 5 Anyway, in July I went to see my son, and I said I
 6 need to find a place of respite, and so, not having trust
 7 in the medical system anymore, he sent me back down to my
 8 father, who started training me on his computer in his
 9 store, training me to be a clerk in his store. When I
 10 came back in the year 2000 -- well, actually, no. I
 11 worked with my father. I made several trips to Idaho and
 12 I got myself an apartment, took care of myself, furnished
 13 my apartment for \$200, bought my own food, lived
 14 independently. However, I had some disagreements with my
 15 family, who continued to say I was sick and I needed to
 16 get back on my medicine. That seemed to be the major
 17 problem with my whole family, was everybody wanted me on
 18 medicine, and I did not want to be on medicine. I felt it
 19 was a violation of my rights to choose. And I was not
 20 harming anyone, I was taking care of myself, and I was
 21 doing my very best to deal with the effects of the
 22 risperidone and the other medications that went along with
 23 the risperidone.
 24 Q And by that, you mean when you went off of them?
 25 A I still had a lot of residual effects from being

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1 that -- like I told you, the risperidone punched a hole in
2 my brain.
3 Q All right.
4 A I had lots and lots and lots of residual effects
5 from that.
6 Q Um-hmm.
7 A And my father eventually -- eventually, because of
8 our disagreements, it wound up where he took me to a
9 hospital -- had the police pick me up, take me to a
10 hospital. At that hospital in Elco, Nevada, the social
11 worker came in and I was immediately offended at his
12 attitude and told him that I felt that his attitude was
13 unwarrantedly sexual towards me, which I still stand by.
14 That he was unwarrantedly sexual in his manner towards me.
15 And immediately I found myself being committed to Nevada
16 Mental Health Institute, and the police come to take me
17 off to Nevada Mental Health Institute.
18 I spent six hours in the jail there, before they
19 took me to Sharps, near Reno -- or Sparks, excuse me,
20 Sparks, near Reno, where the Nevada Mental Health
21 Institute was. And I spent about five days there in that
22 place before they had the court hearing.
23 And at that court hearing, Judge Scott ruled that I
24 was competent, that I did not have to take medication, in
25 his opinion, and that I should be released on -- what

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1 would you call it? On my own cognizance, or something?
2 Q You weren't really charged with a crime, although it
3 may seem that way.
4 A It did seem that way, it really did seem that way.
5 And at that point, I was released to go into Reno and find
6 a place to live and take care of myself. And because of
7 meeting some unscrupulous hotel owners in the city, who
8 stole my money, I decided to get on a plane and come back
9 to Alaska, even though my son asked me not to come back to
10 Alaska.
11 I came back here, I wanted to pick up my car, I
12 wanted to move somewhere away from Alaska, away from this
13 problem of having to be medicated. And when I came back
14 here, I applied for jobs. I had to live in my car, my
15 family did not want me living with them. My daughter had
16 just gotten engaged to a man who did not like me. My son,
17 of course, and his wife, really didn't want me living with
18 them. I didn't have the where-with-all because my social
19 security was cut off at that point, pending new -- what
20 would you call it? Testing to see --
21 Q Review or something.
22 A Yeah, review. My social security was cut off, so I
23 had no income, except for what Arial, my daughter-in-law,
24 and my son would give me.
25 I was looking for work, sir, that whole time. I

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1 would apply at businesses, I lived in my car, it was the
2 middle of winter. I had very little food, except for what
3 other people gave me, so mostly I was like one of the
4 street people, sir. At that time, I think the whole
5 problem I had was my homelessness, my lack of income, and
6 the cold, which prevented me from being able to sleep
7 well.
8 My son and I had a conference, and he said if I
9 would go back on the medication that he would fund my
10 place of residence. That was the stipulation -- if I
11 would go back on medication, he would help me get into a
12 residence, but I had to go right away, back to
13 Southcentral Counseling, and sign up with them again,
14 which was not my choice, and ask them to give me
15 medication again.
16 Q Did you do that?
17 A Yes, sir, I did. I was kind of over a barrel, if
18 you can accept that.
19 Q Okay.
20 THE COURT: And when was that, counsel? Just so
21 that I have a reference. The date?
22 A My son and I met somewhere around December, before
23 Christmas. He paid for me to be in a hotel for about a
24 week, from the 20th on.
25 Q And what year was this?

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1 A This was in the year 2000. December of 2000, from
2 about the 20th of December on.
3 THE COURT: Thank you.
4 Q Okay.
5 A He paid for me to have a motel room.
6 Q Okay. So he arranged for your housing and then what
7 happened? I really want to focus on the medications,
8 because we're really -- the question is whether you ought
9 to have the right to choose what goes on with the
10 medications.
11 A Well, at that point, my case manager wanted me to do
12 certain actions, like accept a loan from Salvation Army
13 Eaglecrest in order to enroll in their housing there. And
14 that -- I didn't mind going into their housing, but their
15 structure and their stipulations and their requirements
16 were so restrictive and intrusive, that I was hesitant to
17 accept a loan from them. I've learned not to accept
18 loans. And so my son had his wife make out a check for me
19 for Eaglecrest and the day that I was picked up by the
20 police, my car needed oil, I did not want to burn up the
21 engine, so I did not move it. I called people to tell
22 them my car is lacking oil, I don't want to burn it up,
23 I'm waiting here for my son, the mechanic, to fix it. And
24 because I did not hop to as fast as everybody wanted me to
25 hop to, I was dragged off by the police into API again,

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1 and at that point, it was made very clear to me that I
 2 either take the zyprexa, or some other choice that they
 3 picked out, or I would very shortly be court-ordered to
 4 take medication. I told Dr. Hanowell that I would
 5 cooperate, because I had told my son I would cooperate,
 6 and I always keep my promises.
 7 I did try the zyprexa. I was not impressed with it.
 8 However, because shortly afterwards they did court-order
 9 me to a 30-day commitment and they did court-order me to
 10 enforced medication, because they were so afraid that I
 11 would go back on my promise to take the medication, that
 12 from then on it was simply a contest of wills to make sure
 13 that I was medicated. However, I promised my son that I
 14 would take the medicine, and I did take the medicine for a
 15 full year.
 16 Q Okay, and then what happened?
 17 A After I got out on February 9 of 2001, I met my
 18 husband, Mr. Collins. We had a short courtship. We -- I
 19 got an apartment in his rooming house, where he stayed.
 20 We had agreed that we were going to get married. He
 21 bought me a ring. We started living together. During
 22 that course of time, like I say, the zyprexa pretty much
 23 tranquilized me, almost like the navaine did, but with a
 24 different effect. But what its effect was, was to not
 25 allow me to see the very restrictive and rigid rules that

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1 my new husband had for my life. And to see that maybe
 2 that was not a healthy situation for him to have such
 3 strict and rigid rules for my life. It was kind of like
 4 it's all for him and none for me. I think if I hadn't
 5 have been on the zyprexa, I would have seen those warning
 6 signs.
 7 Q Okay. And then what happened? And I really want to
 8 be focused on the medications.
 9 A Well, I'm trying to tell you that the medications
 10 made a great deal of difference to my life decisions.
 11 Q No, no. I know. But I mean, at some point, you're
 12 on the zyprexa now, and then did you start going off of
 13 them, or what happened next?
 14 A My husband, because he was also disabled at the same
 15 time I was -- or, you know, we met in a hospital. I would
 16 do paperwork for him and write, because I'm a very good
 17 writer and he cannot write. And so I would advocate for
 18 him, and at that time I learned to advocate for other
 19 people in the mental health field. I learned to speak
 20 publicly, as you know, Mr. Gottstein, because there's
 21 where we met, is in Fairbanks, when I went to advocate for
 22 mental health. And at that time I was not concerned so
 23 much about being on the zyprexa. I was very content with
 24 my life. I noticed a few changes going on that worried
 25 me, but I was not too -- I was content with what was going

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1 on. I had kept my promise, I had a home, I had a husband,
 2 and I had a purpose in life, which was to help advocate
 3 for people in mental health.
 4 Along about September, October of 2001, somewhere in
 5 the summer there were some things that happened. That was
 6 a very good summer for me. But along about that time, I
 7 noticed some side effects that I had had before from being
 8 in other situations. I noticed that those -- what can I
 9 say? I noticed that the zyprexa did not totally screen
 10 out the problems I had had earlier. I noticed that they
 11 were gradually coming back in full force. The ones that I
 12 reported about the risperidone. And not only were they
 13 coming back in full force, but frighteningly so, sir. The
 14 zyprexa seemed to be a door that opened up some very scary
 15 effects for me. And it affected my marriage, it affected
 16 my husband and my -- our life together, it affected my
 17 whole life. It's hard to explain to you, but I found that
 18 when I weaned myself down from the 30 milligrams that they
 19 had me on to 10 milligrams, which I did in October, I
 20 weaned myself down very rapidly in October. And from that
 21 point on, after 10 milligrams in October, I weaned myself
 22 down to five and then to three and then to two, and then
 23 back up to three.
 24 And then at that point, Martin Engel, who you know
 25 is a lawyer under your supervision, was writing advance

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1 directives for me, and he questioned me about it. And no
 2 one knew at that time that I was going off the medication.
 3 In fact, my husband never really suspected and he never
 4 asked me, so I never told him. Martin Engel was the first
 5 one who knew that I went off and that I was on three
 6 milligrams. And he advised me not to tell anyone, because
 7 I had told him that before, previously, when I told people
 8 that I was weaning myself off the medication, immediately
 9 a great many -- how can I say this? A great many problems
 10 would occur. And it did so, sir. However, the problems
 11 that occurred when Dr. Samson and people around me found
 12 out that I was going off the medication was not --
 13 Q So when did that happen?
 14 A My husband knew earlier, after Martin Engel knew.
 15 My husband asked me, I told him.
 16 Q And that was sometime after October of 2001?
 17 A That was sometime after -- yes, yes.
 18 Q And then when did Dr. Samson find out?
 19 A Dr. Samson didn't find out until -- until October
 20 of..... I wasn't completely weaned off of them until
 21 March of 2002. And Dr. Samson did not hear about it until
 22 my son advised me to tell him I was off my medication in
 23 August of 2002. And at that time, that was when I started
 24 having an awful lot of problems with the police and
 25 physical abuse coming from the police, and a great many

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1 problems with arrests that were unwarranted, in my
2 opinion, sir.
3 Q I wish we could get into that. Okay, so what
4 happened when Dr. Samson -- what did Dr. Samson do when he
5 found out?
6 A He immediately told me that because I had been
7 deceitful with him, despite my reasoning for being
8 secretive about going off the medication, he said he could
9 no longer keep me as a client or as a -- well, as a
10 patient, and Southcentral declined to have anything more
11 to do with me. Formally, they pretty much washed their
12 hands of me and would not help me any further in any
13 capacity. A few selected staff who liked me personally
14 would try to help me, but for the most part, Southcentral
15 Counseling would not help me any longer. And that meant
16 in housing or any other kind of resource.
17 THE COURT: Does that mean after March of 2002,
18 ma'am, or after August of 2002?
19 A After Dr. Samson let me go in August of 2002 as a
20 patient, Southcentral Counseling really, truly did not
21 want to have very much to do with me. And it was only the
22 selected few case managers or case workers who enjoyed
23 working with me who -- who actually helped me after that
24 point.
25 THE COURT: I understand the date.

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1 Q Okay.
2 THE COURT: Thank you.
3 Q Okay, then what happened? And again, I kind of want
4 to focus on the medications and, you know, involvements
5 with --
6 A I need to point out to you that one of the things I
7 learned early on is that proximity is what usually is the
8 key factor here.
9 Q What do you mean by that?
10 A Proximity to certain people, proximity to certain
11 locations. There were phone numbers that if I called
12 them, like API or Southcentral Counseling, that I would
13 immediately receive a signal in my ear which would blank
14 out my memory and cause me to be disoriented and confused.
15 I would have the same signal that would come when I called
16 my insurance, State Farm, Roy Sayers' office. And I took
17 note of these particular incidents when I would call
18 people on the phone, state and government officials, and
19 find that my brain was scrambled after calling them. So I
20 learned to avoid using the telephones. I learned to avoid
21 certain types of places where people would gather. It was
22 very difficult for me to walk down to Carrs, because
23 sometimes when I went down to Carrs to shop with my
24 husband, I would feel kind of slimed when I would be by --
25 walk by certain people. I tried to explain to my husband

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1 how I felt about that. He did not really hear me. I
2 found that it was much better for me if I was able to go
3 out of town in my car and spend some time alone in quiet,
4 in nature, away from people. I found that it was much
5 more restful and the effects of being around those special
6 effects were greatly dissipated by being out in the open
7 fresh air and away from people, sir.
8 THE COURT: And by special effects, you've made that
9 reference a couple of times, if you'll forgive me just
10 this once.
11 MR. GOTTSTEIN: Absolutely, Your Honor.
12 THE COURT: By special effects, do you mean voices
13 or lights, or what do you mean by that?
14 A I mean voices, I mean anything that would try to
15 control me, or disorient me, or manipulate me as to my
16 choices.
17 THE COURT: All right. Thank you.
18 Q Okay. Okay, I think we're in kind of fall, October
19 of 2002. Then -- we really do need to hurry on. But I
20 really want to focus on these medication issues. So then
21 what happened, as it pertains to your medication? You've
22 been off your medication for --
23 A I've been off all medication since March of 19 --
24 excuse me, since March of 2002.
25 Q Except for the one injection that you had at API?

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1 A Right. The one injection that I've had in API.
2 However, I have been talking about the fact that being
3 around certain areas and certain places does exacerbate
4 some of the symptoms that someone might call a psychotic
5 effect, or something. However, during all this time, I
6 pretty much used common sense coping strategies that I
7 learned in Crisis Treatment Center. I've used coping
8 strategies taught me by my family. I pretty much tried to
9 keep my feet on the ground. However, I feel sometimes
10 like the incident in SeaTac Airport, that I'm dealing with
11 unrealistic terroristic people that do not respect my
12 common sense, and do not respect what I am trying to
13 choose for my life. And because of it, I am being abused,
14 Mr. Gottstein.
15 Q Okay. And -- okay, because I really want to get
16 some extra testimony in, if I can, I would just like you
17 to say, you know, tell the court why it is, what your
18 reasons are for not wanting the medication that's being
19 offered.
20 A Well, number one, the medication does not allow me
21 control over my choices and my life. The medication takes
22 away my reasoning ability, it takes away my ability to see
23 danger signals, it tranquilizes me, it opens a door to
24 what I expressed to you earlier, horrific effects that I
25 find distressing. I have always enjoyed being around

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1 children. I never have a problem with children. They're
2 delightful to be around, but that's because they're
3 innocent. However, I find a great deal of distress being
4 around anyone who would manipulate and control me who is
5 not innocent.
6 Q Okay. Now, would you be more open to discussing
7 medications if you really, really had a choice about it?
8 A In the course of the last two, three years, I've
9 observed that I've grown increasingly more allergic to
10 detergents, laundry soaps, personal hygiene products, and
11 so I've had to change my -- change my whole course of
12 lifestyle. And I have learned that there are certain
13 foods, that there are certain hygiene products, that there
14 are certain soaps that are more beneficial to me. And I
15 guess what I'm trying to say is I do not feel that other
16 people in the medical profession are really listening to
17 me when I say that I really, truly cannot put these
18 chemicals in my body. I cannot be around certain
19 chemicals. They make me sick, physically, physically
20 sick.
21 Q Okay. So what -- well, I think she's answered it.
22 And I think we really do have to quit by 1:15? Is that --
23 THE COURT: Not for my schedule. I don't have -- I
24 was trying to accommodate yours. I don't have to be on
25 record for another hour. So I can keep going if you have

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1 additional testimony. Mr. Killip?
2 MR. GOTTSTEIN: Okay, well I think, I really want to
3 try and get -- I mean, I don't know if Dr. Mosher's going
4 to be --
5 A Can I address the pictures my daughter took?
6 Q You bet.
7 A Thank you.
8 THE COURT: Where are they? Oh, you have them down
9 there. Okay. What would you like me to know about those
10 pictures?
11 A When my ex-husband, Dorance Collins, asked my father
12 and my son to find me a place of residence because I was
13 unwilling to live with him because of some of the events
14 that happened around our rooming house, my son got me a
15 place to live. And when I went to that place, I set it up
16 to be an environment where my grandchildren would be
17 comfortable. It was a learning environment. I am a
18 teacher. I was setting it up, not only to have a place
19 for my children to visit, which I have not been able to do
20 on my own cognizance since they have put me in API and
21 taken away my rights of visitation, which has been a great
22 grief to me. And I wanted to prove to them that I know
23 something about children. That I know something about
24 healthy parenting. I set up learning centers in my home.
25 I can explain each of those learning centers. We were

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1 learning about mapping, we were learning about good,
2 healthy foods. We live near a woods, we would go out for
3 walks and see what was affecting the earth and what was
4 affecting the animals. We learned good food for the
5 animals, we learned spiritual values and character
6 building. We learned about how to take care of the woods.
7 And each one of those pictures is supposed to show a
8 learning center. What you don't see there, is you don't
9 see the center for the job resumes and the job
10 applications, you do not see the space ship or the
11 railroad station, you do not see the games that we played,
12 you do not see the forest we had under the microwave that
13 was supposed to represent our woodland park where they
14 were learning about the different trees that have
15 medicinal purposes. The white spruce right outside our
16 door is a cold and cough medicine, and people were
17 wrapping electrical wires around those trees that were
18 killing the trees with the electrical currents. I don't
19 think that they were doing it intentionally, they were
20 simply ignorant and I was trying to show them that they
21 were hurting the trees. I'm sorry they got scared, but I
22 did talk to several of them two or three times about what
23 they were doing to the trees.
24 THE COURT: What children were you teaching at this
25 apartment depicted in the photos? Were those your

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1 grandchildren?
2 A Yes, they were my grandchildren.
3 THE COURT: The 18 month old? Or do you have other
4 grandchildren? Ma'am? Which grandchildren.
5 A I have a number of grandchildren, ma'am. I don't
6 know if I can count them for you. I do know that I could
7 tell you what they were like and what their characters
8 were like. I could tell you what foods they liked to eat.
9 I could tell you what their families were like. These
10 children who came to visit me, these were children that I
11 was there teaching.
12 THE COURT: All right. In this apartment, that's
13 shown in these photos?
14 A That's right. Those were learning centers set up
15 for these children.
16 THE COURT: Okay.
17 A Some of them were my own grandchildren, and that's
18 why when I spoke to Alyssa, I told Alyssa that she knew
19 what I was talking about.
20 THE COURT: All right. Mr. Gottstein, I'd like to
21 ask about the photo that shows the crawl space.
22 MR. GOTTSTEIN: You bet.
23 THE COURT: Ma'am, were you sleeping in the crawl
24 space?
25 A No, ma'am, we were not. We noticed early on that

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1 when we left the house, we could not secure the house
 2 because someone had a key to the house. And so my son
 3 came and I told him about the problem. We noticed that
 4 the crawl space that comes into an entrance into the
 5 closet also had entrances to the other apartments in the
 6 whole complex. And this made me quite uneasy, because the
 7 latch on my closet door was broken. So we had to pile all
 8 kinds of trunks and boxes on the door so no one could come
 9 through that opening. However, someone was still coming
 10 into my place and rearranging certain items, and I would
 11 be missing letters and things like that. And so, because
 12 of that I learned to bar the door. I used to put a bar
 13 between the refrigerator and the heat ducts that would
 14 prevent anyone from opening the door, whether they had a
 15 key or not.
 16 THE COURT: Here's my question. My question is why
 17 was there a blanket and a pillow down in the crawl space?
 18 A Because we went downstairs to set our boundaries.
 19 We put boundaries down there so that our neighbors would
 20 know that this is our place.
 21 THE COURT: Who did this?
 22 A I did.
 23 THE COURT: All right.
 24 A Yes. This was my place, under my apartment. I felt
 25 that I should not have to worry about neighbors coming

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1 under my apartment, being in my boundaries and being a
 2 threat to me. So I simply marked the territory of my
 3 boundaries where I rented and put that there so they would
 4 know that I was aware that that was an access for some of
 5 them.
 6 I also made sure that when I left the house, that I
 7 noted what was going on and missing. I do notice that
 8 someone had been in the house, because the deadbolt on the
 9 door was actually, physically changed, ma'am. At one
 10 point it was completely flush with the hole; right now, if
 11 you go back there, just before the police came to pick me
 12 up, the week or two before they came to pick me up, there
 13 was a crescent shaped gap in it that let the air in, and I
 14 had to stuff it with some cloth to keep the cold wind from
 15 coming through. So someone had actually be in my
 16 apartment, ma'am.
 17 THE COURT: All right. Thank you. Mr. Gottstein,
 18 do you have anything further?
 19 MR. GOTTSTEIN: No, I don't. And if I could indulge
 20 the court, can we limit time for cross-examination? Is
 21 that possible?
 22 THE COURT: Do you have any cross-examination?
 23 MR. KILLIP: Not much at all, Your Honor.
 24 THE COURT: All right. Just a few minutes, then.
 25 MR. KILLIP: Yes.

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1 THE COURT: I think it will be brief, Mr. Gottstein.
 2 FAITH MYERS
 3 testified as follows on:
 4 CROSS-EXAMINATION
 5 BY MR. KILLIP:
 6 Q Ms. Myers, I think I can say on behalf of everybody
 7 here that your testimony reflects tremendous courage of
 8 somebody who is dealing with a very difficult situation.
 9 A I think there are more things in heaven and earth
 10 than you or I know, Horatio. And that must be very
 11 difficult for someone who does not have a voice who needs
 12 Synaptica (ph) to talk for them.
 13 Q The -- you understand that your family is -- your
 14 family loves you, but is very concerned about your
 15 welfare?
 16 A I think my family does not understand what has been
 17 happening to me, nor do they understand what the medicines
 18 did to me. And they do not understand the difficult
 19 position that I am now put in, because of what the
 20 medicines did to me.
 21 Q Okay. And if I understood what you were saying
 22 correctly, the zyprexa that you were taking most recently,
 23 is a problem for you. Is that correct?
 24 A I find taking all medications that do not allow me
 25 to have clear thinking to be a problem for me.

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1 Q Okay. Okay, well that's a fair concern, for sure.
 2 I think we can all appreciate that. You know, I -- I'm
 3 not a doctor, I don't have your experience, I don't have
 4 your life experience. I don't know what you've been
 5 through, what you're going through. But I do know that
 6 the hospital's concern is that under Alaska law, if
 7 somebody does have a mental illness, but presents either a
 8 danger to themselves or cannot meet their own needs, the
 9 hospital has an obligation to try and help that person.
 10 And so we find ourselves here, today, trying to address
 11 that issue.
 12 A Sir, I heard what they charged me with, and I am
 13 going to stick by the word charged me with, that I was not
 14 eating. Sir, I was eating. I was cooking food, not only
 15 for myself, but I would cook dinners for my neighbors who
 16 I heard was hungry. Some of them were sick. I took some
 17 food to them. Sometimes they accepted the food, sometimes
 18 they did not. So I not only cared for my own food needs,
 19 but I also cared for the dogs and cats nearby. I put
 20 cabbage out for the moose when I had money for it. I took
 21 food to all the little critters in the woodland park. And
 22 I made very sure that I was the first one who ate.
 23 I took care of myself, I washed myself, I washed my
 24 clothes, despite the fact that if I did not have a quarter
 25 for the washing machine, I still washed my clothes. I

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1 washed it in a healthy manner, appropriate to my culture
 2 and my needs for healthy living, which included my
 3 listening to my body about my allergies. I took care of
 4 my bodily needs, I washed myself with healthy soaps,
 5 washed my clothes with healthy soaps. I washed my
 6 apartment ever single day, I would clean my apartment. I
 7 would sweep it, I would organize it, there was not a day
 8 went by that I did not do some kind of cleaning of my
 9 apartment. So, it may have looked messy to other people,
 10 but I knew what was being cleaned and I knew what
 11 timetable and time schedule I was cleaning it on. I knew
 12 what was being done in my apartment. I knew what food we
 13 were eating. I know how to take care of myself.
 14 And in no way was I trying to harm my neighbors. I
 15 was only trying to inform them of the toxic effects of
 16 their lifestyle on people that I cared about, on the
 17 environment that I cared about, and I did not do anything
 18 to harm them, sir, or anyone near me. I am not in the
 19 habit of harming anyone and I certainly would never harm
 20 myself. It is other people, sir, that have harmed me, and
 21 I have never retaliated.
 22 Q Ms. Myers, I don't think I have anymore questions
 23 for you, and I just hope that the situation, as it
 24 progresses from here forward, turns out to be acceptable,
 25 you know, to you, and that it's helpful.

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1 MR. GOTTSTEIN: Is that an offer to dismiss?
 2 THE COURT: Mr. Gottstein, do you have any further
 3 questions for your client?
 4 MR. GOTTSTEIN: Yeah.
 5 FAITH MYERS
 6 testified as follows on:
 7 REDIRECT EXAMINATION
 8 BY MR. GOTTSTEIN:
 9 Q I guess -- I mean, does the court -- I guess I
 10 should have mentioned -- I think you just said it, but
 11 would you ever harm anybody?
 12 A No, I am a peacemaker, sir. My children are peace
 13 makers. We go to great lengths to keep the peace, even
 14 though someone may be hurting us.
 15 Q Okay. That's it, Your Honor.
 16 THE COURT: Thank you, ma'am, for your testimony. I
 17 appreciate it.
 18 I just sent an email -- sorry -- to my assistant,
 19 asking her whether we had heard from Dr. Mosher yet, and
 20 we have not. That's what I was doing.
 21 MR. GOTTSTEIN: Right. So can we call Dr. Jackson,
 22 and ask her to call back? And while we're doing that --
 23 Dr. Jackson's number is --oh -- old age is heck. 252-633-
 24 4337.
 25 I would like to offer -- I've got an affidavit from

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1 Dr. Mosher, if I could find it. It's signed, but it
 2 hasn't been notarized and faxed. There's also an email
 3 from Dr. Mosher that's in front of it. Let me -- may I
 4 approach?
 5 THE COURT: Yes.
 6 MR. GOTTSTEIN: Here's a copy for you. It's marked
 7 M, I think. And I will represent to the court that --
 8 well, Dr. Mosher has said, he will have it notarized and
 9 sent. Okay, and I would move that it be admitted.
 10 THE COURT: The entire email?
 11 MR. GOTTSTEIN: No, no -- oh.
 12 THE COURT: I have a four-page email.
 13 MR. GOTTSTEIN: I've got the -- where's the
 14 affidavit? This isn't really the affidavit. I'm sorry,
 15 Your Honor.
 16 THE COURT: That's all right. Are we getting the
 17 other witness on the phone?
 18 THE CLERK: I'm not getting through to Hilary.
 19 THE COURT: Why don't we go off record for just a
 20 minute so I can track down my assistant to place your
 21 phone call?
 22 MR. GOTTSTEIN: All right.
 23 THE COURT: And then you can get your paperwork
 24 together. We'll be in recess for three or four minutes.
 25 MR. KILLIP: Your Honor, before (words indiscernible

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1 -- microphone turned off and back on) it's not relevant,
 2 and I can elaborate on the lack of relevance at the
 3 appropriate time.
 4 THE COURT: You'll need to do it on record, because
 5 we just went off record.
 6 (Off record.)
 7 12:48:29
 8 THE COURT: We're back on record and we're trying to
 9 get the phone hooked up so we can get Mr. Gottstein's next
 10 witness, who's going to be Dr. Jackson?
 11 MR. GOTTSTEIN: Jackson, yes.
 12 THE COURT: I'm going to -- Mr. Gottstein, I have
 13 one or two more questions I want to ask of Ms. Humphreys.
 14 Do you have any objection to me taking her out of turn
 15 now?
 16 MR. GOTTSTEIN: Absolutely not, Your Honor.
 17 THE COURT: All right. Ms. Humphreys, could you
 18 come forward, please? There's a microphone right there.
 19 Come right on forward. There's a microphone right there,
 20 ma'am, in the jury box, and that'll be fine because I'm
 21 just going to ask you a couple of questions. And I want
 22 to remind you and admonish you that you are under oath and
 23 you remain under oath. Do you understand that?
 24 MS. HUMPHREYS: Yes.
 25 THE COURT: Okay. Thank you.

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1 RACHEL HUMPHREYS
2 testified as follows on:
3 EXAMINATION
4 BY THE COURT:
5 Q How many grandchildren does your mother have?
6 A She has three. No, wait -- well, I take that back.
7 I have three children, my brother has one, and then I have
8 three stepchildren, so seven.
9 Q All right. How many of them have visited her at the
10 home depicted the photos, to your knowledge?
11 A To my knowledge, one.
12 Q Which one?
13 A My daughter, Alyssa.
14 Q The 18 month old?
15 A The 18 month old baby.
16 Q Are you aware of your mother caring for children,
17 running a day care center out of the home that she was
18 describing in these pictures?
19 A Not out of that residence, no. She had many years
20 ago, when she was taking care of my children, in like '97,
21 '98, '99, but not there. She's only lived there for a
22 month.
23 Q When did she move into this apartment?
24 A In January.
25 Q Okay, thank you. I have nothing further.

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1 THE COURT: Did either one of you want to ask any
2 questions as a result of my questions?
3 MR. GOTTSTEIN: No, but I'd like to have Ms. Myers
4 kind of rebut the sur-rebut.
5 THE COURT: Mr. Killip, any objection? I think
6 that's fair.
7 MR. KILLIP: Nope.
8 THE COURT: Ma'am, you're under oath, as well, and
9 you may tell me whatever it is you have to tell me. You
10 can sit right there and testify from right there.
11 FAITH MYERS
12 testified as follows:
13 EXAMINATION
14 BY THE COURT:
15 A I realize that my daughter is talking about
16 biological grandchildren. However, I have many children
17 who call themselves my grandchildren. They have kind of
18 adopted me as their grandmother. Some of them call me
19 mother. We're talking about real flesh and blood children
20 whose parents approve of the fact that they call me
21 grandmother.
22 Q Are they neighbors around this apartment where
23 you've moved in, in January?
24 A One of them who came a couple of weeks ago I
25 recognize as Rachel Prentence, who I taught at Tundra

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1 Tykes. I don't know why she was still a little girl, but
2 I did recognize Rachel Prentence.
3 Q All right. Thank you.
4 A She would have been, by now, maybe 10 years old, but
5 at the time that I saw her, she was more like five.
6 Q You mean the time you saw her at Tundra Tykes?
7 A No.
8 Q The time you saw her in the apartment?
9 A Yes.
10 Q I see.
11 A A couple weeks ago.....
12 Q All right. I understand.
13 Awhen I saw her there.
14 Q Thank you.
15 A She was about five years old.
16 MR. GOTTSTEIN: so, it couldn't really have been
17 her, right?
18 A Well, this is confusing to me, but then I don't
19 really question anything anymore, because ever since the
20 medicine punched a hole in my brain, I've simply learned
21 to deal with what I have in my life and I've learned to
22 cope with it and I've learned to make it better.
23 THE COURT: All right. Thank you, ma'am.
24 Mr. -- do we have the witness on the line?
25 THE CLERK: (indiscernible -- speaking away from

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1 microphone.)
2 MR. GOTTSTEIN: Your Honor, I move to admit the
3 affidavit of Dr. Mosher, and I think there's an objection.
4 I wonder if we might take care of that?
5 THE COURT: Yes. Mr. Killip, why don't we take that
6 up?
7 MR. KILLIP: Yes, Your Honor. Yeah, we object to
8 the offering of the affidavit. And, part of the problem
9 is I'm not a doctor, and so it's hard for me, not being a
10 medical practitioner, to articulate the specifics of the
11 objection, other than to say at the very end of his
12 affidavit, he basically is saying that the alternative to
13 treatment which he advocates for, which is no medication
14 and a much more holistic approach to treating mental
15 health, doesn't exist. He said at the end, what is needed
16 is the political will, community involvement, and
17 financial resources necessary to make change happen. I
18 mean, this is a great idea. I think, in the right
19 setting, for the right people -- and I say that as a lay
20 person -- it seems like it's something that needs to be
21 considered, and certainly it's part of the dialogue within
22 the psychiatric medical community within the United States
23 that's going on presently. But it's simply not relevant
24 to whether the State has demonstrated by clear and
25 convincing evidence the elements it needs to demonstrate

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1 for the court today.
 2 THE COURT: So, your objection is relevance?
 3 MR. KILLIP: Yeah, it's irrelevant.
 4 THE COURT: I'm going to allow it. I understand the
 5 nature of your objections, and I'll consider that and give
 6 it appropriate weight.
 7 Mr. Gottstein, I think your witness is on the
 8 overhead.
 9 MR. GOTTSTEIN: Okay, great. Dr. Jackson, are you
 10 there?
 11 DR. JACKSON: Yes, I am.
 12 THE COURT: Just one -- wait -- just one minute.
 13 Ma'am, my name is Morgan Christen, and I'm a superior
 14 court judge assigned to this case, and I have you on
 15 overhead speaker in the courtroom.
 16 DR. JACKSON: Yes.
 17 THE COURT: All right. So Mr. Gottstein has called
 18 you as a witness. Are you able to testify at this time?
 19 DR. JACKSON: Yes, I am.
 20 THE COURT: All right. Ma'am, I need to ask you to
 21 please raise your right hand. We're going to administer
 22 the oath telephonically.
 23 DR. JACKSON: Okay.
 24 THE CLERK: Do you swear or affirm that the
 25 information you are about to give in this matter before

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1 the court is the truth, the whole truth, and nothing but
 2 the truth?
 3 DR. JACKSON: Yes, I do.
 4 THE COURT: Ma'am, could you please state your name
 5 and spell your last name?
 6 DR. JACKSON: Grace Elizabeth Jackson, J-A-C-K-S-O-
 7 N.
 8 THE COURT: All right. Ma'am, although you're going
 9 to testify telephonically, I need to admonish you that it
 10 is as important that you testify truthfully and carefully
 11 as you would if you were in a courtroom on a witness
 12 stand. Do you understand that?
 13 DR. JACKSON: Yes, I do.
 14 THE COURT: All right. Mr. Gottstein, you may
 15 inquire.
 16 DR. GRACE JACKSON
 17 testified as follows on:
 18 DIRECT EXAMINATION
 19 BY MR. GOTTSTEIN:
 20 Q Yes, Dr. Jackson, could you briefly, because -- do
 21 we have until 1:30, Your Honor?
 22 THE COURT: I'm going to give you the time.
 23 MR. GOTTSTEIN: Okay.
 24 Q We bit for the entire rest of the hearing. We have
 25 until 1:30.

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1 A Okay.
 2 Q So you need to be brief. Could you briefly describe
 3 your professional qualifications, and particularly related
 4 to psychopharmacology?
 5 A Yes. I am currently licensed to practice psychiatry
 6 in the state of North Carolina. I have -- I'm a graduate
 7 of the University of Colorado School of Medicine. I
 8 graduated in 1996. I completed a psychiatry internship at
 9 the Naval Center, which is the Naval Hospital, in San
 10 Diego, California. I then completed my residency in
 11 psychiatry in the National Capital Consortium Residency in
 12 Washington, D.C. Most of that was at Bethesda Naval
 13 Hospital and Walter Reed Medical Center between 1997 and
 14 2000. I was subsequently assigned as a staff psychiatrist
 15 at the Bethesda Naval Hospital and since my transition out
 16 of the Navy in March of 2002, I have been involved in
 17 extensive research and lecturing on the topic of
 18 psychopharmacology and biological psychiatry.
 19 Q I move to qualify Dr. Jackson as an expert on
 20 psychopharmacology.
 21 THE COURT: Mr. Killip?
 22 MR. KILLIP: If I could have a moment, Your Honor?
 23 THE COURT: Certainly.
 24 VOIR DIRE EXAMINATION
 25 BY MR. KILLIP:

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1 Q Just one question about whether she's board
 2 certified?
 3 THE COURT: Ma'am, are you board certified?
 4 A I am currently in the process of completing my board
 5 certification. I have passed part 1, the written exam,
 6 and I am awaiting my part 2 oral.
 7 THE COURT: All right.
 8 Q Yeah, I would like to ask her if she has previously
 9 failed the oral exam?
 10 THE COURT: Have you, ma'am?
 11 A I have failed the previous examination, pertinent to
 12 the issue which I'll be addressing in this case.
 13 THE COURT: I'm not sure that I understood that.
 14 You failed -- is the board certification process an oral
 15 exam and a written exam?
 16 A That is correct.
 17 THE COURT: Right. And the question was whether
 18 you've previously failed the oral exam?
 19 A I have only sat for the oral exam on one prior
 20 occasion. I failed that -- I passed one portion of it,
 21 the live patient interview. I failed the videotape
 22 interview, which had to do with treatment methods for a
 23 patient with schizophrenia.
 24 THE COURT: Okay. And further questions?
 25 Q We would object to her qualifications as an expert.

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1 THE COURT: Mr. Gottstein?
 2 DIRECT EXAMINATION (continued)
 3 BY MR. GOTTSTEIN:
 4 Q Yeah. Dr. Jackson, can you explain why you failed
 5 the exam? Or, you were failed, I guess I should say.
 6 A Well, the Board of Examiners does not send you any
 7 kind of feedback, but I was subjected to quite intense
 8 cross-examination as to why I would not give a patient
 9 with psychotic symptoms medication for life. And I had
 10 done extensive research up to that point to prepare myself
 11 for -- for my philosophy of treatment. And I was not
 12 willing to purger myself in the cross-examination process
 13 of board certification exam, so I did not pass that exam.
 14 Q What do you mean by that? You were not prepared to
 15 purger yourself?
 16 A I could have lied. I could have told the examiners
 17 that the woman in the videotaped interview, who had
 18 previously had a case of schizophrenia, needed to be on
 19 medication for life, which is what they were attempting to
 20 get out of me. Because they kept saying, well, she told
 21 you that she had previously been on these medicines. Why
 22 won't you give them to her now? And I had done a great
 23 deal of research and had very good reasons why I would not
 24 continue a person, necessarily on life-long medication.
 25 But that, apparently, was not the answer that they were

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1 looking for.
 2 I should say that my passed portion of the exam,
 3 which was based on a live patient interview in the
 4 morning, was based -- I passed that exam, and the reason
 5 for that or the tone of that was actually quite different.
 6 My examiners were more psycho-dynamically oriented
 7 individuals, and they accepted the fact that a life-long
 8 medication strategy was not necessarily in the best
 9 interest of all patients.
 10 So, the board certification process, itself, is
 11 extremely relative. I would expect to encounter the exact
 12 difficulties when I sit for the examination again and I
 13 will give the same answers, based on the same
 14 scientifically-based knowledge.
 15 THE COURT: I'll accept this witness as an expert
 16 and weigh her testimony accordingly.
 17 Q Dr. Jackson, did you prepare a report and sign an
 18 affidavit -- well -- excuse me, Your Honor.
 19 THE COURT: That's okay. But could you get closer
 20 to the microphone?
 21 Q Yes. Did you notarize a statement -- have notarized
 22 a statement in preparation for this hearing?
 23 A Yes, I did.
 24 THE COURT: Mr. Gottstein, I'm sorry to do this to
 25 you, but I just got the email that Dr. Mosher is on the

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1 phone. Do you want me to have him call back in 10
 2 minutes, or what do you want to do?
 3 MR. GOTTSTEIN: Grace, can you? Let's take Dr.
 4 Mosher.
 5 THE COURT: That's your preference?
 6 MR. GOTTSTEIN: Yes.
 7 THE COURT: Ma'am, I'm very sorry to do this. We've
 8 been trying to get Dr. Mosher on the line, and the
 9 witnesses we typically go in order. And he was not
 10 available by phone. I've just received an email that he's
 11 called back in.
 12 DR. JACKSON: That's absolutely fine.
 13 THE COURT: All right. I appreciate it very much.
 14 DR. JACKSON: Would you like me -- you'll call me
 15 back?
 16 THE COURT: Yes.
 17 DR. JACKSON: Okay. Thank you.
 18 THE COURT: You bet. Dr. Mosher, can you hear me?
 19 DR. MOSHER: Yes. Long distant, but I can hear you.
 20 THE COURT: All right. I'll try to speak into the
 21 microphone more clearly. My name is Morgan Christen. I'm
 22 a superior court judge and I'm assigned to this case. I
 23 have you on a speaker phone on an overhead in the
 24 courtroom, sir. And Mr. Gottstein has asked that you
 25 testify. Are you able to do that at this time?

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1 DR. MOSHER: Well, I guess. I didn't prepare must,
 2 but anyway, I'll do my best.
 3 THE COURT: All right. That's fine. I need to have
 4 the oath administered to you. Could you please raise your
 5 right hand?
 6 DR. MOSHER: Okay.
 7 THE CLERK: Do you swear or affirm that the
 8 information you are about to give in this matter before
 9 the court is the truth, the whole truth, and nothing but
 10 the truth?
 11 DR. MOSHER: I do.
 12 THE COURT: Sir, could you please state your full
 13 name and spell your last name?
 14 DR. MOSHER: It's Loren Mosher, M-O-S-H-E-R-.
 15 THE COURT: All right. Thank you. Mr. Gottstein,
 16 you may inquire.
 17 DR. LOREN MOSHER
 18 testified as follows on:
 19 DIRECT EXAMINATION
 20 BY MR. GOTTSTEIN:
 21 Q Dr. Mosher, I can't express my appreciation enough
 22 for your willingness to testify after just getting back
 23 from Germany yesterday, and I just felt like I wanted to
 24 express that.
 25 Your affidavit has just been admitted. And I

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1 represented that you would have it notarized and send it.
 2 Is that true?
 3 A I just did that. It should be there tomorrow
 4 afternoon.
 5 Q Thank you. Could you briefly -- because we've got a
 6 total of, I think 28 minutes left in this whole hearing,
 7 including to hear from Dr. Jackson -- discuss your
 8 credentials, please?
 9 A I graduated from Stanford as an undergraduate,
 10 Harvard Medical School, Harvard psychiatric training, more
 11 training at the National Institute of Mental Health, post-
 12 doctoral fellowship in England, professor -- assistant
 13 professor of psychiatry at Yale -- I'm sort of going
 14 chronologically -- from '68 to '80 I was the chief for the
 15 Center for Studies of Schizophrenia, at the National
 16 Institute of Mental Health from 1980 to '88 I was
 17 professor of psychiatry at the Uniform Services University
 18 of the Health Sciences in Bethesda, Maryland. That's a
 19 full-time, tenured, academic position. '88 to '96 I was
 20 the chief medical director of the Montgomery County
 21 Maryland Public Mental Health System. That's a bedroom
 22 community to Washington, D.C. From '96 to '98 I was
 23 clinical director of the San Diego County Public Mental
 24 Health System. Since November of '98 I have been the
 25 director and principle in Satiria (ph) Associates, a

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1 private consulting firm that I formed, and I also hold
 2 clinical professorships at the University of California
 3 San Diego School of Medicine, and at the Uniform Services
 4 University of the Health Sciences in Bethesda, Maryland.
 5 So that's briefly my credentials.
 6 Q Dr. Mosher, did you mention being head of
 7 schizophrenia research at the National Institute of Mental
 8 Health?
 9 A Yeah, I said I was the head of the Center for
 10 Studies of Schizophrenia from 1968 until 1980.
 11 Q Okay. I move to qualify Dr. Mosher as an expert
 12 psychiatrist, especially in schizophrenia.
 13 MR. KILLIP: Your Honor, just a couple questions.
 14 VOIR DIRE EXAMINATION
 15 BY MR. KILLIP:
 16 Q Dr. Mosher, Jeff Killip with the Alaska Attorney
 17 General's Office. I just want to ask you if you are
 18 currently board certified in psychiatry?
 19 A I've been board certified since 1969.
 20 Q Okay. And are you currently a member in good
 21 standing with the American Psychiatric Association?
 22 A No, I am not. I resigned from the American
 23 Psychiatric Association.
 24 Q And do you have a reason for that?
 25 A Yes, I have a reason for it. I felt like they no

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1 longer represented my interested and the \$1,000 a year
 2 that I was paying for them was just basically a waste of
 3 money, while they pursued their own interests to the
 4 detriment of what I consider to be the people they should
 5 be pursuing an interest for, and that's their patients.
 6 So anyway, I'm not a member. I resigned in December of
 7 1998.
 8 Q So, is it fair to say that you have a philosophical
 9 disagreement with their approach, presently?
 10 A Well, yeah. I don't like how they do business.
 11 Q When you say do business, you mean practice
 12 psychiatry in the United States?
 13 A Well, we could take up the next half hour on that
 14 subject, but basically I feel that they have taken the
 15 person out of psychiatry and psychiatry has -- is now a
 16 dehumanizing, impersonal, non-individualized specialty
 17 that is interested purely in pharmical therapy now.
 18 That's big, broad brush strokes, but that's -- obviously
 19 that's not true of every single one, but that's my
 20 complaint about the organization.
 21 Q Okay.
 22 A There's a -- if you want to read my letter of
 23 resignation, you can look on my web site.
 24 Q Okay, thank you.
 25 THE COURT: Any objection?

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1 MR. KILLIP: No.
 2 THE COURT: All right. This witness will be
 3 qualified
 4 Q Thank you, Dr. Mosher. In the first sentence of the
 5 introduce of your affidavit on page two, you talk about
 6 the biomedical model. I was going to ask you what you
 7 mean by that. Have you already answered that, or would
 8 you like to expand on that?
 9 A Well, you know, what I mean by that is the phrase is
 10 currently being used that, let's take, for example,
 11 schizophrenia is a brain disease. Well, that's a perfect
 12 example of the medical model -- of the biomedical model.
 13 When -- whereas, there is no evidence that schizophrenia
 14 is, in fact, a brain disease. And so a hypothesis that
 15 schizophrenia is a brain disease, has been converted into
 16 a biomedical fact. And I disagree with converting
 17 hypotheses into beliefs in the absence of supporting
 18 evidence.
 19 Q Okay, thank you. Now, in your opinion, is
 20 medication the only viable treatment for schizophrenia
 21 paranoid type?
 22 A Well, no, it's not the only viable treatment. It is
 23 one that will reduce the so-called positive symptoms, the
 24 symptoms that are expressed outwardly for those kinds of
 25 folks. And that way they may seem better, but in the long

1 run, the drugs have so many problems, that in my view, if
2 you have to use them, you should use them in as small a
3 dose for as short a period of time as possible. And if
4 you can supply some other form of social environmental
5 treatment -- family therapy, psychotherapy, and a bunch of
6 other things, then you can probably get along without
7 using them at all, or, if at all, for a very brief period
8 of time. But you have to be able to provide the other
9 things. You know, it's like, if you don't have the other
10 things, then your hand is forced.

11 MR. KILLIP: Excuse me, Your Honor. I just would
12 renew our continuing objection about offering test on
13 medical practice in the context of this hearing.

14 THE COURT: This hearing is going to last 20 more
15 minutes, and I'm going to let Mr. Gottstein use the time.

16 Q Now, as a hypothetical question, if a woman who had
17 managed -- who has over a 25 year experience with
18 medications and has -- including navaine, paxil, risperdal
19 and zyprexa -- and then has managed to not -- to wean
20 herself from those for a year, would your recommendation
21 be that she be placed back on them, particularly against
22 her will?

23 A Well, I think she is an absolute saint if she was
24 able to get off of those drugs. Those drugs are
25 extraordinarily difficult to get off of, especially

1 zyprexa, which is a thienobenzodiazepine derivative and
2 the thienobenzodiazepine valium-type drugs are very
3 addictive. And so, zyprexa, in particular, is difficult
4 to get off. And if she got off herself -- got herself off
5 of zyprexa, that's quite a remarkable feat in my clinical
6 experience. So I would be loath to put her back onto,
7 especially zyprexa. But, you know, the other -- risperdal
8 is also problematic for getting off. Actually, they all
9 are, it's just a matter of degree. And if she got off for
10 a year, then I would certainly try to do whatever I can to
11 avoid putting her back on. And if she doesn't want them,
12 then that's even -- you know, if you can't negotiate some
13 drug that she may calm down on, like, for example, if she
14 if kind of agitated and anxious -- I don't know this
15 woman. I've never seen her face-to-face, so I can't
16 really speak to her particular problem without having seen
17 her, but if she is, let's say, unhappy, agitated, and so
18 forth, then sometimes short-term use of drugs like valium
19 is quite helpful and it get's people through a crisis
20 without getting them back onto the neuroleptics drugs, the
21 anti-psychotic drugs.

22 Q Okay, thank you. Now, in your affidavit, you say
23 involuntary treatment should be difficult to implement and
24 used only in the direst of circumstances. Could you
25 explain why you have that opinion?

1 A Well, it's just, you know, the degree to which you
2 have to force people to do anything.....

3 MR. KILLIP: Your Honor, I'm going to object.

4 Ais the degree to which it's going to be very
5 difficult to forge a good therapeutic relationship. And
6 in the field of psychiatry, it is the therapeutic
7 relationship which is the single most important thing.
8 And if you have been a cop, you know, that is, some kind
9 of a social controller and using force, then it becomes
10 nearly impossible to change roles into the role -- the
11 traditional role of the physician as healer advocate for
12 his or her patient. And so I think that that -- we should
13 stay out of the job of being police. That's why we have
14 police. So they can do that job, and it's not our job.

15 Now, if because of some altered state of
16 consciousness, somebody is about to do themselves grievous
17 harm or someone else grievous harm, well then, I would
18 stop them in whatever way I needed to. I would probably
19 prefer to do it with the police, but if it came to it, I
20 guess I would do it. In my career I have never committed
21 anyone. It just is -- I make it my business to form the
22 kind of relationship that the person will -- that we can
23 establish a ongoing treatment plan that is acceptable to
24 both of us. And that may you avoid getting into the fight
25 around whatever. And, you know, our job is to be healers,

1 not fighters.

2 THE COURT: There's an objection to that question.
3 The objection was relevance?

4 MR. KILLIP: Yes.

5 THE COURT: Overruled.

6 Q Now, you say you've never committed anybody. But
7 you've had a lot of experience with -- or, I should say,
8 have you had a lot of experience with people with
9 schizophrenia?

10 A Oh, dear. I probably am the person on the planet
11 who has seen more acutely psychotic people off of
12 medication, without any medications, than anyone else on
13 the face of the planet today.

14 Q Thank you.

15 A Because of the Satiria Project that we did for 12
16 years where I would sit with people who were not on
17 medications for hours on end. And I've seen them in my
18 private practice, and I see them to this day in my now,
19 very small, private practice. But --

20 THE COURT: Sir, I think I understand the answer.

21 A I find that people who are psychotic and not
22 medicated are among the most interesting of all the
23 customers one finds.

24 Q Thank you, Dr. Mosher.

25 THE COURT: That's a yes.

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1 Q Dr you know Dr. Grace Jackson?
 2 A I do.
 3 Q Do you have an opinion on her knowledge of
 4 psychopharmacology?
 5 A I think she knows more about the mechanisms of
 6 actions of the various psychotropic agents than anyone who
 7 is a clinician, that I'm aware of. Now, there may be, you
 8 know, basic psychopharmacologists, you know, who do lab
 9 work who know more, but as far as a clinician, a
 10 practitioner, I don't know anyone who is better-versed in
 11 the mechanisms, the actions, the effects and the adverse
 12 effects of the various psychotropic drugs.
 13 Q Thank you, Dr. Mosher. I have no questions, but
 14 perhaps the State will have some.
 15 MR. KILLIP: Yes, thank you.
 16 DR. LOREN MOSHER
 17 testified as follows on:
 18 CROSS-EXAMINATION
 19 BY MR. KILLIP:
 20 Q Dr. Mosher, is it not your understanding that the
 21 use of anti-psychotic medications is the standard of care
 22 for treatment of psychosis in the United States,
 23 presently?
 24 A Yes, that's true.
 25 Q Okay, so is it fair to say that your viewpoint --

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1 MR. GOTTSTEIN: Objection, relevance.
 2 THE COURT: Overruled.
 3 Q Would you say that your viewpoint presented today
 4 falls within the minority of the psychiatric community?
 5 A Yes, but I would just like to say that my viewpoint
 6 is supported by research evidence. And so, that being the
 7 case, it's a matter of who judges the evidence as being
 8 stronger, or whatever. So, I'm not speaking just opinion,
 9 I'm speaking from a body of evidence.
 10 Q Thank you, Dr. Mosher.
 11 THE COURT: Nothing further?
 12 MR. KILLIP: Nothing.
 13 MR. GOTTSTEIN: No, Your Honor.
 14 THE COURT: All right. Sir, I appreciate your
 15 testimony very much and want to thank you. It sounds like
 16 the lawyers are done with you, so you can hang up.
 17 DR. MOSHER: Okay. Well, good luck and I hope --
 18 what's her name, Ms. Myers?
 19 THE COURT: Faith Myers.
 20 DR. MOSHER: Gets out and without drugs. Thank you.
 21 THE COURT: Thank you, sir. All right. Do you want
 22 to try to call Dr. Jackson back?
 23 MR. GOTTSTEIN: Yes, Your Honor.
 24 THE COURT: All right. Dr. Jackson?
 25 DR. JACKSON: Yes?

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1 THE COURT: Great. We're back on record. This is
 2 Morgan Christen again. I have you back on the same
 3 overhead speaker.
 4 DR. JACKSON: Yes, ma'am.
 5 THE COURT: What I'm going to do, I think, to save
 6 time, is to just remind you that you remain under oath and
 7 allow Mr. Gottstein to ask his questions.
 8 DR. JACKSON: Um-hmm. Yes, ma'am.
 9 DR. GRACE JACKSON
 10 testified as follows on:
 11 DIRECT EXAMINATION (continued)
 12 BY MR. GOTTSTEIN:
 13 Q Thank you, Dr. Jackson. Obviously we're down to 10
 14 minutes now, and I appreciate you waiting all day. And
 15 I'm going to have to be, obviously, a little bit -- or
 16 more than a little bit brief.
 17 Did you -- we were just talking about an affidavit,
 18 I think, that you signed, or a report that you swore. Did
 19 you do so?
 20 A Yes, that is correct. Yup.
 21 Q And is it -- can I --?
 22 THE COURT: Do I have this? Oh, you're just handing
 23 it to me now, okay.
 24 MR. GOTTSTEIN: I was in the middle of that.
 25 THE COURT: I see. I beg your pardon.

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1 MR. GOTTSTEIN: Exhibit D.
 2 THE COURT: Thank you, sir.
 3 Q What's the title of that?
 4 A This is an analysis of the olanzapine that is
 5 zyprexa, the clinical trials, and I've called this A
 6 Dangerous Drug with Dubious Efficacy.
 7 Q Okay.
 8 MR. KILLIP: Excuse me, Your Honor. I just wanted
 9 to note for the record that we've got about 20+ pages,
 10 half of them are stapled upside down. We're probably not
 11 going to have a meaningful opportunity to look at this
 12 before cross-examination. I just want to make that
 13 record.
 14 THE COURT: Yes, I have the same exhibit.
 15 MR. KILLIP: Thank you.
 16 MR. GOTTSTEIN: And I would note that I received
 17 nothing from them before anything.
 18 Q I think what I -- does this accurately -- well,
 19 obviously it accurately describes the results of your
 20 research into the drug olanzapine. Is that correct?
 21 A Yes, that's right.
 22 Q Okay. Have you -- I'm going to try -- I'm trying to
 23 get some stuff into the record here, Your Honor. And so --
 24 -- and then we'll get to more substantive.
 25 Did you send me some information regarding the

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1 approval of olanzapine or zyprexa from the FDA?
 2 A Well, I had sent you this document, this affidavit.
 3 Q And -- yes, I'm talking about some documents from
 4 the FDA, for example -- let me
 5 A Yes, I have -- can you hear me all right?
 6 THE COURT: Yes, we can hear you.
 7 A Okay. I have taken from the information -- all of
 8 the information which I have reviewed is available to the
 9 public under the Freedom of Information Act. So I have
 10 photocopied over 800 pages of microfiche to do a very
 11 thorough review of the safety and efficacy data. A
 12 portion of the internal communications, the internal
 13 memoranda between the heads of the neuro-pharmacological
 14 drug products office and drug evaluation and reviewing
 15 officers I have thought would be especially pertinent to
 16 discussion of this case. And I believe it is those
 17 internal memos to which Mr. Gottstein is now referring.
 18 Q Yes. And specifically I think that -- have we
 19 admitted her report?
 20 THE COURT: You haven't admitted anything. That's
 21 why I was just getting a stickie handed to me by the
 22 clerk.
 23 MR. GOTTSTEIN: Okay. I would move her report on
 24 the analysis of the olanzapine clinical trials.
 25 THE COURT: So, are you moving for admission of

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1 exhibit C?
 2 MR. GOTTSTEIN: Is that C?
 3 UNIDENTIFIED INDIVIDUAL: Her report is exhibit D.
 4 MR. GOTTSTEIN: D, I think. That's her affidavit?
 5 D.
 6 THE COURT: Any objection to the admission of D?
 7 MR. KILLIP: Objection, relevance, Your Honor.
 8 THE COURT: All right. I understand your objection.
 9 I'm going to overrule it and admit exhibit D.
 10 (Defendant's exhibit D is admitted)
 11 Q Okay. And exhibit E is a September 27, 1996 memo
 12 from Thomas Loffran (ph), re recommendations for approval
 13 action for zyprexa. That's one of them. Are you familiar
 14 with that?
 15 A Um-hmm. Yes, I am.
 16 THE COURT: Counsel, I have that marked as exhibit
 17 C, like cat.
 18 Q Oh, C. Okay, I'm sorry. And then there's an August
 19 30, 1996 from Eli Lily?
 20 A That is actually a letter from --
 21 Q Or to Eli Lily.
 22 A Right. To Dr. Franson (ph) at Eli Lily. That's
 23 correct.
 24 Q And there's an August 30, 1996 memorandum from the
 25 Department of Health and Human Services, from Paul Lebor

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1 (ph) to -- or re subject actions taken and not taken in
 2 response to your memorandum?
 3 A Right. That is from Paul Lebor, who is also with
 4 the -- with the office which has done a great deal of
 5 review. He's one of the reviewing officers to approve
 6 olanzapine, and that is going to Robert Temple, who is
 7 sort of the head at the top of the hierarchy for drug
 8 approval in the Office of New Drug Evaluations. These are
 9 all FDA documents.
 10 Q Okay. And then there's one more, August 18th, from
 11 Paul Lebor, M.D.?
 12 A Yes, correct. Also --
 13 Q Okay. And these are all documents from the FDA
 14 through the Freedom of Information Act?
 15 A That is correct.
 16 Q Move to admit, Your Honor.
 17 THE COURT: Any objection?
 18 MR. KILLIP: Same objection, Your Honor.
 19 THE COURT: All right. Same ruling.
 20 (Defendant's exhibit C is admitted)
 21 Q Okay. I'm handing out exhibit L, which is some
 22 articles that you sent me. The first one being from the
 23 New England Journal of Medicine, Is Academic Medicine for
 24 Sale? Are you familiar with that one?
 25 A Yes, I am. Yes.

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1 Q An Uneasy Alliance?
 2 A Yes, um-hmm.
 3 Q Relationships Between Authors of Clinical Practice
 4 Guidelines in the Pharmaceutical Industry?
 5 A Yes.
 6 Q Is that it? I think it's all in this exhibit.
 7 Could you explain why you sent these to me?
 8 A Well, the last three exhibits, which you have just
 9 admitted, may help answer the difficulties which I have
 10 encountered in terms of board certification. They speak
 11 directly to the difficulties in new physicians obtaining
 12 reliable and trustworthy information.
 13 The first article about academic medicine for sale,
 14 speaks directly to the very close liaison which now exists
 15 between the pharmaceutical industry and medical centers,
 16 which are supposed to be above the influence of a for-
 17 profit industry.
 18 The second article, An Uneasy Alliance, speaks very
 19 directly to the tight connection between clinical
 20 investigators and the pharmaceutical industry. Why that
 21 is pertinent to this case, not just because of the
 22 defendant's but also because of my testimony in this case,
 23 is because it is so difficult now to actually find
 24 information that is beyond the taint of the pharmaceutical
 25 industry actually buying off or influencing the

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1 information that is revealed.
 2 To just address a couple of the highlights in this
 3 article. What has happened very significantly within
 4 psychiatry and other specialties of medicine, is something
 5 called ghost writing. I refer to page 1541 of the
 6 exhibit, the article which is called Uneasy Alliance. In
 7 that --
 8 MR. KILLIP: Excuse me, Your Honor. Excuse me, I'm
 9 sorry. I object. What is the relevance?
 10 THE COURT: Mr. Killip, there's two more minutes
 11 left in this hearing and I'm going to allow this witness
 12 to testify for two more minutes. You've made the
 13 relevance objection repeatedly. I'm going to allow Mr.
 14 Gottstein to present this evidence.
 15 MR. KILLIP: All right.
 16 A Just to finish very briefly, because I know we're
 17 running out of time. The difficult that I'd like to
 18 address in this article, this article highlights the fact
 19 that so much of the writing which now appears in journals
 20 and the subsequent articles, the clinical guidelines
 21 themselves, which are being used by most academic centers
 22 and hospitals, are basically being written by the
 23 pharmaceutical companies themselves. It's estimated that
 24 20% of the articles in scientific journals today are being
 25 ghost written by the drug companies. That means somebody

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1 at the drug company writes the article and then shops for
 2 a physician to put his or her name on the article, in
 3 return for payment.
 4 Q Dr. Jackson?
 5 A Yes.
 6 Q Yeah, I'd like, in the one minute we have left, talk
 7 a little bit about the documents from the FDA. And -- if
 8 you'll give me some leeway -- is it a fair
 9 characterization of your research that the FDA prohibited
 10 the drug company that manufactures olanzapine from making
 11 any claims that zyprexa were either more efficacious or
 12 safer than haldal, which is one of the considered dirtiest
 13 drugs in that they got around this through this ghost
 14 writing mechanism?
 15 A Well, it is, yes, to answer your question. It is --
 16 Q Thank you. I had another question. Say something.
 17 What else would you like to say, Dr. Jackson, in 35
 18 seconds.
 19 A Well, the last thing, I hope that all parties
 20 concerned will appreciate, if not for this case, then for
 21 all cases, the importance of the affidavit which I have
 22 submitted.
 23 Two cases -- there are just two points I'd like to
 24 make. The first is that the clinical design processes
 25 themselves, in other words, the numerous investigations

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1 that are performed in order to try to establish the
 2 effectiveness and the safety of a new drug. The protocols
 3 and the clinical trial designs themselves so violate what
 4 is required for good research that they should be
 5 rejected. That's number one.
 6 Q Dr. Jackson, that's exactly what I wanted to ask you
 7 about. And we're running out of time, so --
 8 A The last thing I'd like to say is that we really do
 9 not have any proof that olanzapine is a safe drug. Just
 10 to answer, just very briefly, fewer than -- only 12% of
 11 3,000 patients who were investigated to establish safety,
 12 ever stayed on the drug for more than a year. Fewer than
 13 33% were on the drug for more than six months. We're
 14 talking about a medication whose safety has been very,
 15 very poorly investigated by the FDA.
 16 Q Do you consider it a dangerous drug?
 17 A I consider it a very dangerous drug.
 18 Q Thank you, Dr. Jackson.
 19 THE COURT: Anything further?
 20 MR. KILLIP: Yes, Your Honor.
 21 DR. GRACE JACKSON
 22 testified as follows on:
 23 CROSS-EXAMINATION
 24 BY MR. KILLIP:
 25 Q Dr. Jackson, I just wanted to ask you, is it fair to

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1 say that your concerns and objections about the use of
 2 zyprexa really falls within the minority of opinion in the
 3 United States psychiatry community?
 4 A Oh, far from it. There are actually a growing --
 5 growing literature to look at the -- growing reports, case
 6 reports of diabetes, including death from diabetic
 7 ketoacidosis. Also --
 8 Q Well, let me ask you this, then.
 9 A Yes?
 10 Q Let me ask you this then. But isn't zyprexa and
 11 olanzapine, aren't they some of the most prescribed anti-
 12 psychotics in the United States presently?
 13 A They may be among the most prescribed anti-
 14 psychotics, but that is the reason why it is so important
 15 to go to the FDA clinical trial data, as I have done.
 16 Most doctors won't take the time to do that.
 17 Q But if these drugs are some of the most common anti-
 18 psychotics, don't they fall within the mainstream for drug
 19 use, or for drug prescriptive usage for anti -- or for
 20 psychosis, rather?
 21 MR. GOTTSTEIN: Object, relevance.
 22 THE COURT: Overruled.
 23 A I can say that they may be very widely prescribed,
 24 however, at one time sylidamide (ph) was very widely
 25 prescribed and diasysterbesterol (ph) was very widely

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1 prescribed, but neither of those are allowed for safety
2 reasons.
3 Q But you would agree that the use of zyprexa and
4 olanzapine is part of the current psychiatric standard of
5 care in the United States, wouldn't you?
6 A I said that they are being widely prescribed.
7 THE COURT: Anything further counsel.
8 MR. KILLIP: No, Your Honor. Thank you.
9 MR. GOTTSTEIN: Can -- I'd like to move to admit L.
10 THE COURT: L?
11 MR. GOTTSTEIN: I think it's L. The why we kicked
12 the academic -- isn't it L?
13 THE COURT: Is Academic Medicine for Sale?
14 MR. GOTTSTEIN: Yeah, those two articles.
15 THE COURT: Any objection?
16 MR. KILLIP: Same objection. I would only note that
17 we're here dealing with Ms. Myers dealing on these two
18 petitions. We're not here to have you issue orders to
19 correct the entire medical system.
20 THE COURT: Overruled. It'll be admitted.
21 (Defendant's exhibit L is admitted)
22 THE COURT: Anything further?
23 MR. KILLIP: No, Your Honor. Thank you.
24 THE COURT: All right.
25 MR. GOTTSTEIN: Okay. I have to rule. I have to

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1 excuse this witness. Ma'am, thank you for your testimony.
2 I appreciate it very much. You're free to hang up the
3 phone at this time.
4 DR. JACKSON: Thank you, ma'am.
5 THE COURT: I do have six domestic violence hearings
6 waiting for me that started at 1:30, or they're not
7 started, because they can't start without me. But I have
8 to bring this to a conclusion at this time.
9 My ruling is as follows. I find that the State has
10 met its burden of this -- in this case, to prove by clear
11 and convincing evidence that the respondent is mentally
12 ill, and as a result is likely to cause harm to the
13 respondent -- to herself, or to others, and is gravely
14 disabled. I'm willing to make that finding based upon the
15 testimony that heard here today, particularly the
16 testimony of the two psychiatrists who have actually had
17 an opportunity to observe her and work with her and treat
18 her in a clinical and therapeutic setting.
19 I will make written findings in this case. You
20 deserve that and I simply can't do it in the time
21 constraints that I have available to me now.
22 I'm not willing to rule on the petition regarding
23 the administration of medication until I read what has
24 been given to me. I simply can't digest it that quickly,
25 including the State's brief. So I want an opportunity to

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1 review it.
2 Mr. Killip, you have made your argument regarding --
3 clearly -- regarding the purpose of this hearing, and you
4 have objected repeatedly to Mr. Gottstein's argument,
5 stated or implied, and I appreciate that. I understand
6 where you're coming from on that. What I don't think
7 you've done for me and I would wish you would do in a
8 brief pleading, is explain the legal standards applicable
9 for the second question, the second petition regarding
10 administration of medication. I don't think I have that.
11 MR. KILLIP: I can do that, Your Honor.
12 THE COURT: But if I have it here, somewhere, I
13 haven't been able to locate it very clearly.
14 Mr. Gottstein, I'll give you both until tomorrow,
15 close of business tomorrow, to fax in whatever else it is
16 you want me to consider, if anything. I mean, I can
17 certainly do the research myself and I'll be reading
18 through these materials tonight to enter a ruling on that
19 second question. But if there's anything else you want me
20 to --
21 MR. GOTTSTEIN: By when, Your Honor? I mean, I'm
22 getting on a plane, so it's kind of irrelevant.
23 THE COURT: Why what?
24 MR. GOTTSTEIN: By when tomorrow, Your Honor?
25 THE COURT: By the close of business tomorrow. All

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1 right? I'm mindful of the testimony that the failure to
2 treat can exacerbate a condition. I'm concerned about
3 that. But I'm also concerned about issuing a ruling
4 before I really can honestly say I understand the legal
5 standards and can say that the State has met its burden.
6 I don't believe I can, Mr. Killip, without digesting some
7 of what's been presented to me.
8 MR. KILLIP: Yes, Your Honor, just so I'm clear.
9 What I can do is I can just submit what I think is the
10 legal standard for the informed consent, you know, and the
11 second petition concerning the medications, without
12 briefing our petition. I can just set what I think the
13 standard is without getting into what we accomplished here
14 today.
15 THE COURT: Yes, that's fine.
16 MR. KILLIP: Okay. But I want that to be on both
17 sides. I don't want to just file what I think is the
18 legal standard without having an opportunity to address
19 what I think the evidence has shown.
20 THE COURT: I can do that part. I was listening to
21 the evidence very carefully. I took copious notes. I'll
22 got all the materials here and I'm going to read them.
23 MR. KILLIP: That's fine.
24 THE COURT: But I do need to a simple statement of
25 what the legal standard is from each of you, if you wish

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1 to both present that. You can just fax it in, if you'd
2 like.
3 MR. KILLIP: Okay. So I would understand that Mr.
4 Gottstein would do the same thing. He wouldn't file a
5 brief. He'd basically just be filing what he thinks the
6 legal standard is.
7 THE COURT: Right.
8 MR. GOTTSTEIN: Does that mean no authority?
9 THE COURT: What?
10 MR. GOTTSTEIN: Is he saying that --
11 THE COURT: No, he's going to provide -- you both
12 may provide authority. And that's one of the problems
13 I've had in the initial briefs, if it gives you any help
14 in elucidating. For example, on the discussion of Mr.
15 Gottstein's voir dire motion, there's a response by the
16 State that the Coon standard doesn't apply here and
17 there's a citation to Coon. I have to go back and read
18 Coon. It's cited, but without discussion, and that's
19 necessarily the result of this very compressed timeframe.
20 So, I just have to be able to digest the materials that
21 you have offered.
22 I am -- hang on one second. I want to make some
23 more specific findings. Specifically, I find regarding
24 threatening behavior that the respondent was observed to
25 appear in a threatening or menacing manner towards the API

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1 staff. That she was observed by a physician -- by her
2 daughter, rather, to do so, and I found that testimony
3 particularly disturbing, because her daughter was holding
4 an 18 month old grandchild at the time.
5 I also -- her testimony regarding reports, albeit
6 them second-hand reports, of her behavior having
7 frightened tenants and the apartment manager's wife.
8 Regarding threats to herself, my interpretation of
9 the testimony was that the respondent probably has been
10 sleeping in the crawl space, but that at a minimum that
11 that -- that she had a very tenuous grasp on reality and
12 ability to determine who had or had not entered into her
13 apartment. I found very convincing her testimony, which I
14 also found very candid and I appreciated that, that small
15 children had come to her apartment, some of whom may have
16 been grandchildren, particularly the child who she
17 recognizes she had known years before at Tundra Tykes as a
18 five year old, who really should be 10 years old now, but
19 appeared to her very recently, as recently as last week,
20 as a five year old. I find that all to be consistent with
21 the doctors' diagnosis and I find that testimony to be
22 credible.
23 If she has been in the crawl space, if she has been
24 trying to feed wild animals and/or has been feeding wild
25 animals, I find that to be behavior that constitutes a

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1 harm to herself.
2 I was also impressed and find credible the testimony
3 that she suspected a person that she knew previously had
4 been replaced by an imposter. That she voiced concerns
5 about being pregnant and thinking that the API staff was
6 trying to harm her unborn child, as her comments that God
7 had had spoken to her to tell her that her life would end
8 in another year and a half, and that she had been under
9 surveillance by the government.
10 I have huge sympathy and compassion for this
11 situation. I think that the State's standard, though, has
12 been met, by clear and convincing evidence. I'm willing
13 to make that finding today, without hesitation. But I
14 want an opportunity to review the second question.
15 MR. KILLIP: Your Honor, one more thing.
16 THE COURT: Is there anything further?
17 MR. KILLIP: Yes. And that we were hoping to call
18 Dr. Kletti as a short rebuttal witness and at that time,
19 given the fact that the court has already accepted all
20 this other literature on the question of medications, we
21 were going to do the same thing. We have not as much
22 paperwork to submit, but we would like to submit some
23 other articles for the court's consideration on the second
24 question of medications.
25 THE COURT: All right. I simply can't do that now,

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1 given my time constraints. What I can do is take it, I
2 can agree to take it....
3 MR. KILLIP: Yes. That's what we'd like to do.
4 THE COURT:and throw it on the growing pile of
5 materials that I'm going to consider.
6 MR. KILLIP: Thank you.
7 THE COURT: Have you given those same authorities to
8 Mr. Gottstein?
9 MR. KILLIP: I will.
10 THE COURT: All right.
11 MR. KILLIP: I'll make copies of the same copies.
12 THE COURT: That'll be fine. And then, Mr. Killip,
13 I'll instruct that you work with Mr. Gottstein afterwards
14 to see that he gets whatever copies he wants of the
15 exhibits that were entered today by the State. That
16 should be seven pages of photographs and one.....
17 MR. KILLIP: Yes.
18 THE COURT:handwritten story. All right. Is
19 there anything further?
20 MR. KILLIP: Thank you, Your Honor.
21 THE COURT: Thank you.
22 MR. GOTTSTEIN: Thank you.
23 THE COURT: We'll go off record.
24 THE CLERK: Please rise.
25 (Off record.)

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HEARING ON MOTION FOR EXPEDITED CONSIDERATION
BEFORE THE HONORABLE MORGAN CHRISTEN

Anchorage, Alaska
March 10, 2003

APPEARANCES:

FOR THE PLAINTIFF: Jeff Killip

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FOR THE DEFENDANT: James B. Gottstein

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1 the administration of the medication. At any rate, I
2 asked him to do that and he did. I received that, I
3 believe, the very next day. I was left uncertain of the
4 standard at the conclusion of the hearing regarding the
5 order Master Duggan has entered requiring a court-
6 appointed visitor, as required by the statute, because I
7 didn't have a report of the court-appointed visitor, and
8 my reading of the statute indicated that that -- it was a
9 necessary prerequisite.

10 So on Fri -- and I think Mr. Killip's petition, or
11 rather, pleading, subsequent post-hearing pleading
12 acknowledged that.

13 MR. KILLIP: Yes.

14 THE COURT: Which I appreciate. And so that cleared
15 up that confusion. I then entered an order, which I hope
16 you both received. I entered it -- Mr. Gottstein, just so
17 you know, I entered it just as soon as I could, that same
18 morning, and faxed it out on Friday morning, instructing
19 that if that visitation had taken place, that I wanted a
20 report filed by the close of business Friday. And if the
21 visitation had not taken place, that it was to be filed by
22 the close of business today. I do appreciate that this is
23 a very important matter. I'm not trying to delay
24 anything, but I am trying to make sure that we get it
25 right and follow the safeguards that are built into the

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1 PROCEEDINGS

2 4403-44

3 4:31:35 PM

4 THE COURT:3AN-03-277. It's a case entitled

5 In the Matter of the Hospitalization of Faith J. Myers.

6 Mr. Gottstein, you filed a pleading indicating that

7 you did not request the hearing on the 5th to be a closed

8 hearing. I'll tell you, just so you know, that there's

9 no one else in the courtroom except my law clerk.

10 MR. GOTTSTEIN: I'm not sure what the quest -- oh,

11 yeah. Okay.

12 THE COURT: I'm just letting you know that there's

13 no one in the courtroom other than my law clerk.

14 MR. GOTTSTEIN: Okay.

15 THE COURT: For today. Counsel, when we had the

16 hearing in this matter, and the record should reflect that

17 we had it on March 5th, we had that hearing on two

18 petitions filed by the State. One was for involuntary

19 commitment and one was for the involuntary administration

20 of psychotropic medication. At the conclusion of the

21 hearing, I asked Mr. Killip to file a statement of

22 authorities, really, not a brief, not argument. But just

23 a statement of authorities regarding the appropriate legal

24 standards, because I think his pretrial brief had not

25 really discussed the standards for the second petition,

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1 statute.

2 MR. GOTTSTEIN: Your Honor?

3 THE COURT: Yes, sir?

4 MR. GOTTSTEIN: From my perspective, there is no

5 real exigency now that she's, you know, in there. And the

6 State may feel differently, but I certainly don't.

7 THE COURT: Well, as I noted at the conclusion of

8 the hearing, at least according to one of the State's

9 witnesses, there was a -- there is a concern, at least, by

10 one of them, that delaying administration of medication,

11 if it's needed and if it's appropriate, can be correlated

12 with a more protracted prognosis. That is, the recovery

13 could be delayed.

14 MR. GOTTSTEIN: Your Honor?

15 THE COURT: Yes.

16 MR. GOTTSTEIN: Yes. I don't believe there's any

17 scientific evidence to base that opinion on.

18 THE COURT: Okay. Well, I appreciate that, but just

19 so you both know, I'm trying to skip along here and get

20 this done, but make sure that we do it correctly.

21 At any rate, as I sit here, it is after 4:30 on the

22 10th of March and I don't have a report from the court-

23 appointed visitor. Can either one of you enlighten me as

24 to the status of that?

25 MR. GOTTSTEIN: Your Honor, this is Jim Gottstein.

1 I received one oh, maybe 10 or 15 minutes ago by fax, so
 2 it might be out in your box or somewhere.
 3 MR. KILLIP: Oh.
 4 THE COURT: Okay. We just checked, Jim. We didn't
 5 have it. Mr. Killip, I take it you have one?
 6 MR. KILLIP: No, unless -- I'm not aware of one, but
 7 our office is pretty big, so it may be over here
 8 somewhere.
 9 THE COURT: Right. Okay, well, it sounds like it's
 10 probably in route to both of us, since Mr. Gottstein has
 11 it, so that's good to know. I'll take that up then. I'll
 12 read it this evening and we can continue apace.
 13 But in the meantime, I've received a motion for
 14 expedited consideration from Mr. Gottstein. It was filed
 15 on March 6th, which would be the day just after the
 16 hearing, which he no doubt had to do from Juneau. And I
 17 think that's probably why this motion is unsigned, Mr.
 18 Gottstein?
 19 MR. GOTTSTEIN: Yes. And I thought my secre -- my
 20 assistant is out today, and so my files are a mess, as you
 21 can imagine. So I thought she was going to put a note on
 22 that about signing it when I got back.
 23 THE COURT: Yes, I think that's fine. What I'd like
 24 to do is, we'll have you jump through that hoop. But in
 25 the meantime, I don't think there's any process with

1 proceeding, at least logistically, to get a game plan in
 2 place, here.
 3 I am a little bit concerned about the first request
 4 in your motion for expedited consideration. There's an
 5 underlying motion regarding a request to resume the
 6 hearing to allow the respondent to put on her evidence.
 7 And I want to make sure we're talking about the same thing
 8 here. Could you please give me a proffer about the type
 9 of evidence you want to introduce, please?
 10 MR. GOTTSTEIN: Yes, Your Honor. It's basically to
 11 further the -- we didn't have much of a chance to put on
 12 the evidence regarding the safety and efficacy of the
 13 proposed medication, which I think is essential to any
 14 substituted judgment decision. In addition, there's some
 15 information regarding, you know, what things mean at API
 16 that I wanted to put on through Mr. Leibert (ph).
 17 THE COURT: What things mean at API?
 18 MR. GOTTSTEIN: Yeah.
 19 THE COURT: What do you mean?
 20 MR. GOTTSTEIN: Well, like when you sign yourself in
 21 voluntarily, it means that you're usually held there, that
 22 you cannot leave. I don't -- I'd have to go look at all
 23 of the things.
 24 THE COURT: All right. Well, the hearing last week
 25 was necessarily -- well, it was a rush. You were asking,

1 of course, for it just as soon as you could get it. And
 2 we did try to put it into the calendar at the very next
 3 available opportunity. But now I have a little time, so
 4 let me explain one issue in particular, so that -- maybe I
 5 didn't do this last week, or maybe you didn't understand
 6 me, but there were several objections by Mr. Killip to the
 7 evidence you were presenting that falls into a category
 8 that I'll describe as really part of the ongoing debate
 9 within the community of psychiatrists about whether these
 10 medications ought to be administered to patients who are
 11 suffering from mental illness. And in particular, you
 12 called a couple of different experts to testify along
 13 those lines. And Mr. Killip had objected to all of that
 14 testimony, if I'm not mistaken. But I overruled those
 15 objections. The only objection he made, unless I'm
 16 mistaken, is relevance. And I took him to mean, although
 17 I don't know that he said this, but I took him to mean
 18 that he was objecting because under the statute I'm to
 19 make a finding as to whether or not Mr. Gottstein's client
 20 is competent to make the decision about whether or not
 21 this medication should be administered. And if she is
 22 competent, her wishes are to be respected, under the
 23 statute. And if she is not, then a different result
 24 follows. But I don't read anything in the statute to be
 25 requiring or even allowing me to substitute my opinion on

1 that.
 2 MR. GOTTSTEIN: Your Honor, may I be heard on that?
 3 THE COURT: Yes, but let me just finish first, okay?
 4 MR. GOTTSTEIN: Okay.
 5 THE COURT: So the reason I overruled the objection,
 6 again, Mr. Gottstein, just so you can understand, is that
 7 I didn't find it to be irrelevant, I found it to be of
 8 limited relevance, and I wanted to hear it, but please
 9 understand why. My understanding is that your client has
 10 been an activist, I think she testified in that regard.
 11 She's an activist and an advocate for people who suffer
 12 from mental illness. And she had further testified that
 13 she had had various medications administered to her,
 14 albeit not on an involuntary basis. I assume from that
 15 that means that she has some familiarity with this ongoing
 16 medical debate in the psychiatric community. I don't know
 17 whether she testified to that or not, frankly, as I sit
 18 here, but that was my thinking at the time. From that I
 19 wanted to know, because I have to make a finding on her
 20 capacity, I wanted to know whether or not there is a
 21 viable, ongoing medical debate, as opposed -- that could
 22 be testified to by people who have what I'll call, you
 23 know, viable credentials. If there wasn't a colorable
 24 argument to be made, and this woman is an activist and had
 25 access to that information, that might be relevant as to

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1 the question of her capacity. Just so you know where I
 2 was going with that. But I did not intend then, and
 3 you're going to have to convince me otherwise now, if you
 4 think that I'm going to be in a position where this
 5 statute allows or requires me to actually substitute my
 6 judgment for those in this field.
 7 MR. GOTTSTEIN: Would you like me to speak to that
 8 now, Your Honor?
 9 THE COURT: Yes. I know that was a very long-winded
 10 explanation on my part, but I -- again, we were so rushed
 11 last week, I just want to make sure you're understanding
 12 what I'm thinking along those lines. So, please respond.
 13 MR. GOTTSTEIN: Yes, Your Honor. And I do
 14 appreciate that. I think there is an underlying
 15 assumption in the statute that if the patient lacks the
 16 ability to give informed consent to refuse medication in
 17 the weird way the statute is written, that the doctor's
 18 judgment on that should, you know, prevail. But, the
 19 assumption is that the doctor's judgment is based on the
 20 facts and scientific evidence, and I think that's an
 21 underlying assumption of the statute, which we are --
 22 which, you know, we're attempting to prove is false. And
 23 I also think, as a constitutional matter, because putting
 24 the substances -- we're talking about a serious question
 25 of permanent brain damage and early death caused by these

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1 medications that when a serious question arises over the
 2 validity of the expert's opinion on that, that the court
 3 necessarily has to examine that question. And if it is
 4 reasonable for a person to refuse -- in other words, at
 5 that point, I think the court really has to make the call.
 6 And I think I cited that Rivers v. Katz case speaks to
 7 that, that I cited.
 8 And I have to apologize, Your Honor. I thought you
 9 asked me to file a brief on standards, as well, so I was
 10 kind of confused. I did call your office and ask for
 11 clarification, but -- so I did file that, as well.
 12 THE COURT: No, I appreciate it and I've read it.
 13 And I appreciate what I've received. I didn't mean to
 14 infer otherwise.
 15 MR. GOTTSTEIN: Yes, Your Honor. So, I guess my
 16 question is if you -- have I made myself clear on the
 17 basis for why I think the court necessarily has to examine
 18 this issue and necessarily has to substitute its judgment?
 19 Because otherwise -- well, I guess I should stop there.
 20 THE COURT: All right. Mr. Killip, did you want to
 21 respond to that?
 22 MR. KILLIP: Thank you, Your Honor. I think -- I
 23 don't think I have anything original to say that I didn't
 24 already say before. I guess the two points I would say,
 25 right now, is just that the challenge to medical science

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1 and specifically including the administration of
 2 neuroleptics to treat schizophrenia is not an issue, and
 3 those aren't issues that are before the court, right now.
 4 And certainly if that is a concern shared by Mr. Gottstein
 5 and/or by his client, then they're free to file -- to
 6 articulate a legitimate cause of action and file an action
 7 against a medical entity and allege a certain relief in
 8 the form of changing medical practice. But that's not
 9 what we have before the court, here. We just have the
 10 commitment and medication petitions. And so for that
 11 reason, we just -- we don't believe that those issues are
 12 before the court.
 13 THE COURT: Mr. Gottstein, I tend to agree. I think
 14 that that is not an issue that the statute allows me to
 15 take up, given the context of this proceeding. And this
 16 is a proceeding where the State has initiated, pursuant to
 17 the statute -- is seeking an order for an involuntary
 18 commitment, and then a separate order for the
 19 administration of the medication. And the statute sets
 20 out a standard that I'm to apply, and it requires that I
 21 make the finding regarding your client's capacity to make
 22 an informed consent, or not. That's the reason for my
 23 decision.
 24 If there's other evidence you want to put on, I'd
 25 like to hear what that is. But I don't want -- I didn't

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1 want you to go to the trouble to line up witnesses to put
 2 on more evidence regarding the ongoing debate.
 3 I can tell you that I've reviewed most of the
 4 materials that you've both submitted, and it strikes me
 5 that there is a legitimate ongoing debate among qualified
 6 experts on this question.
 7 MR. KILLIP: That's the State's position, Your
 8 Honor, too.
 9 THE COURT: Yes. Mr. Killip, I think it will be
 10 necessary for you to -- let me just back up. I realize it
 11 wasn't signed, but are you going to oppose the motion for
 12 expedited consideration filed by Mr. Gottstein that seeks
 13 these three -- there's three underlying motions?
 14 MR. KILLIP: The -- yeah, Jim, correct me if I'm
 15 wrong, but I understand that the expedited motion
 16 addressed the underlying motions 1 and 2, only? Is that
 17 correct?
 18 MR. GOTTSTEIN: I, you know, I think that's correct.
 19 I'll rely on you for that, because I actually don't have
 20 that right in front of me.
 21 THE COURT: I think there's three. The first one,
 22 Mr. Gottstein, is to resume the hearing to allow
 23 respondent to put on her evidence. And it sounds like you
 24 -- you know, as far as this motion seeks permission to put
 25 on additional evidence over the ongoing medical debate, I

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1 think you've got my ruling on that.
 2 And if there's other evidence beyond that you want
 3 to put on, I'm going to ask you at the end of this hearing
 4 what that is.
 5 All right. Then the second grounds for expedited
 6 consideration is a -- for me to consider on an expedited
 7 basis, a delay -- an order delaying the effectiveness of
 8 any order that requires forced medication.
 9 MR. KILLIP: Yeah, I think the State would not
 10 object to a ruling on that, concerning that particular
 11 motion, number 2.
 12 THE COURT: Okay, and then the third is a motion for
 13 reconsideration of the ruling that I made at the
 14 conclusion of the hearing, which granted the State's
 15 petition for involuntary commitment.
 16 So am I taking this to mean, Mr. Killip, that you're
 17 not opposing expedited consideration of any of those three
 18 points?
 19 MR. KILLIP: Well concerning -- we would not oppose
 20 expedited consideration concerning motion number 2,
 21 concerning the medication, to the extent that it may turn
 22 out to be granted, because of the hospital's interest in
 23 going forward with the medication.
 24 Concerning the other two motions, to resume the
 25 hearing and the reconsider the court's decision, it would

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1 be nice to have more time to respond to those two.
 2 THE COURT: Well, as you know, motions for
 3 reconsideration aren't typically granted without allowing
 4 a response. And I'm certainly not telling you you
 5 wouldn't get an opportunity to oppose the motion for
 6 reconsideration. It's just a question of whether or not
 7 you're opposing the expedited ruling, there.
 8 MR. KILLIP: Okay. Well, I think maybe this will
 9 help in the timing of everything. I'm going to be out on
 10 vacation, a family vacation, next week, so....
 11 THE COURT: Are you able to oppose the motion for
 12 reconsideration of the decision -- or the order I already
 13 entered before you leave town?
 14 MR. KILLIP: Yeah, I think so. The only concern I
 15 would have, Your Honor, would be if I didn't get the
 16 underlying bases or memorandum that Jim may be filing, you
 17 know, soon enough to respond to that.
 18 THE COURT: Right.
 19 MR. KILLIP: And also, if the court -- Your Honor,
 20 you mentioned you were inclined to issue a written order
 21 and, your know, I don't know what the timing of that is
 22 going to be, but that might affect it, also.
 23 MR. GOTTSTEIN: Your Honor?
 24 THE COURT: Yes, sir?
 25 MR. GOTTSTEIN: The other thing -- and this pertains

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1 to reconsideration. It may not be the proper procedural
 2 mechanism and I want to consult with my client, as well,
 3 but I didn't feel that we had an adequate time to let my
 4 client explain some of the things that I think caused the
 5 court to be concerned about dangerousness. And that would
 6 be the other thing that I would want a continued hearing
 7 on. And it seems to me that it makes sense to do that and
 8 then decide on the reconsideration.
 9 THE COURT: Do you mean that your client wants to
 10 present additional testimony that goes to the finding --
 11 the statutory requirement as to whether or not she
 12 presents a danger to herself or others?
 13 MR. GOTTSTEIN: I'm going to ask her about that, if
 14 she wants to. And then, of course, we'll discuss it and
 15 make a decision, taking into consideration what she, you
 16 know, what her views are. As you mentioned, we had a real
 17 time constraint at the hearing, and I didn't feel like I
 18 had a chance to, you know, have the respondent address a
 19 lot of the evidence that the petitioner put on regarding
 20 her dangerousness -- the notes and the pictures and, you
 21 know, other things that were happening. And I think that
 22 is germane to the dangerousness question.
 23 THE COURT: If you're willing to waive the statutory
 24 requirement that she be given this hearing within 72
 25 hours. You see, I think you did that only up to a certain

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1 date, sir, and I was trying to get this hearing in. If
 2 your client wishes an opportunity to put on some more
 3 testimony on that issue, and is willing to waive the time
 4 constraint, then I'm inclined to give her that
 5 opportunity.
 6 MR. GOTTSTEIN: Thank you, Your Honor. Yeah, I
 7 think we have to waive it, and I guess I'm somewhat
 8 concerned about when, exactly, we might be able to have
 9 the continued hearing, but --
 10 THE COURT: Right. How much time would you need,
 11 sir? Mr. Gottstein, how much time would you need?
 12 MR. GOTTSTEIN: Well, I think my case shouldn't take
 13 more -- if it was just restricted to that, considering how
 14 difficult it is to estimate, I would say two hours for my
 15 direct ought to be ample.
 16 MR. KILLIP: Does this -- Your Honor, does this mean
 17 that the court is granting the motion for reconsideration?
 18 THE COURT: No. What he's asked is that he be given
 19 an op -- no, it doesn't. What he's asked is that he be
 20 given an opportunity to make sure I've got all of his
 21 client's testimony before I rule on the reconsideration
 22 motion.
 23 MR. KILLIP: Okay. I guess I would --
 24 THE COURT: You're not crazy; it is an unusual
 25 procedure. But what I'm recognizing here, or trying to,

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1 is that there was a time constraint, undeniably, last
2 week.
3 MR. KILLIP: Right.
4 THE COURT: Mr. Gottstein has taken the position
5 that -- well, and first of all, at the conclusion of that
6 hearing, I did make a ruling regarding the first petition
7 that you filed regarding her involuntary commitment. He's
8 asking, or giving me notice that he wasn't done presenting
9 his client's testimony and asking me to hear it before I
10 rule on reconsideration. And I said I'm inclined to do
11 that. But that is not reopening the medical debate issue.
12 MR. KILLIP: Okay.
13 THE COURT: All right? It goes to the question of
14 whether she presents a danger to herself or others.
15 Right. What I'll do is allow that understanding
16 that you've waived the time constraint under the statute,
17 Mr. Gottstein, for your client, but this needs to be
18 scheduled for this week, because we're going to lose Mr.
19 Killip after -- for a week. Is that right, Mr. Killip?
20 MR. KILLIP: Yes. And I guess, just for the record,
21 and just to make sure I'm doing my job, I would -- I just
22 wanted to formally object to reopening the evidence and
23 would just say that the State was under the same time
24 constraints and we cut -- we accelerated our testimony
25 accordingly.

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1 THE COURT: Yes, and I appreciate that. There was a
2 delay getting started, of course, through no fault of
3 either one of you, which is just the difficulty getting
4 Mr. Gottstein's client here. There was a delay with the
5 transport.
6 MR. KILLIP: Right.
7 THE COURT: So, I don't know, Mr. Gottstein, that I
8 have a two-hour block of time on my calendar this week. I
9 can't really imagine where that will come. But I will do
10 my best and I'll have my assistant, Ms. Williams, Hilary
11 Williams, contact both of you tomorrow morning to see
12 about getting some time this week.
13 MR. KILLIP: The other option --
14 THE COURT: Yes?
15 MR. KILLIP: Well, I guess I was thinking -- I was
16 thinking out loud, I guess.
17 THE COURT: Yeah.
18 MR. KILLIP: I just answered my own suggestion. I
19 don't think it's a good one. I was thinking we could just
20 do it over at API, but we need Your Honor to preside.
21 THE COURT: Well, I think I do, since I took up the
22 first part of that hearing. So, I'll try to get you some
23 time on that.
24 And then, Mr. Killip, at that time, after you've
25 heard that continuation of the testimony, which -- Mr.

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1 Gottstein, again, this is a limited testimony offered for
2 that limited purpose -- then I'll give Mr. Killip an
3 opportunity to oppose. Be mindful, both of you, though,
4 that what I have here is a motion, but with no memorandum
5 in support.
6 MR. KILLIP: Right.
7 THE COURT: That hasn't been filed yet, Mr.
8 Gottstein. So, if you're going to file that, we need it
9 by, say, Wednesday.
10 MR. GOTTSTEIN: Okay.
11 THE COURT: So that Mr. Killip has it and has a fair
12 opportunity to, you know, to consider it, to prepare for
13 the hearing and to be able to respond.
14 MR. GOTTSTEIN: Your Honor, I think it really was
15 the only mechanism I could think of to try and get
16 additional testimony on her dangerousness from the
17 respondent. But I'll put something in.
18 THE COURT: Yes, that's fine. I understand why you
19 did it. You had made it clear from your earlier filings
20 that you were getting on a plane that same afternoon to go
21 to Juneau. It's the same reason that the pleading wasn't
22 filed. Right?
23 MR. GOTTSTEIN: Yes, Your Honor.
24 THE COURT: I mean wasn't signed, yeah. So that's
25 fine. All right. That's what we'll do, then. And it

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1 sounds like there is not an opposition from the State as
2 to the second grounds for your motion, which is -- so that
3 will be granted. The motion for expedited consideration
4 is granted as to the -- it's sort of a conditional motion.
5 MR. KILLIP: Right.
6 THE COURT: I haven't ruled, yet, that the
7 medication is going to be administered. If it is, then
8 what you've asked is that I take up on expedited
9 consideration the question of whether that order, if
10 entered, should be delayed to allow you to file a petition
11 for review.
12 MR. GOTTSTEIN: Your Honor?
13 THE COURT: Yes?
14 MR. GOTTSTEIN: If I may, I think that was probably
15 the wrong -- I think it's probably an appeal, at this
16 point.
17 THE COURT: Well, what we'll do is -- at this point,
18 it isn't, because I haven't even entered the order.
19 MR. GOTTSTEIN: No, no. But I mean if an order
20 would be entered, it seems like that's a final judgment
21 and appealable. But, anyway, that's -- the idea is that I
22 would like to seek a -- you know, figure out what to do
23 and seek a stay. So, it may not technically be a petition
24 for review.
25 THE COURT: All right. Well, that's fine. You've

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1 held your place in line. You've noted it; I understand
 2 what it is you're trying to accomplish. I think it's
 3 pretty clear. Mr. Killip does. And what he said is that
 4 he does not oppose that, so we'll take that up on an
 5 expedited basis if we get there.
 6 MR. GOTTSTEIN: Thank you, Your Honor.
 7 THE COURT: Sure. I don't have this report from the
 8 court-appointed visitor. There isn't any question in my
 9 mind that I need to have that before I can move forward,
 10 anyway. And Mr. Killip doesn't have it, either. So I'll
 11 get that and perhaps we can reconvene tomorrow to discuss
 12 scheduling this very short continued evidentiary hearing.
 13 And I'll have that and Mr. Killip will have the report, as
 14 well, by then.
 15 MR. KILLIP: I didn't catch the proposed time, or
 16 the proposed day for this hearing. Did you say?
 17 THE COURT: I didn't. What I said is that my
 18 assistant, Hilary Williams, is going to call you both
 19 tomorrow, to ask you to look at your calendars. And she's
 20 going to look at mine. And I can tell you that she's
 21 going to give me that look, when I tell her I need to find
 22 some time on my calendar this week, because it's packed.
 23 But she's going to be requested to give that a shot. So,
 24 I don't know if you both know what you're calendars look
 25 like?

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1 MR. KILLIP: I do.
 2 THE COURT: Okay. Are you in trial?
 3 MR. KILLIP: No, the only -- the only for sure --
 4 let's see, tomorrow afternoon I've got an API hearing
 5 starting at 1:30.....
 6 THE COURT: Let me ask you specifically. I think I
 7 know I was going to take Friday off. There's already two
 8 things that we've scheduled for Friday, so I know that I'm
 9 not taking all of Friday off, anyway. But I believe there
 10 would be -- maybe it's 90 minutes, maybe it is two hours
 11 total, Mr. Gottstein, that I haven't yet consumed on
 12 Friday morning, by putting on those other things. Are
 13 both of you available Friday morning?
 14 MR. KILLIP: I have a hearing at 10:00, but I can
 15 get coverage for that.
 16 MR. GOTTSTEIN: I'm available, Your Honor.
 17 THE COURT: Okay. Well, I'm guessing that that's
 18 probably -- oh, man, maybe she did fill it up. What I'll
 19 have to do is -- if you could put stickies on your
 20 calendar to try to save that time, I think it's going to
 21 involve canceling a couple of other things that I had
 22 booked, but I'll try to do that.
 23 MR. KILLIP: So the purpose of the hearing, Your
 24 Honor, would be for Mr. Gottstein to call his witness to
 25 testify concerning danger to self and others?

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1 THE COURT: Right.
 2 MR. KILLIP: And that would be it?
 3 THE COURT: That's it.
 4 MR. KILLIP: Okay.
 5 THE COURT: That's it. I want to make sure that
 6 I've heard all that she has to tell me on that subject.
 7 And it was a hearing that was, no question, that it was
 8 limited by time constraints. I want to make sure I've
 9 given her every opportunity to be heard on that subject.
 10 MR. KILLIP: Okay. And would the State have an
 11 opportunity to present additional testimony on that issue,
 12 also?
 13 THE COURT: I'll give you -- do you think you're
 14 going to want to do that?
 15 MR. KILLIP: I don't know. What I'm think is that
 16 there may be -- she could have been medicated since last
 17 Saturday. As I recall, there was an emergency medication
 18 last Saturday, and I don't know what her status will be on
 19 Friday, and how that will impact everything.
 20 THE COURT: Yes. I'm mindful of that. Let me look.
 21 MR. KILLIP: If we were to present more evidence, I
 22 don't think it would be very time-consuming.
 23 THE COURT: All right. Well, we'll do the best that
 24 we can. And I certainly don't have any objection to you
 25 presenting very limited additional testimony if you think

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1 you need to respond to something Mr. Gottstein has
 2 presented.
 3 My calendar for Friday the 14th -- it is as I've
 4 indicated. I'm in trial this week, in a couple different
 5 trials. I have my afternoon completely booked. On Friday
 6 the 14th, I had scheduled to have the day off. That's now
 7 been changed so that beginning at 11:00 I have closing
 8 arguments from a different trial. Up until that time, I
 9 have an appointment out of the office. But that's a
 10 personal appointment, so I could probably cancel it. Or
 11 at least I'll attempt to do so, to try to make this time
 12 slot available between 8 -- it'll be about 8:45 until
 13 10:45, is probably absolutely every drop that I could
 14 wring out of this week.
 15 MR. KILLIP: Jim, how much time do you think you'll
 16 take?
 17 MR. GOTTSTEIN: You know, it's pretty hard. I think
 18 you, you know, observed the witness last week. And so
 19 it's really pretty hard to estimate. I was being -- I
 20 wanted to make sure that the two hours would be enough.
 21 It's potentially as short as half an hour to an hour, and
 22 I would certainly try and do that. And it may be that
 23 we'll decide not to do it, and I'll let you know at the
 24 earliest possible moment.....
 25 MR. KILLIP: Okay.

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1 MR. GOTTSTEIN:if that's what our decision is.
 2 THE COURT: If you could let me know, I'd sure
 3 appreciate it, because I'm --
 4 MR. GOTTSTEIN: Absolutely, Your Honor. I included
 5 you in that.
 6 THE COURT: Yeah, I appreciate it. Because, as I
 7 said, I'm -- I have a personal appointment out of the
 8 office that's actually a medical appointment I scheduled
 9 for some months and moved several times, myself, so I'd
 10 like to know as soon as I can, so that I can know how to
 11 handle that.
 12 And I appreciate what you're both doing, which
 13 strikes me as you're both being very, very cooperative and
 14 trying your level best to get this done in a timely manner
 15 that jumps through all the hoops required by the statute
 16 and make sure that I have the information that I need to
 17 make the decision.
 18 Is there anything further I can take up today,
 19 productively? No?
 20 MR. KILLIP: I don't think so, Your Honor.
 21 THE COURT: All right. Well then, I'll let you both
 22 ring off. It's after 5:00 and I've kept you. Thanks very
 23 much for your help. I'll have Hilary confirm tomorrow
 24 morning about that time, but that should be at least in
 25 pencil on your calendars. And I'll let you know if I need

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1 to speak to you sooner, after I get the report from the
 2 court-appointed visitor.
 3 MR. KILLIP: Okay.
 4 THE COURT: Thank you both very much.
 5 MR. KILLIP: Thank you.
 6 MR. GOTTSTEIN: Thank you.
 7 THE COURT: Off record.
 8 (Off record.)
 9 5:03:47
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1 TRANSCRIBER'S CERTIFICATE
 2 I, Joanne Kearse, hereby certify that the foregoing
 3 pages numbered 1 through 222 are a true, accurate, and
 4 complete transcript of the hearings that took place on
 5 March 5, 2003 and March 10, 2003, In the Matter of F.M.,
 6 Superior Ct. No. 3AN-03-277 PR, transcribed by me from a
 7 copy of the electronic sound recording to the best of my
 8 knowledge and ability.
 9 Dated this 7th day of April, 2003.
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 11 JOANNE KEARSE
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