

BEFORE THE INDIANA STATE
PSYCHOLOGY BOARD
CAUSE NUMBER: 2005 PB 0001

STATE OF INDIANA)
Petitioner)

VS.)

SUSAN E. SPENCER, ED.D.)
License Number: 20040523)
Respondent)

FILED

DEC 29 2005

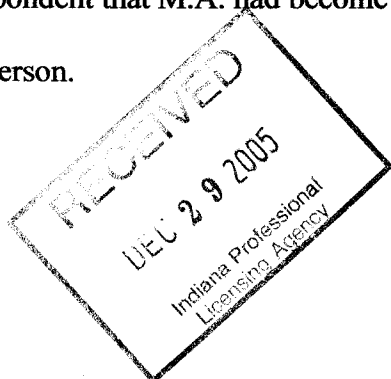
HEALTH PROFESSIONS
BUREAU

RESPONDENT'S ANSWER TO AMENDED COMPLAINT

Comes now Susan E. Spencer, Ed.D., by and through her attorney, Douglas R. Long, and in answer to the State's Amended Complaint would respond as follows:

Facts

1. The Respondent's correct address is: 1998 Eastwood Court, Anderson, Indiana 46017. She is a psychologist holding Indiana License #20040523.
2. The Respondent admits that she conducted a forensic interview with non-custodial parent Stephen Anderson and his minor child, M.A., on or about October 26, 2001. The Respondent further admits that Mr. Anderson was seeking custody of M.A. in the Madison County Superior Court, Division III and had come at the recommendation of his lawyer.
3. The Respondent interviewed Stephen Anderson, his sister, Susan Clark, and M.A., for approximately one (1) hour. Stephen Anderson was interviewed individually for one-half (1/2) hour. M.A. was interviewed individually for one-half (1/2) hour. They reported to the Respondent that M.A. had become unhappy living with his mother and wanted to live with Mr. Anderson.



4. At the request of Mr. Anderson's lawyer, Respondent submitted to Mr. Anderson's lawyer a report of psychological consultation dated October 26, 2001, recommending that the court, "look at the situation and make whatever changes are possible to alleviate the stress the child was experiencing." To the extent that paragraph #4 suggests that the Respondent submitted the report unsolicited to the Court, the State is in error.

5. Respondent admits that she reported that there had been a significant, negative change in the custodial mother's home which affected M.A. socially, academically, and emotionally. This report was submitted to the court by Attorney McNabney in open court at the December 17, 2001 hearing.

6. Respondent admits that she was called upon to testify in a custody hearing on December 17, 2001 and that on November 15, 2001 all parties were ordered to participate in a complete modification evaluation with the Respondent.

7. Respondent denies that she had a prior professional relationship with Stephen Anderson or M.A. The entire extent of her contact with Stephen Anderson and M.A. were made known to the court and the parties. A prior professional relationship suggests a therapeutic relationship which did not exist here. The Respondent's role was entirely forensic for the sole purpose of making a recommendation to the court.

8. The Respondent admits that she proceeded to conduct a complete evaluation of all parties at the request/or by order of the court and submitted a final report to the court recommending physical custody be awarded to the father, Mr. Anderson.

9. The Respondent admits that on or about July 23, 2001, the Madison County Superior Court issued an Order calling for a psychological evaluation of the minor child, N.S. by Dr. Thomas Murray. Respondent admits that the Madison Superior Court issued an order calling for the psychological evaluation of the parties by Dr. Thomas Murray for the purposes of determining child visitation and problems between the parents. The Order was not specifically for the evaluation of the child. A copy of the Order is attached hereto and labeled, "Exhibit A." Respondent did testify at that hearing.

10. Respondent admits that she testified at the July 23 hearing regarding the records of N.S. Respondent admits that she testified that Brian Sell should not have access to his daughter's records. The Respondent denies that she testified as to Mr. Sell's personality and characteristics. She admits that she never met Mr. Sell or evaluated him in a professional context. Specifically, what Respondent testified to at the hearing was that letters from Mr. Sell gave her great concern. She said that they are indicative of a person with some intensity for control and manipulation or intimidation. She states ".....they are not of a tone that says I want to come in and be involved in my child's therapy. I want to cooperate with my child's mother in therapy. It is: I want information to be used for my own purposes and to me that is a very pathological attitude for the parent of a little girl to take." A copy of the transcript containing those statements is attached hereto and labeled, "Exhibit B." (Transcript, pages 16, 17, and 18). Respondent admits that she stated that she believed Mr. Sell's knowledge of N.S.'s records could be detrimental to N.S. Respondent admits that she met with N.S. only on two (2) occasions. Respondent admits that N.S. was not a therapeutic client of the Respondent's. Respondent

would point out that The Honorable Judge Van Dorn ordered that Mr. Sell refrain from further inquiries to Dr. Spencer about the situation with his daughter and the fact that the doctor had seen his daughter twice. See attached, "Exhibit C," transcript pages 44-45. The Judge determined he would look at the material and make a decision as to whether or not either side needed to make an inquiry. See attached "Exhibit C," transcript page 45. Judge Van Dorn specifically said, "I know it's important to Dr. Spencer that this be done in a way that protects the rights of the child." See attached, "Exhibit D," transcript pages 46-47. The judge then implicitly granted a Protective Order and directed that the records be provided to him for *in camera* review and ultimate determination as to what portions of the record should be disclosed. Respondent did not resist the judge's Order.

11. Respondent admits that Mrs. Phelps was originally sent to the Respondent by her attorney for consultation regarding her concerns of possible sexual abuse by Brian Sell against N.S. Respondent admits that Mrs. Phelps presented seven (7) pages of drawings her daughter, N.S., had drawn. Respondent admits several of the drawings allegedly depicted penises on people, but also on pigs and dogs. Respondent admits she consulted with Mrs. Phelps and sent a follow-up letter to the attorney. Respondent admits that she did not notify law enforcement or child protective services because there was no indication that the child had been abused.

12. Respondent admits that after learning of his daughter's visit to her office, Brian Sell, N.S.'s non-custodial parent, requested N.S.'s records from the Respondent. The Respondent denies that she refused to send the record. She ignored his request. Respondent contacted Ms.

Phelps, who directed the Respondent not to send the records. Specifically, Mr. Phelps said, "Please do not send the records. He will do her emotional harm."

13. Respondent admits that Mr. Sell repeatedly attempted to contact the Respondent in his efforts to get copies of the record. Respondent admits that she ignored Brian Sell's messages and letters and so testified at the hearing on July 23, 2001. Respondent's lack of response is based upon the above request of the custodial parent and Respondent's knowledge that a Protective Order had been requested by the mother's attorney on May 31, 2001.

14. Respondent is not quite sure what the Petitioner means in its allegation that several motions were made in the Madison County Court between Linda Phelps and Brian Sell. The docket sheet was, in 2001, eighteen (18) pages long and clearly reflects a great deal of activity. Mother apparently filed a Petition to Modify on April 17, 2001, and a Petition for Psychological Evaluation on May 8, 2001. The father filed a Petition to Modify and Affidavit for Citation on April 26, 2001. The father filed an objection to the Petition for Psychological Evaluation on May 15, 2001. The father filed an Amended Petition to Modify on May 21, 2001. The mother filed a Motion for Protective Order on May 31, 2001 and a Motion to Compel on June 11, 2001. Father filed an objection to the Protective Order and Notice of Compliance on June 27, 2001. Mother filed a Request for Altering Tax Exemption and Affidavit for Citation for Contempt of July 3, 2001. Respondent admits that mother sought to bar the father from getting the records. Respondent admits that the father sought to get the records. Once again, Respondent would point out that Judge Van Dorn granted the mother's request for a Protective Order and reviewed the documents *in camera* as set forth in the attached copies of the transcript.

15. Respondent denies refusing to give the records to Brian Sell, but admits that she ignored his request. Respondent admits that Brian Sell filed complaints against the Respondent with the American Psychological Association and the Attorney General's Office.

16. Respondent admits that she sent a letter to Mr. Sell regarding N.S.'s records and Mr. Sell's complaints to the Attorney General's Office and the A.P.A. stating the two (2) paragraphs contained in rhetorical paragraph #16. However, to be complete, it is important to note that the Respondent never contemplated payment. Brian Sell never offered payment. The Respondent personally delivered the records to Dr. Thomas Murray, the Court-ordered evaluator on the same day she sent this letter to Brian Sell. The records were never withheld awaiting payment to the Respondent. The letter was written to convey to Mr. Sell the Respondent's frustration in dealing with his repeated demands. She took no action to collect the \$350.00 mentioned in the letter. She did not turn it in to a collection agency, hire a lawyer, or file a small claim to pursue payment. This was never a serious demand for money and the Respondent never considered it to be a serious demand and, judging by the fact that Brian Sell never offered payment, the Respondent would respectfully submit that he did not take the demand seriously, either.

17. Respondent admits that the A.P.A. found her in violation of 7.02 (a), 7.02 (b), 7.02 (c), and Standard 1.25 (b) of the 1992 Ethics Code. However, the letter that the Respondent received was dated November 27, 2002 and she is without knowledge as to any letters Brian Sell may have received. Respondent respectfully submits that the conclusions by the American Psychological Association were in error.

18. Respondent denies that she withheld the records of N.S. as requested by Brian Sell, but admits that she ignored his request for the reasons as set forth above. Respondent also admits that she admitted sending Brian Sell the letter referred to in paragraph #16, erroneously referred to as item #15 in Petitioner's Complaint, but denies that it was a bona fide bill for reasons set forth above. The letter was sent for informational purposes only, but was never seriously considered to be a bill. Once again, Respondent underscores that Brian Sell never tendered payment and that the records were immediately delivered to Psychologist Tom Murray as set forth above.

Count I

19. The Respondent's response to Averments 1 – 18 is repeated and incorporated herein by reference.

20. Respondent denies any violation of Indiana Code 25-1-9-4 (a)(3) and 868 I.A.C. 1.1-11-4.1 (e). There was no potentially harmful relationship. The evaluation was done at the Court's order and with full knowledge of the October 26, 2001 preliminary Evaluation. There was no therapeutic relationship. All services were forensic. The record bears no objection from Karen Anderson's counsel, Marianne Woolbert. To the extent that the State suggests that the October 26, 2001 evaluation was clandestine or otherwise withheld from Karen Anderson or the Court, the State is in error. Everyone was aware of the October 26, 2001 forensic interview. At any rate, Respondent denies any violation, but respectfully submits that she doesn't understand what specific actions the Petitioner is referring to in this paragraph.

21. Respondent denies any violation of any code, professional standard, or administrative rule or regulation regulating the profession.

Count II

22. The Respondent's response to four (4) averments 1 through 21 is repeated and incorporated herein by reference.

23. Respondent denies that her conduct constitutes a violation of Indiana Code 25-1-9-4 (a)(3), as well as any other state statute rule or federal statute or regulation regarding the profession, to-wit: 868 I.A.C. 1.1-7-5 (d), failure to act within generally accepted principles and guidelines of the profession and maintaining awareness of personal and professional limitations, failure to specifically follow the American Psychological Association Guidelines. First, it is difficult to tell exactly what the State is complaining of here. The American Psychological Association Guidelines are related to writing. The Respondent believes that the State may be referring to the Ethical Principles of Psychologists and Code of Conduct. However, the State does not direct the Respondent's attention to any particular guidelines. Respondent assumes the State may be complaining about 3.05 Multiple Relationships and for 3.06 Conflict of Interest. At any rate, Respondent denies any violation of either of those ethical provisions or any other ethical provision. There was no multiple relationship. The Respondent's sole role was to provide a custody evaluation herein. That she did objectively, competently, and effectively. To the extent that the State of Indiana opines otherwise, they are in error. Further, Respondent would point out that the A.P.A. Ethical Principles are just guidelines.

They are not the law. Finally, Respondent respectfully submits that in spite of the A.P.A. determination of November 27, 2002, she respectfully submits that she did not violate any A.P.A. Guidelines.

24. Respondent denies that she has failed to comply with the above-referenced standards and respectfully submits that there is no cause for disciplinary sanction as set forth in paragraph #24.

Count III

25. Respondent's response to Averments 1 – 24 is repeated and incorporated herein by reference.

26. Respondent denies that her conduct constitutes a violation of I.C. 16-39-2-9 in that she ignored Brian Sell's request for his daughter's records. She admits that she ignored Brian Sell's request for his daughter's records. However, a Protective Order was requested and ultimately issued by Judge Van Dorn concerning those records as set forth above in the hearing of July 23, 2001. I.C. 16-39-2-9 (b) limits the non-custodial parent's access to a child's mental health records where there is a court order. Respondent respectfully submits that she took the prudent course of action when a request for a Protective Order had been made that she ignored Mr. Sell's request, awaiting direction from the trial judge. This seems consistent with the legislative intent of 16-39-2-9 (b). If a mental health provider were compelled to turn over a child's records when there was a pending request for a Protective Order prior to the issuance of the Order, the custodial parent would not have a reasonable opportunity to block the non-

custodial parent's access. The prudent course of action would be to wait for direction from the Court, which is exactly what the Respondent did.

27. Respondent denies that she failed to comply with I.C. 16-39-2-9 and denies that there is cause for disciplinary sanctions as set forth in Petitioner's rhetorical paragraph #27.

Count IV

28. Respondent repeats and incorporates by reference her previous responses to Averment 1 through 27.

29. Respondent denies that she violated 868 I.A.C. 1.1-11-5(b). She did not make an assessment of Brian Sell. As set forth in the foregoing paragraph to Respondent's response and, most specifically, pages 16 through 18 of the transcript attached hereto as "Exhibit B," the Respondent testified that the letters were "indicative of a person with some intensity for control and manipulation or intimidation. They are not of a tone that says I want to come in and be involved in my child's therapy or I want to cooperate with my child's mother and therapy. It is I want information to be used for my own purposes and to me that's a very pathological attitude for a parent of a child to take." It is important to put this dialogue in the proper perspective. The hearing was over Mrs. Phelps' request that her ex-husband not have access to her child's records. No one had ordered Brian Sell to be evaluated and he did not offer himself for evaluation. The hearing was to determine whether or not there was justification for not providing the records to Brian Sell. From the context of the hearing, it is clear that the Respondent's comments were solely limited to the context of the father's repeated requests for his child's records and the Respondent's resistance thereto as a result of the request of the mother.

Regardless, A.P.A. Guidelines 2.01 (b) does not require a personal interview of the individual, but only requires a personal interview of the individual where appropriate. Dr. Spencer was making a judgment based upon the limited information that she had in front of her. She was acting in what she felt was the best interest of the child. She was also acting at the direction of Linda Phelps who had brought the child in to see her. The Respondent had to choose between displeasing the custodial parent by providing the records or displeasing the non-custodial parent by ignoring his requests. She took the more prudent course of action and determined that she would let the Court decide the matter after a hearing where both parties had the opportunity to present relevant evidence on the issue. As set forth above, Judge Van Dorn agreed to review the records *in camera* for a determination as to what an appropriate disclosure might be, vindicating the Respondent's position. If the Respondent had turned over the records without waiting for the court to make its decision, she would have been put in the untenable position of having gone against the wishes of the custodial parent, who had brought the child to see her in the first place. The Respondent respectfully submits that waiting for the court to rule under these circumstances is a perfectly appropriate course of action. Brian Sell was not harmed in the few months' delay between his request and when he ultimately received the records.

30. Respondent denies that her failure to comply with the above-referenced standards called for disciplinary sanctions of any sort. She denies that she has violated 25-1-9-9 and 25-23-1-7 or any other applicable statute or administrative rule, federal or state, or ethical guidelines.

Count V

31. Respondent repeats her response to averments 1 through 30 and incorporates the same by reference herein. Respondent denies any wrongdoing.

32. Respondent denies that her conduct in writing the letter of September 6, 2001 to Brian Sell constitutes a violation of I.C. 16-39-9. The letter was never a serious bill. Payment was never tendered nor expected. The records were delivered immediately to Dr. Murray.

33. Respondent denies that she failed to comply with the above-referenced standards. She denies any conduct which would subject her to any disciplinary sanction whatsoever.

Count VI

34. Respondent repeats her response to averments 1 through 33 and incorporates them by reference herein.

35. Respondent respectfully submits that her conduct did not constitute a violation of A.P.A. ethics, 1992 Section 511 in that she withheld records for payment. The records were never withheld for payment. They were delivered the same day the September 6, 2001 letter was sent to Brian Sell. Specifically, A.P.A. Ethics (1992) Section 11 states as follows;

“Psychologists may not withhold records in their control that are requested and imminently needed for a patient or client’s treatment solely because payment has not been received, except as otherwise provided by law.” The records were not withheld for payment and, further, the records were not “imminently needed for a patient or client’s treatment” as set forth above; the records were delivered the same day the letter was sent. Further, Respondent would point out that the American Psychological Association specifically found no violation of Standard 5.10 of

the 1992 Ethics Code, found only in violations of 7.02 (a), 7.02 (b), 7.02 (c), and Standard 1.25 (b).

36. Respondent denies that she failed to comply with any standards, laws, statutes, or administrative rules which would subject her to disciplinary sanctions.

Count VII

37. The Respondent resubmits her response to averments 1 through 36 and incorporates them herein by reference.

38. Respondent denies that she violated 868 I.A.C. 1.1-11-5 (a). She did not evaluate N.S.

39. Respondent denies that she has engaged in any conduct which would subject her to disciplinary sanctions for violating any federal or state statute or administrative rule or professional guidelines.

Count VII

40. The Respondent resubmits her response to averments 1 through 40 and incorporates them herein by reference.

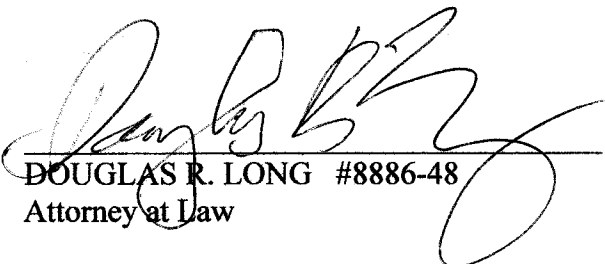
41. Respondent denies that she has failed to keep abreast of current professional theory and practice in violation of I.C. 25-1-9(a)(4)(B).

42. Respondent denies that she has failed to comply with any standards which would subject her to disciplinary sanctions as set forth in rhetorical paragraph #42.

WHEREFORE, the Respondent respectfully requests an Order against the Petitioner that the above disciplinary action be dismissed, that costs be assessed against the State, that any findings be

entered for the Respondent and against the Petitioner and for all other relief necessary and proper in the premises.

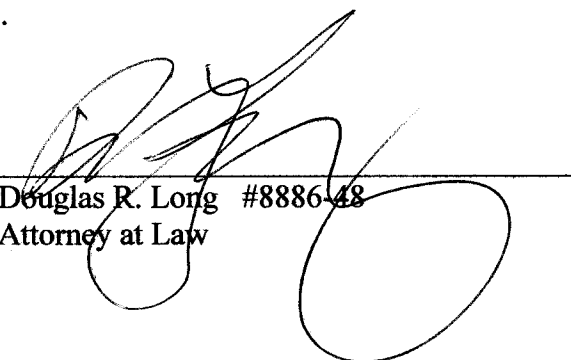
Respectfully submitted,



DOUGLAS R. LONG #8886-48
Attorney at Law

Certificate of Service

I hereby certify that a copy of the foregoing has been furnished to Steven Douglas, Deputy Attorney General, by placing a copy of the same in the U.S. Mail at the address of: Office of the Attorney General, Indiana Government Center South, 402 West Washington Street, 5th Floor, Indianapolis, IN 46204 on this 28 day of December, 2005.



Douglas R. Long #8886-48
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PREPARED BY:

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STATE OF INDIANA)
)
COUNTY OF MADISON)

IN THE MADISON COUNTY SUPERIOR
COURT, DIVISION III

2001 TERM

LINDA PHELPS
Petitioner,

CAUSE NO. 48DO3-9606-DR-00371

vs.

BRIAN SELL
Respondent.

ORDER OF JULY 23, 2001

THIS MATTER having come before the Court on a Motion for Protective Order and Request for Psychologist and the Court being duly advised in the premises now finds as follows:

1. That the parties shall schedule appointments with Dr. Thomas Murray for a psychological evaluation for purposes of determining further visitation with the child, problems between the parties as it relates to their minor children and said evaluation shall be filed with the Court herein and counsel of record shall receive copies as well.
2. That the parties insurance should cover the costs of said psychological evaluations, however, if it should not then the parties are ordered to equally share in said expense.
3. That the Respondent, Brian, Sell, shall not contact any medical providers of the minor child herein during the pendency of this litigation.
4. That the Respondent, Brian Sell, is ordered to refrain from contacting Dr.

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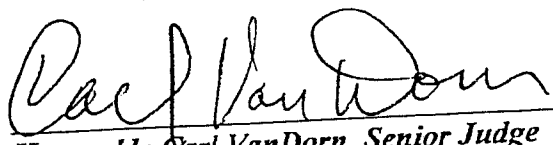
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Susan Spencer any further concerning the minor child of the parties.

ALL OF WHICH IS ORDERED THIS 23RD DAY OF JULY, 2001.

7-30-01


Honorable Carl VanDorn, Senior Judge
Madison County Superior Court, Div. III

Distribution:

- 1 - RJO
- 1 - Court File
- 1 - Marianne Woolbert
- 1 - Jane Cotton

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1 he um, is at some point citing the ah, what he says are
2 appropriate um, Indiana Statutes that entitle him to
3 these records and would I please send them to him. Um,
4 the last letter that I received for him on June Eighth
5 (8th), he attempted to give some explanations as to why
6 certain, certain content might be included in my
7 reference as to why the child might have given me this
8 information. He was attempting to explain that.

9 Q. Did those letters cause you any concern?

10 A. Yes, these letters caused me great concern.

11 Q. And why is that?

12 A. They're indicative of a person with some intense need
13 for control or um, manipulation or intimidation. Um,
14 they are not of a tone that says ah, I want to come in
15 and be involved in my child's therapy or I want to
16 cooperate with my child's Mother in the therapy. It
17 is, I want information to be used for my own purposes.
18 And to me that's a very pathological attitude for a
19 parent of a little girl to take.

20 Q. Now after having read those letters, did that change
21 your opinion in any shape or form whether or not Mr.
22 Sell should have access to those records?

23 A. It confirms my opinion that he should not have access
24 to the records because if he can be this demanding with
25 an adult um, I fear how demanding and intimidating and

1 controlling he might be with a Six (6) year old and
2 what he might do to cause emotional harm to this child,
3 should he have in his hands the information the child
4 gave to me. Over the years I've seen parents do great
5 damage to children by interrogating them themselves
6 rather than turning over to a professional. Um, one of
7 the things in Mr. Sell's last letter um, was that um,
8 the last sentence was that projective assessment
9 techniques should be banned. I think the American
10 Psychological Association might take issue with that
11 because that would erase about a Hundred and Fifty
12 (150) years of psychological research going all the way
13 back to Sigmond Froid and Herman Rorshaw. So, I think
14 again, this is a zealot approach um, an extreme
15 approach and um, I decided I would not um, comply with
16 his demands.

17 Q. And subsequently, was that when he turned you in to
18 your professional licensing committee and the Attorney
19 General?

20 A. The ah, letter from the Attorney General's office came
21 to me on May, was written on May Twenty Second (22nd).
22 The American Psychological Association information I
23 received on June Twenty Fifth (25th).

24 Q. Now at this point in time, as you sit here today, do
25 you feel that it would be in the child's best interest

1 to have Mr. Sell have access to her records?

2 A. No, I do not.

3 Q. Is there anything that I have failed to ask you that
4 you feel the Court needs to have to access this matter?

5 A. Um, yes a couple of things if I can speak. Right off
6 hand um, I think there are so few psychologists who are
7 competent and willing to work with children in
8 difficult situations um, and then for a parent to
9 interfere with the work that is trying to be done with
10 the child um, puts the child at a disadvantage. Um,
11 that kind of interference from a parent makes a
12 professional very wary and reluctant to work with that
13 family. Um, I can see why people would refuse to
14 provide further services if they were going to have
15 that kind of interference and demands for clinical
16 notes and clinical records. Um, we are licensed and
17 considered professionals and we are entrusted with the
18 care of the public to come to us for services and ah,
19 people who behave in this manner ah, do detriment to
20 our profession and to other people receiving services.
21 MARIANNE WOOLBERT - ATTORNEY FOR PETITIONER: That's all
22 we have Judge.

23 JUDGE VANDORN: Cross.

24 CROSS EXAMINATION - SUSAN SPENCER - PETITIONER'S

25 WITNESS:

1 know. I don't know what reason they're going to give.
2 You know. And that's what I hope that I hoped that you
3 would find out when you went out in the hall so you
4 would know. You know. I don't need to know today
5 because they're not talking about visitation. Ah, turn
6 it off. The Three (3) of us go out in the hall.

7 COURT RECONVENES AFTER RECESS:

8 **JUDGE VANDORN:** Ah, folks, after talking to the
9 attorneys ah, I think that we have an agreement on how
10 we should proceed for today. If ah, my recitation of
11 it ah, bothers your memory, either attorney, please
12 start talking right away. Ah, number one (1), I'm
13 going to order a psychological evaluation of both of
14 the parties here. Ah, and ah, the attorneys and myself
15 are hopeful that ah, a lot of the costs of doing that
16 would be covered by insurance that you have. If not,
17 it was my idea to rule that ah, the extra costs not
18 covered by insurance be divided equally between the Two
19 (2) parties. Um, we will issue a ah, an order against
20 Mr. Sell ah, from making inquiries to this doctor about
21 the situation with his daughter and the fact that the
22 doctor has seen her twice. Um, and ah, that, that
23 doesn't necessarily keep Mrs. Cotton from making legal
24 inquiries, but beyond that ah, you have notes etcetera
25 from the two (2) conferences that you had with the girl

1 and I've indicated in another case you were willing to
2 let me look at it and make the decision on whether
3 these people ah, well either side needed to ah, make
4 inquiry. Is that a good word from what we've said,
5 make inquiry? Yeah, okay. Um, are you willing to do
6 it that way doctor?

7 A. Yes sir.

8 JUDGE VANDORN: Okay. Anything else that, you've said
9 that you've got the rest of this set? Okay. Um, is
10 there anything else we need.

11 JANE COTTON - ATTORNEY FOR RESPONDENT: So you're going
12 to review that and you're going to decide whether it's
13 discoverable for me?

14 JUDGE VANDORN: Right.

15 JANE COTTON - ATTORNEY FOR RESPONDENT: Okay. And if
16 there's further treatment evaluation, whatever, are you
17 going to review that as well? By Dr. Spencer?

18 JUDGE VANDORN: Well, do you know for sure there's going
19 to be?

20 A. No I do not.

21 JUDGE VANDORN: Okay. You don't, you just don't know?

22 A. I don't anticipate seeing....

23 JUDGE VANDORN: They might come back, they might not, is
24 the way it is with you now?

25 A. Right. Yes.

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1
2 JUDGE VANDORN: Right. That's what I thought you had
3 said. Ah, well we could do it that way. I don't think
4 that we need to cover everything that might come up.
5 But, you know, I think I'd be willing to do it that way
6 if ah, if it's alright with you folks. Ah....

7 JANE COTTON - ATTORNEY FOR RESPONDENT: I'd rather just
8 have the record, but if that's what you're offering us
9 then that's what we'll take.

10 JUDGE VANDORN: Okay. Okay. Because as I explained to
11 the attorneys in the hall. As far as the clients are
12 concerned, I don't know what your allegations are going
13 to be about visitation. I take it that you're asking
14 that something be done about visitation, you want to
15 restrict it or lessen it from what it is now. And
16 people come into court and do that from time to time.
17 So obviously people have the right to do that. The
18 other side of the coin is, the person that you're
19 trying to restrict or lessen visitation, has the right
20 to defend. Has a right to know why and think of
21 defenses, think of theories of defense along with their
22 attorney. And it just appeared to me from listening to
23 this that ah, that we might not have anything here that
24 fits into that category. You know. And it's ah, I know
25 that it's important to Dr. Spencer, from other cases,
that ah, this be done in a way that protects the right

1 of the child.

2 A. Absolutely. Yes.

3 **JUDGE VANDORN:** Yes. And I'm going to try to do that
4 without harming your right of defense, because I'm
5 assuming that as I do in all cases, that the part that
6 does not have custody and has visitation wants to
7 continue visits and we take it that way. And I'm not
8 trying to cut anybody's right to present their case.
9 I'm just trying to get us through this hearing today
10 and with some protection for everybody's rights. Okay.
11 Thank you. Who wants to get me an order?

12 **MARIANNE WOOLBERT - ATTORNEY FOR PETITIONER:** May we
13 just have one thing?

14 **JUDGE VANDORN:** Yes.

15 **MARIANNE WOOLBERT - ATTORNEY FOR PETITIONER:** Um, if we
16 could also.... And maybe you said this and I was
17 speaking with my client briefly. I just want to check,
18 that he is not Dr. Spencer directly and I think, if I
19 understood right, there was the agreement that any
20 contact with any providers in general would be made
21 through Jane?

22 **JANE COTTON - ATTORNEY FOR RESPONDENT:** During this
23 litigation, that's fine. But....

24 **JUDGE VANDORN:** And that's all I'm talking about.

25 **JANE COTTON - ATTORNEY FOR RESPONDENT:** Okay. As long