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1	REPORTER'S RECORD												
2	TRIAL COURT CAUSE NO. 9284												
3	IN THE MATTER OF												
4	X v												
5	AVIAN ANN BIEDERMANN X												
6	KENNETH KYLE BIEDERMANN X 216TH JUDICIAL DISTRICT												
	X v												
7	AND IN THE INTEREST OF X												
8	LEMILV TATHE PERPERE												
	LOKEN NOEL BIEDERMANN												
9	AND DANA TRUE BIEDERMANN V												
10	MINOR CHILDREN X GILLESPIE COUNTY, TEXAS												
10	TEXAS												
11	* * * * * * * * * * * * * * * *												
12	TELEPHONIC CONFERENCE												
13	* * * * * * * * * * * * * * * * * * * *												
14	On Wednesday the same												
15	On Wednesday, the 22nd day of August,												
16	2001, from 1:33 o'clock p.m. to 1:50 o'clock p.m.,												
	the following proceedings came on to be heard in the												
17	above-entitled and numbered cause; before the												
18	Honorable Charles Sherrill, Senior Judge Presiding,												
19	held in Kerrville, Kerr County, Texas:												
20	SEP 14 2001												
21	BARBARA MEYER												
22	GILLESPIE COUNTY, TEXAS												
23	Proceedings reported by Departs												
24	Proceedings reported by computerized stenotype machine, valid if it bears my raised seal.												
	Cindy E. Snider												
25	CSR No. 2739												

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1	APPEARANCES
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16	* * * * * *
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1 (By telephone conference call:) 2 THE COURT: All right, Madam Reporter, if you would reflect this is the 22nd day of August, 3 2001. We are in the 216th Judicial District Court of Kerr County, but I believe this is a Gillespie County 5 matter, the Biedermann versus Biedermann divorce 6 matter, and this is Charles Sherrill; and, 7 Mr. Nichols, are you there? 8 9 MR. NICHOLS: Yes, I am here, Judge, along with Pamela Bergman. 10 11 THE COURT: All right, and Mr. Halm is 12 there? 13 MR. HALM: Yes, Your Honor. 14 THE COURT: I have the official court reporter of the 216th Judicial District Court, the 15 Honorable Cindy Snider, here, and let me just state 16 right up front, gentlemen and lady, that I am the one 17 that initiated this last order. I had no direction 18 or so forth, but I did - will state right up front 19 that I had a conversation with Kurt Rudkin and 20 following the time that in which I had talked to 21 22 Dr. Ferrell's report. 23 I do find and I am very concerned, and, Mr. Halm, I think your client is possibly very 24 ill, very sick, and I was well aware that he was 25

fudging and making declarations against interest and 1 against the spirit and intent, if not the actual 2 violation of the Court's orders about sleeping 3 arrangements, and that after talking with Dr. Ferrell 4 and finding out the second tape was made last 5 Wednesday night, the 15th of August, I felt I had no 6 alternative other than to protect those little girls, 7 and I did talk - I believe Mr. Nichols had called -8 which I thought would be a conference call. The only 9 conversation I had with him was that he asked me what 10 he could do and I said nothing and that concluded the 11 conversation; but over the weekend - and Kurt Rudkin 12 had already expressed concern early Friday afternoon 13 and so forth about the visitation that weekend, and I 14 let it - let it go ahead and proceed. 15 16 But as I see, we have a situation where a father is creating havoc with little girls. 17 I have not heard this case in full. I have not tried 18 it, so I am not making final orders. I'm only saying 19 that this is what the Court perceives and I feel it's 20 21

my duty, obligation and responsibility to do this, what I have done.

One, I find that the father is creating a situation where those girls, when they're teenagers, they're going to be something hard to

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handle sexually, and I find also that in the event 1 this manner of conduct continues, that when they're up age to be married, there will be all kinds of 3 4 reactions. They will be hiding out things from people and so forth. They are being taught to 5 connive against responsible people, against possibly 6 their mother, their spouse and even, probably later, 7 their father. In other words, I do deem and find that this is mental abuse. 9

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Now, gentlemen, this was my own action and I'm not saying that I'm going to relax any one or more of those situations that I have instilled there in the temporary orders. These are temporary only. I have not heard the case. We will have a full hearing on the situation, but now, counsel, you may ask questions.

MR. HALM: Your Honor, this conference call was to respectfully request that you rescind your order and Mr. Biedermann the visitation that was missed on Tuesday night. The grounds for that are this order arose out of ex parte communication.

THE COURT: I respectfully deny your request and respectfully deny that it arose out of ex parte communication. I am doing this as a result of conference with the expert, Dr. Ferrell, and my own

personal knowledge of the things that had happened and, sir, the thing is that I am doing this in protection of the children. You may say it was ex parte, but when a child is in danger, the Court has the official power, authority and may act, and I have acted.

MR. HALM: Your Honor.

THE COURT: Yes, sir.

MR. HALM: For the record and for your evidentiary conclusion, Mr. Biedermann has had no sleeping arrangements at all with the children for the past month.

THE COURT: Let me say this ---

MR. HALM: The information that you received from Jack Ferrell was stale. He did not give me a chance to update him. He has refused to cooperate with Mr. Biedermann, to hear any statements from him. I think that your information, while ---

THE COURT: Sir, just one minute. The thing is I am not concerned whether -- you know good and well that it happened during the Florida trip. He made admissions to the Attorney Ad Litem, sir. I am not concerned whether it happened last night, the night before or so forth, but I am primary concerned about the mental abuse, and I will not rescind my

order, because I am trying to protect those girls and you best -- Mr. Halm, I'm suggesting to you that you better talk to your client and get some matters straight.

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I have not heard this case, but I am saying this: Until you can come, we can have a full hearing and you can convince me of this, I say that the information appears - appears that it has been done that way.

Now, you accept your client's word. I don't accept your client's word at this point. willing to listen to him in court, but I think his credibility has been demolished, but I am willing to give him a full, fair hearing, but the thing is, he has made admission as to Kurt Rudkin and he has made admission as to Dr. Ferrell about the sleeping, and whether it happened a month before or not, I'm not concerned. It violated the Court's order, so he is substantially in contempt of Court, but I am willing to listen and see what we can do to work out, to modify these arrangements, but I feel like these girls are going to have to have a lot of high-priced psychological, and from a psychiatrist, treatment, too.

Mr. Halm, you may make your point.

1	MR. HALM: Your Honor, I respectfully
2	request that you set an evidentiary hearing on this
3	matter immediately.
4	THE COURT: All right. We will have
5	Becky see what date she can work.
6	MR. HALM: I am available every day.
7	THE COURT: Just a minute, we'll get
8	Becky.
9	MR. HALM: Fifth, sixth, tenth and
10	eleventh.
11	(Brief delay.)
12	THE COURT: Becky is coming.
13	MR. NICHOLS: Judge, what I would
14	recommend and request is that if Mr. Biedermann has
15	anything he feels are in his behalf to rebut some of
16	the claimed inaccuracies in Dr. Ferrell's report -
17	excuse me, Dr. Ferrell's report, that he produce
18	those people for Dr. Ferrell to talk to, examine or
19	otherwise confer with so that Mr. Biedermann's
20	position is entirely clear to Dr. Ferrell from
21	Mr. Biedermann's viewpoint.
22	MR. HALM: Mr. Nichols, we attempted
23	to do that on Tuesday. We received this order on
24	Monday saying we were not to have any contact with
25	Dr. Ferrell

1 Sir, I don't think THE COURT: that ---2 3 MR. HALM: --- and we cancelled that 4 appointment. 5 Sir, I don't think there THE COURT: was any statement in there that said you could not 6 contact Dr. Ferrell. If it is, it's a mistake, but 7 Becky is here. We'll get you the hearing. 8 9 MS. BERGMAN: I think I can clear that 10 up for you. Under No. 4 of the Judge's order it states "The father shall not contact and/or attempt 11 to contact in any manner, the mother, except -12 except, number one, by or through his attorney; 13 number two, the Attorney Ad Litem in this cause; 14 number three, Dr. Jack Ferrell or such party that 15 said Dr. Ferrell shall designate in writing." 16 17 Now, that's what it says. It does not say anything about the father shall not contact 18 Dr. Ferrell. It says he shall not contact the mother 19 unless it's by and through Dr. Ferrell or another 20 party that Dr. Ferrell designates in writing. 21 22 think you misread that, Mr. Halm. 23 MR. HALM: It's very possible I did. I was trying very hard to be in compliance under this 24 expected order, and, certainly, Your Honor, we will 25

respect this order, but we ask it be set immediately 1 for trial. If you direct that we get his witnesses 2 down there, we will do that immediately. 3 4 THE COURT: I'll tell you what, I'm willing to start even on a Saturday, whatever. 5 6 MR. HALM: That would be - that would be fine, Your Honor. I would love to do anything to 7 get this thing resolved. I think we are experiencing 8 a travesty of justice here because of misinformation 9 and we have never had a chance to let anyone know 10 about our position. Dr. Ferrell, in his 11 12 interpretation, in his communication with the kids has consistently asked about sexual abuse matters, 13 14 has never inquired ---15 THE COURT: I am not saying direct sexual abuse matters, Mr. Halm. I'm not making that 16 allegation. Please understand, I'm talking about 17 mental abuse; but Ms. Henderson is here. I'll let 18 you set the matter, whatever time you can agree. 19 I'm willing to meet you nights, days, mornings, from 6:00 20 a.m. until midnight, on Saturdays or whatever. 21 22 MR. HALM: Thank you, Your Honor. 23 MS. HENDERSON: Okay. 24 MR. NICHOLS: Your Honor, I think, 25 obviously ---

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1	THE COURT: Just a minute.
2	MR. NICHOLS: Dr. Ferrell, since
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5	1703
6	AND I
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8	THE COURT: All right, I'm letting
9	Ms. Henderson set the date. Thank you.
10	MS. HENDERSON: Okay. The Judge has
11	left the room. Here's the dates: We can start
12	tomorrow. He has are we going to need one or two
13	days?
14	
	MR. NICHOLS: I expect we're going to
15	take at least two days to have Mr. Halm be able to
16	produce his witnesses, and I would like to
17	ascertain if you will continue the conversation, I
18	will go to another phone and try to ascertain from
19	Dr. Ferrell when he would be available to carve out
20	that kind of time, and knowing that Judge would be
21	available on a Saturday, I'll even ask him to take
22	that into consideration.
23	(Judge Sherrill again present:)
24	MS. HENDERSON: Okay. Why don't I
25	give you the dates that we've got here.
	- we we got here.

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1	MR. NICHOLS: Yes, ma'am, thank you.
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3	tomorrow and Friday and Saturday, if we need it.
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8	MR. HALM: I have conflicts.
9	THE COURT: You have conflicts with
10	all those?
11	MS. BERGMAN: Is the conflict a
12	preferentially set trial?
13	MR. HALM: Yes, it is, before Judge
14	Sherrill.
15	MS. HENDERSON: On which days?
16	MR. HALM: September 11th.
17	
18	MS. HENDERSON: You have a preferential set on September 11 with Judge
19	Sherrill?
20	
21	MR. HALM: Well, we're subject to jury.
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23	MS. HENDERSON: Okay, that's not with
	Judge Sherrill. Which case is that?
24	MR. HALM: That's Mahan versus City of
25	Fredericksburg.

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2	Ables.
3	MR. HALM: That's Ables?
4	MS. HENDERSON: Yeah.
5	MR. HALM: Okay, thank you, Becky.
6	MS. HENDERSON: Yeah, that's Judge
7	Ables and I have two jury trials ahead of you, so we
8	could set it subject to that, and then after that I
9	have the 19th and 20th of September.
10	THE COURT: Or any Saturday.
11	MS. HENDERSON: And any
12	MR. NICHOLS: Ms. Henderson.
13	MS. HENDERSON: Yes.
14	MR. NICHOLS: This is John Nichols,
15	and since we have these dates, what I would like to
16	do is to check with Dr. Ferrell's office and see if
17	we can mesh this together.
18	MS. HENDERSON: Okay. Now, you do
19	understand that we can do this any Saturday?
20	MR. NICHOLS: Yes, ma'am.
21	MS. HENDERSON: Judge Sherrill.
22	MS. BERGMAN: Okay, the 19th and 20th
23	of September we are clear.
24	MS. HENDERSON: Okay. I'm not sure
25	Mr. Halm will agree to wait that long.

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1	MR. HALM: No, ma'am, I will not.
2	MS. HENDERSON: Okay.
3	MR. NICHOLS: Ms. Henderson, is it
4	possible to get back to you so that we can ascertain
5	
6	the line and let me to go to another phone, and if I
7	
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9	MS. HENDERSON: That's fine. Why
10	don't you check with him to see if we can't start
11	this coming Saturday.
12	MR. NICHOLS: All right. I will do
13	that. If you will just continue to talk there or
14	hold the phone and I'll try to get him on the phone.
15	MS. BERGMAN: We have open on the
16	24th, also. That's a Friday.
17	MS. HENDERSON: Right, we can do 24th
18	and 25th.
19	MR. HALM: I'm available all those
20	dates, Ms. Henderson.
21	MS. HENDERSON: We can do tomorrow,
22	Friday and Saturday. Those three dates are good for
23	Judge Sherrill.
24	MS. BERGMAN: Okay, that way, you
25	know, if on the merits, I think that we probably
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1	would need two days and maybe even possibly three
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3	MS. HENDERSON: Okay.
4	MS. BERGMAN: Now, if it's a hearing
5	ANY SANA
6	
7	know, being very impromptu, very sudden, that would
8	be fine with us. We also have tomorrow.
9	MS. HENDERSON: Okay. Now, this would
10	be in Kerrville.
11	MR. HALM: That would be fine.
12	MS. BERGMAN: Fine.
13	MS. HENDERSON: But if Mr. Halm, do
14	you agree with that? Do you agree to those days?
15	MR. HALM: Yes, ma'am. I also would
16	respectfully request that the Judge hear my request
17	about having in camera visitation with the children
18	at that time.
19	Ms. HENDERSON: Okay. Whatever you
20	guys want to hear at that time is great, if everybody
21	will just let me know what day you want to start on.
22	MS. BERGMAN: Okay, I think
23	Mr. Nichols has gone in to call Dr. Ferrell
24	MS. HENDERSON: Okay.
25	MS. BERGMAN: to be available. I

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16
     know that I was under the impression that Mr. Halm
  1
     wanted Dr. Ferrell to see some of other people, some
  2
     witnesses or something like that, to hear statements
  3
     from those people, from some other witnesses.
  4
                                                     Am I
  5
     mistaken about that?
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                    MR. HALM: Pam, we still have time to
     do that if Ferrell will set his schedule to
  7
  8
     accommodate us.
  9
                    MS. BERGMAN: Right, like maybe
 10
     tomorrow.
 11
                    MR. HALM: Yes, ma'am.
12
                    MS. BERGMAN: Okay.
13
                    MS. HENDERSON: We're waiting on
    Mr. Nichols; correct?
14
15
                   MS. BERGMAN: Right. He has just gone
    to another phone to call Dr. Ferrell's office to see
16
    what his schedule looks like.
17
18
                   MS. HENDERSON: No problem.
19
                   (Remainder of hearing off record.)
20
21
                   (Hearing concluded at 1:50 o'clock
22
    p.m.)
23
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	17
1	STATE OF TEXAS X
2	COUNTY OF GILLESPIE X
3	I, Cindy E. Snider, Official Court Reporter in
4	and for the 216th Judicial District Court of
5	Gillespie County, State of Texas, do hereby certify
6	that the above and foregoing contains a true and
7	correct transcription of all portions of evidence and
8	other proceedings requested by counsel for the
9	
10	parties in writing to be included in this volume of
	the Reporter's Record, in the above-styled
11	and numbered cause, all of which occurred in open
12	court or in chambers and were reported by me.
13	I further certify that this Reporter's Record of
14	the proceedings truly and correctly reflects the
15	exhibits, if any, offered by the respective parties.
16	I further certify that the total cost for the
17	preparation of this Reporter's Record is \$ 25.00
18	and was paid by Mu. John Murhols, Ju
19	Witness my hand and seal on this, the
20	day of August, 2001.
21	Cariola & Sanda
22	Cindy E. Snider Official Court Reporter
23	P.O. Box 293251
24	Kerrville, Texas 78029-3251 (830) 257-5063 CSR No. 2739
25	Expires: 12/31/02
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INVOICE

Date: 8-17-01 Invoice No. 251

Paula M. Beaver Certified Shorthand Reporter P.O. Box 934 Comfort, Texas 78013 (830)537-4724 SS# 455-61-4238

Bill Gillespie County
To: Ms. Barbara Meyer, District Clerk
204 Courthouse
101 W. Main Street
Fredericksburg, Texas 78624-3700

Description

Amount

Re: Court Reporting Services 216th Judicial District Court of Gillespie County, Texas, sitting in Kendall County.

Aug. 15&16 2001: (Hon. Charles Sherrill presiding)

Cause No. 9284

Two Full Days @ \$200/day

\$400.00

THANK YOU!

TOTAL: \$400.00 BALANCE DUE: \$400.00

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At 10.430'clock A.M

AUG 23 2001

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-IFF

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