



Professional Licensing and Certification Unit
COMPLAINT FORM

NAME OF REGULATORY BOARD/PROGRAM
1-800-942-5540 (Complaint Hotline)
Please call if you are unsure to which Board/Program you should direct your complaint.

COMPLAINANT INFORMATION (PERSON REPORTING)

Name: Alexis Bierman (Roberts)

[Redacted]

LICENSEE INFORMATION (ALLEGED VIOLATOR)

Name: Richard Theis, III PhD

Address: 1210 S. Alamo St San Antonio TX 78210
Street Address City State Zip

Home Phone: N/A Work Phone: 210-414-1123

CLIENT-PATIENT INFORMATION (IF APPLICABLE)

Name: _____

Address: _____
Street Address City State Zip

Home Phone: _____ Work Phone: _____

Complainant's Relationship to Client: _____

Is the client a minor? Yes No If yes, give age: _____

SUPPORTING DOCUMENTATION

Attach documentation such as canceled checks or receipts, charts, notes, records; also, names, addresses, and phone numbers of others who may have information about the alleged violations, etc.

DETAILS OF COMPLAINT

Dates of Client-Patient/Licensee Relationship: From: June-sept 2018 and May To: July 2019

Dates of Violations:

Details of Complaint: please see attached

State of Texas County of Bexar

[Signature]
Signature of Complainant

Mail your completed packet to:

Investigations
PO Box 141369
Austin, Texas 78714-1369

DSHS Publications # F75-11360 Rev. 3/05
Professional Licensing and Certification Unit - Texas Department of State Health Services



TEXAS
Health and Human
Services

Texas Department of State Health Services

John Hellerstedt, M.D.
Commissioner

GENERAL RELEASE

I, Alexis Bierman, hereby authorize the release of any and all records and information pertaining to me for use by the Texas Department of State Health Services in a pending investigation and/or legal action.

I specifically direct that said records and information be released to any investigator of the Texas Department of State Health Services.

Signed: Alexis M

Date: 10/5/2019

DSHS Publications #75-11361 Rev. 03/05
Professional Licensing and Certification Unit - Texas Department of State Health Services

P.O. Box 149347 • Austin, Texas 78714-9347 • Phone: 888-963-7111 • TTY: 800-735-2889 • www.dshs.texas.gov

TO: Texas Department of State Health Services - Investigations

RE: Dr. Richard Theis, III

DATES OF VIOLATION: 2018, 2019

In 2018 and 2019, my ex-husband hired Dr. Richard Theis to create an evaluation that was intended for use in a custody/visitation matter involving our children. I agreed to participate in this evaluation in the hope that we could reach an unbiased resolution of the issues. I am submitting this complaint as I am concerned about the manner in which Dr. Theis performs his evaluations. I hope that I have provided specific guidance below in the references to the regulations and his conduct with regard to each of those requirements. In addition, my general concern is whether Dr. Theis performs evaluations in accord with the standard of practice by evaluating each case on its unique merits or whether he uses a recurring format to provide results favorable to the client who hired him. In short, is he an expert for hire?

I would describe my interaction with Dr. Theis in the evaluation process as follows:

- **June 2018:** 8 hours of paper and computer-based form filling out over 2 sessions, including MCMI IV, MMPI testing, *Dr. Theis was not in the office on the first visit (on vacation) - supervised by admin Nadelle Devries*
Submitted prepared statement on autobiography as well as evidence that had been prepared for our May 2018 trial (delayed with the custody evaluation request)
- **July 2018:** 2.5 hours of typing responses to allegations made by my ex-husband and his wife, *supervised by admin, no contact with Dr. Theis*
- **July 2018:** Two emails with additional allegations to *admin*
- **July 2018:** Site Visit at our home
Dr. Theis arrived late and stayed for a total of 55 minutes
5 minute walk around house, 25 minute interview with stepdad, 20 minute interview with mom, 5 minutes with child #1 in his room, 5 minutes with child #2 in her room
- **August 2018:** Children interviewed at his office, alone
My husband Mark and I brought the children and stayed in the waiting room the entire time

- **August/September 2018:** *2 Phone Calls with Dr. Theis*
 First call to see if I had any questions for him; I continually asked when we were going to discuss the questions I had submitted in my paperwork. He replied that he didn't read anything until the end and would contact me if he had any questions about my submissions (note: I was never contacted).
 Second call was to "verify" the facts in the "Labor Day pill incident" and he was not responsive to how/why the situation had occurred (extenuating circumstances), only asking me to stop explaining the history of our situation and tell him a yes or no answer.
- **September 2018:** Former council requests the complete case file from Dr. Theis' office (emails included in this complaint), Theis' office replies asking if they want "all the files" and counsel replies with "yes, all the files," which is followed by additional delays.
- **December 2018:** Motion to compel Dr. Theis to allow legal team to review the testing raw data; Judge Meary orders he must share the data, file delivery delayed.
- **Emergency Hearing December 7, 2019:** Dr. Theis was barred from testifying at the scheduled December 10, 2019 emergency trial given his delay and litigation to avoid providing the bubble testing sheets.
- **May 2019:** After the Amicus Attorney for our children testified at our final trial (after a year and a half in court maneuvers and delays), my ex-husband's attorney started the second day of trial by requesting an update to the Dr. Theis report. Court was delayed until the end of July, 2019.
Dr. Theis signed a letter saying that he was glad his recommendations had been implemented (they hadn't) and that he was happy to do an update.
- **May 2019:** 6 hours of testing + additional form filling out in his office, supervised by his admin assistant. Dr. Theis was present in the office but would not say hello when spoken to from my typing desk (there are four typing stations in his office).
- **July 2019:** *Personal Interview in his office* (the first time I'd seen the inside of his office) - Dr. Theis repeated his line of questioning from when he had spoken to me alone in our home in the summer of 2018 and after two "cross-exam-style" questions, I asked him, "are we really going to do this again?" and was asked to leave his office. (The details of this meeting are addressed further in this complaint.)

- **July 30, 2019:** *3-hour Cross Exam of Dr. Theis* who arrived to court not having brought a copy of his case file for either of our reports, not having brought billing statements, not having reviewed the reports, and not being able to provide details on the people he interviewed for the reports.
- August/September 2019: Continued requests for the case file from the second report as well as billing and contact information missing from the first file (attempts to retrieve information documented in this complaint).

●

After receiving Dr. Theis's first report in our case, I began working with "equally credentialled" Dina Trevino, PhD to review the errors in the Dr. Theis report. She advised me on what was important to focus on in court and what to consider saving for a report to the board. Based on my work with Trevino, I present the following pages to document the multiple and various violations perpetrated by Dr. Theis.

Please know that I was unable to order the cross-exam transcripts (for the questions included in the following packet) as the \$1,283 cost is prohibitive at this time. I feel the transcript would be the best documentation of these violations, however, I've included the cross-exam questions and various evidence highlights to provide context to each claim. Please note that all but two or three of the questions in the included cross-exam were met with responses from Dr. Theis such as "I don't remember," or "my assistant does all of that," and "I didn't bring it with me."

I have included the contact information of the other professionals involved in this case in order to expedite your work, should you feel there is a need to investigate further. Please know that I am also happy to provide additional documents or answer any questions in order to further the investigation.

Sincerely,



Alexis Bierman

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The following code applies to the remainder of this complaint:

SECTION 781.222.c Texas Administrative Code

Any complaint relating to the outcome of a child custody evaluation or adoption evaluation conducted by a licensee must be reported to the court that ordered the evaluation. The board only reviews complaints regarding forensic evaluations addressing a violation of specific board rules.

Summary:

I am aware of this aspect of the code and list the subsequent rule violations requiring investigation in the pages that follow.

Violation #1 HIPPA Violation

CODE: (d) Disclosure of confidential information in violation of Texas Family Code, §107.111 or §107.163 is grounds for disciplinary action, up to and including revocation of license, by the board.

The HIPAA Security Rule requires any covered entity that stores your healthcare information in electronic form to have taken the appropriate security measures to protect that information from unauthorized access.^[17] The following information is protected under HIPAA:^[18]

- Information placed into your medical record by a healthcare provider.
- Conversations your doctor has with other healthcare professionals regarding your care or treatment.

Summary:

Please see the following evidence regarding my request to discover who Dr. Theis spoke with regarding my son's admission to the Laurel Ridge Treatment Center in his work as a court-appointed custody evaluator. Please also note an email from the treating provider--the name on my witness list for Dr. Theis-- who says she never spoke to Theis. It is my belief that Dr. Theis violated my HIPPA rights as I did not authorize him to speak to anyone named Lauren Hart nor did I sign a general waiver for anyone at Laurel Ridge.

When questioned on the stand about who Lauren Hart was, Dr. Theis said he had no responsibility and couldn't remember who this person was because his administrative assistant "set all of that up." When asked if he would provide the full case file to be able to examine the email and phone log with Laurel Ridge Dr. Theis said he would send these documents no later than August 5, 2019. As of the time of this writing, October 5, 2019. I have not received any of the requested documents and have been told by his office that it doesn't normally include this in a regular case file. When pressed for the documents the administrative assistant says they will send them, but they have not been sent.

Evidence: highlight of most recent email with WHY I was requesting the specific chain of communication

To better help you and Dr. Theis prepare the evidence I'm requesting, I'd like to explain the challenge I'm facing:

In court, Dr. Theis could not explain who he spoke to at Laurel Ridge. He said that was all your handling to schedule the call and I know that you are an excellent record keeper, so I just don't understand why your office isn't trying to help me track down just whom Dr. Theis spoke with at Laurel Ridge. It was not Lauren Angel Del-Walker (who signed a statement saying she never was interviewed or spoke to Dr. Theis). She was my third collateral witness, to whom I requested Dr. Theis speak with to verify the nature of the Laurel Ridge admission and the involvement of medical professional in delaying the notification of the children's father by one day.

Dr. Theis was unable to say if he had verified these admission facts (as outlined as a duty in the Texas code) on the stand and said he could not remember his conversation with anyone from Laurel Ridge. He was also unable to say how a provider who had never worked with us was aware of William's alleged medication issues given that she only worked with us for a week in December 2017.

Instead, Dr. Theis' first report uses a statement from Lauren Hart, which is clearly a written statement provided to your office somehow. Therefore, to be very clear about what I'm now requesting for each collateral interview: I want to be able to trace the communication patterns: I'd like the email or envelope that was used to send the letter. I'd like the communication showing how the initial call was set up.

Cross Exam Questions

- a. *Did you consult with William's therapist from Laurel Ridge regarding the timing of his admission of a suicide attempt?*
- b. *What was her conclusion?*
2. *Did you take a verbal or written statement for your report from this person?*
 - a. *How much time did you spend discussing the case and your concerns about it with this person?*
3. *Would you please categorize how you continue to present my take of the situation where we allowed William to wait and tell his dad about his admission to the program?*
 - a. *Could you read from page 36 in your second report?*

Alexis also spoke about her decision to take William to Laurel Ridge, and why she did not tell Owen. She reported that William had expressed to her that Owen “was the cause of his anxiety” and that he “had a tremendous degree of fear about his father learning about his admission.” She stressed that “so much of everything Mr. Roberts thinks or believes about Laurel Ridge is not substantiated by reviewing the medical record.”

In explaining her decision to not immediately contact Owen, Alexis stressed the following: “It was not immediately clear that the paper clip incident was an attempt at self-harm; though it was obvious that William was suffering a tremendous degree of distress that was spurred by the travel and the prospect of visiting his father, it did not become clear that this was an attempt at self-harm until William entered the Laurel Ridge program and expressed during a group therapy session on day 2 of the program.”

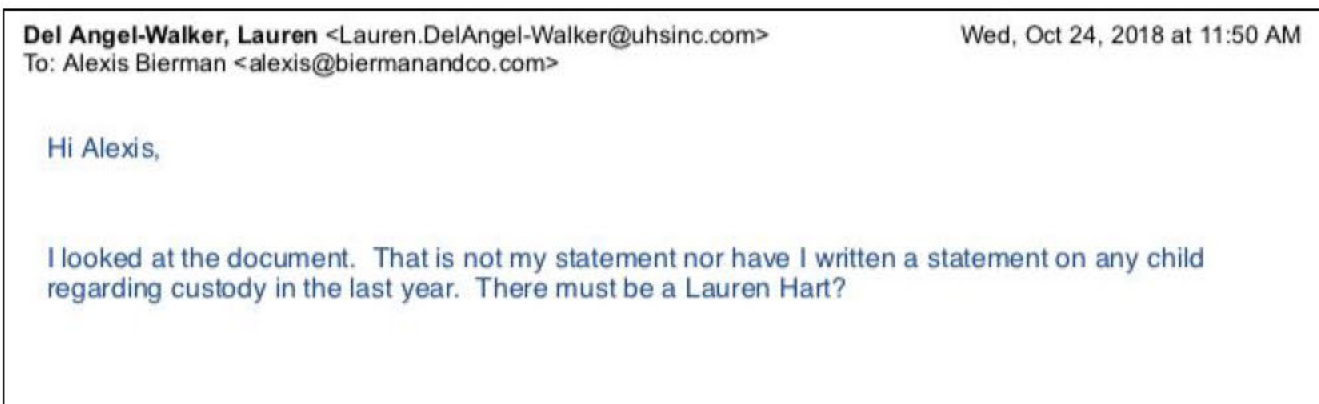
Furthermore, Alexis decried Owen’s dismissal of William’s letter and video that William sent to him, arguing that Owen’s belief they were “fake” only demonstrated “that Mr. Roberts cannot/will not accept that his son was trying to honestly communicate with him and that he dismissed his son at a time of most desperate need.”

- *Did you do anything to confirm any of my claims stated here?*
 - *You state that William expressed to “her” his anxiety about his father. **He was having this full-on crying, shaking, begging panic attack in front of his stepfather and his therapist, yet your report reads as if it is just his mother’s recollection of a private conversation.***
 - *In this section of your report, you use the word “spoke”-- yet when in your second evaluation period did we talk about this?*
 - *Did you follow up with Owen about his and Deidra’s dismissal of William’s therapy work? Why not?*
4. *Several times in the report you refer to the “supposed” and “alleged” involvement of mental health professionals in the decision not to tell Owen about William’s admission to Laurel Ridge until the beginning of his second full day of treatment.*
- a. *Did you review the notes of the mental health professionals involved or interview them about this decision?*
 - b. *Why not? You state in your reports this boilerplate language:*
- Some information collected is based upon the parties’ perceptions, beliefs, and opinions. **This examiner, where possible, obtained collateral information to either support or disconfirm the parties’ allegations.** All evaluations are limited by statements of history, especially when the information provided are inconsistent.
- c. *Why didn’t you confirm this detail? By phrasing it this way, does it not look as if one party were trying to withhold information from the other? That the mental health professionals and William were leading how information was*

gathered and needed to be disseminated, couldn't have been confirmed with the unbiased mental health professionals?

- d. Could you explain how this therapist knew about the "medication issues" from June 2018 when she treated William for 10 days in December 2017?*
 - e. What was her overall recommendation regarding your concerns in this case?*
- 5. What weight did you give her recommendations?*
 - a. You ignored it and made no mention of it, why?*
 - 6. How did you confirm this woman worked with William?*
 - a. Do you remember her name?*
 - b. That was not a person that worked with William. Lauren Del Walker was listed as my third collateral witness, but I have an email from her saying she never spoke with you.*

Evidence: email from Lauren Angel Del-Walker



[see email sent to Trevino re: Lauren Angel Del Walker for full email chain]

Violation #2: Records Request Violations

Summary:

The evidence shows three attempts to get the various case files from Dr. Theis and three different types of delays--presented in the most recent order, followed by the full email chains/requests dating back to September 2018 and including a motion to quash a subpoena to see the raw test data and a consistent lack of response in 15-day window.

Professional Guidelines from APA (which Dr. Theis said he didn't have to follow because he is governed by the Texas board).

14. Psychologists create and maintain professional records in accordance with ethical and legal obligations.

Rationale: Legal and ethical standards describe requirements for the appropriate development, maintenance and disposal of professional records. The court expects psychologists providing child custody evaluations to preserve the data that inform their conclusions. This enables other professionals to analyze, understand and provide appropriate support for (or challenges to) psychologists' forensic opinions.

Application: Psychologists maintain records obtained or developed in the course of child custody evaluations with appropriate sensitivity to applicable legal mandates, the "Record Keeping Guidelines" (APA, 2007), and other relevant sources of professional guidance. Test and interview data are documented with an eye toward their eventual review by other qualified professionals.

Evidence: Certified Letter Requesting Records following court July 30, 2019

Product	Qty	Unit Price	Price
First-Class Mail® Large Envelope (Domestic) (SAN ANTONIO, TX 78210) (Weight: 0 Lb 3.30 Oz) (Estimated Delivery Date) (Monday 09/09/2019)	1	\$1.45	\$1.45
Certified (USPS Certified Mail #) (70190160000088866091)			\$3.50
Total:			\$4.95

Evidence: letter as mailed



September 3, 2019

Dear Dr. Theis-

In our courtroom "interview" on Tuesday, July 30, 2019, you promised me that I would have access to the complete case files regarding the work you did in service to Owen Robert's request for custody of the children Rebekah and William Roberts--both the first round of the custody evaluation you performed and delivered September 2018, as well as the custody evaluation "update" that was performed in Summer 2019.

I made this request to your office first over email, then, in person--in front of Judge Gonzales--and therefore thought you would surely honor my request without delay. Yet it is September 3, 2019, well past the 15-day requirement of your licensing board to provide me (acting as a Pro-Se representative) with the case file documents. A subpoena is an added expense that should not be required given that you should have provided several of the requested files with the first subpoena that beat your motion to quash in November 2018. Further, even after your courtroom promise, I wrote to your office to request these documents via email and was told you were away on vacation, but that I would receive the files once you were back from your vacation. Please see the accompanying email documents, attached.

Please consider this a formal and written request to receive the following specific documents and files without further delay:

1. Billing Information regarding both reports, including how much was paid for travel and expenses.
2. The contact information, including call notes and email logs with staff from Laurel Ridge Treatment Center.
3. All files relating to the second round of evaluation that were not provided in time to prepare for the trial that began on July 29.

Sincerely,

FROM THE DESK OF
Alexis Marie Bierman

235 Meadowood Lane, San Antonio, TX 78216
alexis@biermanandco.com | 210-787-8068

Evidence: My Last Communication to Dr. Theis and his Office's Last Response

Alexis Bierman <alexis@biermanandco.com>
To: Nadelle Devries <admintheis@richardtheisphd.com>

Tue, Sep 10, 2019 at 12:00 PM

Dear Ms. Devries,

Your office's further obfuscation of the exact files I'm requesting is noted. Whether or not my request falls in your regular file handling does not mean it's not allowed or even required for you to provide within 15 days. Yet, each of these requested documents has not been provided in any of the provisions you outline below. **So, yet again, you must provide the following which Dr. Theis stated in court, under oath, I would have no later than August 5, 2019. It is currently September 10 and I believe I'm now requesting this same information for the 5th time to your office:**

1. Billing Information regarding both reports, including how much was paid for travel and expenses.
2. The contact information, including call notes and email logs with staff from Laurel Ridge Treatment Center.

>>>and given this ridiculous delay, I am now requesting all call and email logs regarding all collateral statements taken by you, Dr. Theis or anyone else working for your office, including the copywriter. Steven Wenzel --I would like all notations or sent messages to be able to understand the chain of communication -- did he call them, did you? When was their statement emailed in after the phone call?

To better help you and Dr. Theis prepare the evidence I'm requesting, I'd like to explain the challenge I'm facing:

In court, Dr. Theis could not explain who he spoke to at Laurel Ridge. He said that was all your handling to schedule the call and I know that you are an excellent record keeper, so I just don't understand why your office isn't trying to help me track down just whom Dr. Theis spoke with at Laurel Ridge. It was not Lauren Angel Del-Walker (who signed a statement saying she never was interviewed or spoke to Dr. Theis). She was my third collateral witness, to whom I requested Dr. Theis speak with to verify the nature of the Laurel Ridge admission and the involvement of medical professional in delaying the notification of the children's father by one day.

Dr. Theis was unable to say if he had verified these admission facts (as outlined as a duty in the Texas code) on the stand and said he could not remember his conversation with anyone from Laurel Ridge. He was also unable to say how a provider who had never worked with us was aware of William's alleged medication issues given that she only worked with us for a week in December 2017.

Instead, Dr. Theis' first report uses a statement from Lauren Hart, which is clearly a written statement provided to your office somehow. Therefore, to be very clear about what I'm now requesting for each collateral interview: I want to be able to trace the communication patterns: I'd like the email or envelope that was used to send the letter. I'd like the communication showing how the initial call was set up.

3. All files relating to the second round of evaluation that were not provided in time to prepare for the trial that began on July 29.

Re #3, as I stated I need a new link to access this information as I was hoping your office would provide all of the information at once and had not opened the file when you said it was not complete.

Thank you. You said I would have the files on Monday, yesterday, and yet again, it's Tuesday and all I got from your office was more delay.

Please remedy the situation.

Alexis M Bierman (Roberts)
biermanandco.com | 210 787 8068 | alexis@biermanandco.com

I work with happiness and productivity experts and their research has shown that it's best to check email only a few designated times a day (and ideally not on weekends at all!). Therefore, **if you need me urgently, feel free to text me at the number above or resend your email with subject URGENT. Thank you!**

5 messages

Nadelle Devries <admintheis@richardtheisphd.com>
To: Alexis Bierman <alexis@biermanandco.com>

Tue, Sep 10, 2019 at 9:32 A

Dear Mrs. Bierman,

You requested records from our office concerning the Court Ordered Child Custody Evaluation in 2018 and the Updated Child Custody Evaluation in 2019, pertaining to you and your ex-husband. You are also aware that given your request for your and your ex-husband records, we required release of information authorization from both you and your ex-husband. Our records indicate the following:

(1) On November 8, 2018, through your attorney at the time, Heather Tessmer, you were provided by my office a copy of records consistent with your attorney's request.

(2) On January 11, 2019, following your next attorney's signature (Jennifer Espronceda) on a confidentiality agreement, you were provided the raw psychological test data pertaining to the Child Custody Evaluation of 2018, as stipulated by Court Order following a hearing in Bexar County District Court.

(3) On August 6, 2019 you were sent a copy of records pertaining to the 2019 Updated Child Custody Evaluation. According to your verbal statement to my staff, you subsequently requested, on September 6th, that the documents be resent given that you were unable to access the encrypted file, which typically occurs if the file has not been accessed in a timely manner.

(4) You have been provided our file pertaining to the 2018 Child Custody Evaluation and the 2019 Updated Child Custody Evaluation. If you request that we create additional documents that are not part of our file, we will be glad to accommodate your request, if possible. As you know, additional work to create documents will be billed at our normal rate.

Thank you,

Nadelle Devries

Evidence: Email highlights of previous delays

From: Heidi Helstrom
Sent: Tuesday, October 23, 2018 10:40 AM
To: 'Nadelle Devries' <admintheis@richardtheisphd.com>
Cc: Christine Rudy <christine@tessmerlawfirm.com>; richardtheis@gmail.com
Subject: RE: ITIO Roberts
Importance: High

Select an area to comment on

Hello Nadelle:

We would like copies of ALL the collateral information Dr. Theis used in creating the report.

Thank you,

Heidi

From: Heidi Helstrom <heidi@tessmerlawfirm.com>
Sent: Thursday, October 4, 2018 11:35 AM
To: Nadelle Devries <admintheis@richardtheisphd.com>
Cc: richardtheis@gmail.com; Richard Theis <drichardtheis@richardtheisphd.com>; Christine Rudy

<christine@tessmerlawfirm.com>
Subject: ITIO Roberts

Hello Ms. Devries:

Please provide us with copies of the Collateral Information that Dr. Theis used to prepare the Child Custody Evaluation, Cause No. 2011-CI-13364, In the Interest of W.E.R. and R.J.R.

We appreciate it.

Thank you,

Select an area to comment on

Violation #3: Failure to Follow Professional Standards

OCCUPATIONAL CODE: 1. (e) A licensee who provides services concerning a matter which the licensee knows or should know will be utilized in a legal proceeding, such as a ... child custody determination ... must comply with all applicable board rules in this chapter regardless of whether the licensee is acting as a factual witness or an expert.

Texas Family Code:(c) A child custody evaluator shall follow evidence-based practice methods and make use of current best evidence in making assessments and recommendations.

It's true, in the boilerplate language of his reports, Dr. Theis acknowledges his duty to conform to professional standards:

[This evaluation was conducted according to established standards for child custody evaluations] The recommendations made are based upon what, in the examiner's opinion, is in the best interest of the children. This examiner meets the requirements for child custody evaluators as stipulated in the Texas Family Code. To provide the Court with recommendations for possession and access of the minor children, the examiner collected background information, administered psychological testing and diagnostic interviews, and collected/reviewed several other pieces of data. Regarding this evaluation, please find below a list of information reviewed by this examiner.

Yet, the following non-standard practices occurred throughout Dr. Theis' "work" with us from June-September 2018 and May-June 2019 :

**Lack of Professional Standards:
Not Reviewing Case Files Before Coming to Court
(+Records Request)
as required by the Texas Family Code 107.108**

Sec. 107.108. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF CHILD CUSTODY EVALUATION AND PREPARATION OF REPORT. (

a) Unless otherwise directed by a court or prescribed by a provision of this title, a child custody evaluator's actions in conducting a child custody evaluation must be in conformance with the professional standard of FAMILY CODE Statute text rendered on: 9/30/2019 - 640 - care applicable to the evaluator's licensure and any administrative rules, ethical standards, or guidelines adopted by the licensing authority that licenses the evaluator.

Summary:

Dr Theis stated several times in his cross-exam that he was unable to remember the details of his case files. When asked (in exasperation) if he had reviewed the case files before coming to court, Dr. Theis replied that he had NOT. He also replied that he had not brought any of the case files to court with him, nor could he provide the billing statements for either of the reports. When asked if a) I was entitled to view the billing and statements, and b) whether he would send the billing statements by August 5, 2019, Dr. Theis replied in the affirmative to both questions. **Yet, at the time of this writing, October 22, 2019, no billing information has been provided.**

In fact, there is a history of Dr. Theis requiring exorbitant steps to get access to his case file. He has continually NOT met the 15-day standard and even forced a subpoena (and responded to that with a motion to quash) for an outside custody evaluator, Dina Trevino, to review the raw test bubble sheets (of note, Dr. Theis refused to allow computer-based testing when it was requested). This request for billing information was sent after court via email and is also represented in the email packet for allegation #2.

Cross Exam Questions

1. *Could you please tell the court what your fee is for a standard custody evaluation? And what was the fee you charged for each of your evaluations in this case?*
 2. *Did you have any travel expenses attached to this matter? How were they billed, if so?*
 3. *By whom were your fees and travel expenses paid thus far*
 4. *I worked with Dina Trevino to review your first report. Did you allow Dina to access my test scores so that she could conduct an independent review?*
-
1. *What was your reason for not providing the files to my council and larger team?*
 - a. *Would you please detail your involvement in the legal proceedings of December 2018 that resulted in my being given access to the raw test data?*
 2. *Does your cover sheet in your office state that these files will be provided upon request? So why did you not want to provide them to my council without having forcing me to go through the expense of a legal battle?*

Evidence: 2018 Motion to Quash Highlights

1. *Introduction*

On December 6, 2018, Petitioner, ALEXIS BIERMAN, by and through her attorney of record, Jennifer Espronceda, served Dr. Richard Theis with a *Subpoena Duces Tecum to Richard Theis, Ph.D.* appear and produce certain documents on December 28, 2018, as follows:

REQUEST FOR PRODUCTION OF DOCUMENTS AND TANGIBLE THINGS

1. All psychological test scoring sheets, profiles, and interpretative data used to generate a psychological opinion in the custody evaluation prepared in Cause Number 2011-CI-13364, not to include psychological test question booklets provided by the publisher.
2. Documentation of prior work history and court testimony with Matthew Obermeier and/or Olivia, Saks, Garcia & Curiel, LLP.

4. *Objections and Assertion of Privileges and Request for Injunctive Relief*

Dr. Richard Theis asserts objections and assertions of privilege as follows.

As to the Subpoena to produce documents:

- a. **“All psychological test scoring sheets, profiles, and interpretative data used to generate a psychological opinion in the custody evaluation prepared in Cause Number 2011-CI-13364, not to include psychological test question booklets provided by the publisher.”**

(1) Dr. Richard Theis objects to the term “all” as said term is overly broad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

(2) Dr. Richard Theis further objects on the grounds that this request for the reason that the request seeks information privileged pursuant to Trade Secrets Privilege and/or Texas Uniform Trade Secrets Act. *See* TEX. R. CIV. P. 192.3(a); TEX. R. EVID. 507; TEX. CIV. PRAC. & REM. CODE CH. 134.

Movant is withholding documents and/or data potentially responsive to this request upon the assertion of the trade secret privilege and in conformity the Texas Uniform Trade Secrets Act.

- b. **“Documentation of prior work history and court testimony with Matthew Obermeier and/or Olivia, Saks, Garcia & Curiel, LLP.”**

(1) Dr. Richard Theis further objects on the grounds that the second request seeks information privileged pursuant to Trade Secrets Privilege and/or Texas Uniform Trade Secrets Act. *See* TEX. R. CIV. P. 192.3(a); TEX. R. EVID. 507; TEX. CIV. PRAC. & REM. CODE CH. 134.

(2) Dr. Richard Theis objects to the entire second request to the extent that it requests the production of documents which are not relevant to the subject matter of this suit and are not calculated to lead to the discovery of relevant information herein.

3. *Argument & Authorities*

a. *Scope of Discovery.* TEX. R. CIV. P. 192.3 provides that a party may obtain “discovery regarding any matter that is not privileged and is relevant to the subject matter of the pending action...”

Movant requests the Court to quash the Subpoena issued on or about December 6, 2018.

b. *Failure to Comply with the Texas Rules of Civil Procedure and Texas Civil Practice and Remedies Code.* TEX. R. CIV. P. 176.7 provides that “a party causing a subpoena to issue must take reasonable steps to avoid imposing undue burden or expense on the person served...” and must tender a witness fee in accordance with the Texas Civil Practice and Remedies Code. TEX. CIV. PRAC. & REM. CODE §§ 22.001 through 22.004.

Furthermore, TEX. R. CIV. P. 205(f) provides that “a party requiring production of document by a nonparty must reimburse the nonparty’s reasonable costs of production.”

Movant requests the Court to quash the Subpoena issued on or about December 6, 2018.

c. *Inadequate Time for Compliance.* A party causing a subpoena to issue must take reasonable steps to avoid imposing undue burden or expense on the person served. In ruling on

objections or motions for protection, the court must provide a person served with subpoena an adequate time for compliance and protection from undue burden or expense. TEX. R. CIV. P. 176.7. While Rule 176.7 does not specify “an adequate time for compliance,”

Petitioner provided merely 22 days for Movant with the subpoena compelling production. Movant must comply with the rules established by the Texas State Board of Examiners of Psychologists by providing notice to the publisher of the test materials regarding Petitioner’s Subpoena and request for the production of documents and tangible things as follows:

“1. All psychological test scoring sheets, profiles, and interpretative data used to generate a psychological opinion in the custody evaluation prepared in Cause Number 2011-CI-13364, not to include psychological test question booklets provided by the publisher.

2. Documentation of prior work history and court testimony with Matthew Obermeier and/or Olivia, Saks, Garcia & Curiel, LLP.”

**Evidence: Theis and his report Barred from Testifying
At "Emergency Trial" in December 2018**

Mary

^{43 MRS}
JUDGE'S NOTES

w-record

Cause Number: 2011CI13364 Court: 407 Date/Time: 12/07/2018 08:30AM
Setting Court: 109

Style: OWEN W ROBERTS VS. ALEXIS M BIERMAN-ROBERTS

Attorney(s) For Case

OWEN ROBERTS	ALEXIS BIERMAN ROBERTS
DAVID EMORY	MATTHEW OBERMEIER ✓
BRITTANY HINOJOSA	DIANE MARTINEZ
JENNIFER ESPRONCEDA ✓	12/07/2018-12/14/2018

Type of Motion or Application: NON-JURY SETTING ON SPECIAL EXCEPTIONS

AGREED ORDER _____ RECORD TAKEN *by* Amy Hinds, CSR
INTERPRETER _____ RESET DATE _____
37th District Court
210-335-2510

DATE OF NOTES 12-7-18 JUDGE INITIALS MRS

18 DEC -7 AM 8:52
DONNA E. WINNEY
DISTRICT CLERK
BEXAR COUNTY
JE

DEPUTY
Alexis M. Bierman

- Ct. rules that hearing on Monday will take place but will be limited to the allegations in the affidavit filed by counter-petitioner.

- Ct. also rules that Dr. Theis may not testify as to his opinions concerning the custody evaluation he performed until a Ct. has ruled on Ms. Espronceda's request to obtain "interpretive scoring report, etc." as stated in her motion.

- OTC.

Violation #4

Failure to Follow Testing Best Practices as required by the Texas Family Code 107.108c

CODE: (c) A child custody evaluator shall follow evidence-based practice methods and make use of current best evidence in making assessments and recommendations.

Texas Family Code 107.9c.6: (6) psychometric testing, if necessary, consistent with Section 107.110;

Summary:

As mentioned in my background statement, I was initially able to hire Dina Trevino, Ph.D., as a custody evaluator to review Dr. Theis's report. When I became a Pro Se litigant, she could no longer work for me. I decided not to subpoena her, but worded the following questions as best I could, based on her work product.

Incident #1

Cross Exam Questions

[Note these questions will not be in the transcript as I omitted this section due to time limitations and its possibility for hearsay, but these errors have not changed]

- a. *On question #232 I marked two bubbles. What is the procedure when you cannot decide which bubble is indicated while hand scoring a test (again, something not necessary on a digital version!)?*
 - i. *Did you call me for clarification?*
 - ii. *How did you decide which answer I intended?*
 - iii. *Did the final answer, as selected by you, affect the statistical difference in the report outcome?*
 - iv. *Is there a way to verify that and did you take steps to ascertain that?*
- b. *Again, from my research, which included consultation with Dina Trevino, PhD, my understanding of the best practice for custody evaluations is to score the **interpretive report**, yet you score the **profile report**. Could you explain why you chose to vary from the best practice?*
 - i. *When my team was finally able to view the bubble score sheet tests and have them rescored by Trevino, all results were similar except these reports. She found that the guidelines directed her "modulate downward," reflecting that the personality issues the test may have identified about me to be **less troubling**. Yet at each point where the guide indicated for this to happen you chose to modulate upward,*

indicating that they were more of a problem than the tests indicated. Could you explain that please?

ii. *Also, Trevino showed me how you did the exact opposite on Owen's report: when the guide was telling scoring professional that to modulate the results upward, you instead dismissed them by modulating downward. Could you please explain that?*

c. *Also, you claim several times that Owen shows up as "mentally healthy" based on his test scores*

What standards or professional guidelines enable you to determine that someone is "mentally healthy" based on a test score?

Incident #2

Summary:

See comparable report sections for Mr. Roberts and myself to show the drastic differences in terms of what testing "demonstrates", including mental health assessments made based on testing. *Of note: I previously reported (in the biography section) that my previous therapists had diagnosed narcissistic behavior patterns in my ex-husband, yet there was no mention of this in the report.*

In addition, people with Cluster B personality disorders, such as narcissism--as well as people who work in hospitals-- have been shown to be particularly good at "rigging" these tests, yet no mention of this is made.

[Quoted verbatim from Original Report, page 40]

Psychological Test Results: Alexis

Alexis was administered three psychological tests (i.e., MMPI-2, MCMI-IV, PAI). Each test has substantial reliability and validity to support its use in child custody matters.

*Standardized personality **tests such as these work by comparing the individual's responses on standard test items with the responses of other people who are known to possess certain personality traits, and/or experience certain clinical problems. They are instruments that to a greater or lesser degree allow people to produce a** psychological picture of themselves that may involve distortions, either deliberately or because of **erroneous self-perceptions.***

*These tests are a broad measure of personality and psychopathology in that highly elevated scores tell us a good deal about psychological disorders, and scores in the normal range tells us about personality patterns, behaviors, and attitudes of essentially normal adults. These tests are difficult to distort deliberately, but distortions of various kinds are possible and so the tests have several scales to estimate validity. These tests compare an individual's response profile against responses of other individuals in **large normative standardization groups. Alexis' scores will be reported here for the normative clinical standardization samples.***

Alexis's psychological profiles are considered reasonably valid. As such, the following interpretations are likely to be a reasonably accurate assessment of her personality profile, to include strengths and **weaknesses**.

Alexis's psychological test data has a number of positives, some concerns, but is void of serious psychopathology. Testing does highlight some concerns in the way that she manages relationships and the **manner in which she manages her various emotional experiences**.

What stands out from Alexis' psychological test profile is that she may be unwilling or be quite resistant to self-examine her role in difficult situations of prolonged distress[AB1] ; when confronted she may have a tendency to react externally by behaving impulsively and erratically. Those with her profile tend to deny life's more tedious realities, including realistic limit setting and accountability for less-than-perfect outcomes. She is likely to seek out novel experiences and continue grasping at opportunities, possibly to the point of exhaustion. Some with this profile experience fatigue which often leads to a syndrome-based **depression**. [AB2]

Those with Alexis' profile tend to be adept at winning over the favor of others. However, as others show waning interest, she may become absorbed by and concerned with their continued support and **commitment. If rejection becomes imminent, her energy level may waver from excited exuberance to edgy irritability**, and her buried self-doubt and uncertainty may surface. In the wake of rejection, she may withdraw from the situation entirely and reframe the encounter to invoke positive attention to herself, **declare her steadfastness to goals or principles, and proclaim her innocence. Individuals with this** psychological profile tend to create difficult interpersonal relationships and have unrealistic expectations for themselves.

She is likely to be an energetic, optimistic person. On occasion, however, she may become frustrated by circumstances outside of her control and may react to what appears to her to be an adversarial situation. She may attempt to downplay any distressing emotions and will deny troublesome relationships with others, especially in her family and personal life. [AB3]

Alexis is a sociable person who is extroverted. She is likely to be described by most as outgoing, gregarious, friendly, and talkative. She probably has a strong need to be around other people and tends to mix well socially. [AB4]

[original report, page 15]

Psychologica/ Test Results: Owen

*Owen was administered three psychological tests (i.e., MMPI-2, MCMI-IV, PAI). Each test has substantial reliability and validity to support its use in child custody matters. Standardized personality **tests such as these work by comparing the individual's responses on standard test items with the responses of other people who are known to possess certain personality traits, and/or experience certain clinical problems.** They are instruments that to a greater or lesser degree allow people to*

produce a psychological picture of themselves that may involve distortions, either deliberately or because of erroneous self-perceptions.

*These tests are a broad measure of personality and psychopathology in that highly elevated scores tell us a good deal about psychological disorders, and scores in the normal range tells us about personality patterns, behaviors, and attitudes of essentially normal adults. These tests are difficult to distort deliberately, but distortions of various kinds are possible and so the tests have several scales to estimate **validity. These tests compare an individual's response profile against responses of other individuals in large normative standardization groups. Owen's scores will be reported here for the normative clinical standardization samples.***

The examiner administered the MMPI-2, PAI, and the MCMI-IV. Together, these tests total around 1000 questions, which are broken into around 50 different subscales. It is important to note that not only were

Owen's validity measures consistent with those who responded in an honest and forthright manner, but that not one of his subscales were in the statistically significant range. In other words, Owen's psychological profile is consistent with those who have a number of psychological strengths that are correlated with positive interpersonal relationships, including parent-child relationships.

Owen's psychological profile suggests that his thoughts are reality based and free of distortion or delusion. He has access to a range of emotional experiences and demonstrates the ability to positively modulate his emotions. Those with Owen's psychological profile have NO problems in the following **areas: problems with empathy, undue suspiciousness or hostility, extreme moodiness and impulsivity, unhappiness or depression, unusually elevated mood or heightened activity, marked anxiety, problematic behaviors used to manage anxiety, difficulties with health or physical functioning, or problems with alcohol or drug use.**[AB1]

His self-concept appears to involve a generally stable and positive self-evaluation. He is normally a confident and optimistic person who approaches life with a clear sense of purpose and distinct convictions. These characteristics are valuable in that they allow him to be resilient and adaptive in the face of most stressors. He is satisfied with his life, and has a well-articulated sense of who he is and what his goals are.

His interpersonal style seems best characterized as one of autonomy and balance. His assertiveness, friendliness, and concern for others is typical for that or "normal" adults. In considering his social **environment, his responses suggest that he reports having experienced few stressful events in the recent** past. Furthermore, he describes having a large number of individuals to whom he can turn for support when needed. The combination of a stable and relatively stress-free environment with the extensive social support system is quite a favorable prognostic sign for future adjustment.

Lastly, it should be noted that Owen's psychological test data, on all three tests, are in the "normal" range. As such, individuals with his profile are free of psychological disturbance, and are likely to respond to relational difficulties in a balanced, thoughtful, and emotionally stable manner.

Violation #5

Failure to Conduct Clinical Personal Interview as required in the Texas Family Code 107.109c

CODE: Sec. 107.109. ELEMENTS OF CHILD CUSTODY EVALUATION.

(c) The basic elements of a child custody evaluation under this subchapter consist of: (1) a **personal interview** of each party to the suit seeking conservatorship of, possession of, or access to the child;

Summary:

Dina Trevino felt that this was one of the most glaring issues in my case as she was adamant about the importance of the guidelines stating that the practitioners must employ a *variety* of interview methods. Yet when asked about this on the stand, Dr. Theis continually said he didn't need to do in-person or verbal interviews because of the unique data collection interview form he employs. Yet, even if you accept that his 15 minutes with me in-person at my house during the "observation" counted as another form of interview method, Trevino stated firmly that 15 minutes was not time to do a proper clinical interview as required by the code.

Incident 1: *Cross Exam Questions*

1. *Is the American Psychological Association the primary governing professional association with which you associate?*
2. *What guidelines do they publish for your trade?*

From the Association of Family and Conciliatory Courts:

- (7) how to gather information from collateral sources;
- (8) how to collect and assess relevant data and recognize the limits of the reliability and validity of different sources of data;
- (9) how to address issues such as general mental health, medication use, and learning or physical disabilities;
- (10) how to apply comparable interview, assessment, and testing procedures that meet generally accepted forensic standards to all parties;
- (11) when to consult with or involve additional experts or other appropriate persons;

- (15) how to make the relevant distinctions among the roles of evaluator, mediator, therapist, parenting coordinator, and co-parenting counselor;
- (16) how to write reports for the courts to which they will be presented;
- (17) how to prepare for and give testimony at deposition or at trial; and,
- (18) how to maintain professional neutrality and objectivity when conducting child custody evaluations.

12. Psychologists strive to complement the evaluation with the appropriate combination of examinations.

Rationale: Psychologists provide an opinion of an individual's psychological characteristics only after they have conducted an examination of the individual adequate to support their statements and conclusions (Ethics Code, Standard 9.01(b)). The only exception to this rule occurs in those particular instances of record review, consultation or supervision (as opposed, in each case, to evaluations) in which an individual examination is not warranted or necessary for the psychologist's opinion (Ethics Code, Standard 9.01(c)). The court typically expects psychologists to examine both parents as well as the child.

10. Psychologists strive to employ multiple methods of data gathering.

Rationale: Multiple methods of data gathering enhance the reliability and validity of psychologists' eventual conclusions, opinions, and recommendations. Unique as well as overlapping aspects of various measures contribute to a fuller picture of each examinee's abilities, challenges and preferences.

Application: Psychologists strive to employ optimally diverse and accurate methods for addressing the questions raised in a specific child custody evaluation. Direct methods of data gathering typically include such components as psychological testing, clinical interview and behavioral observation. Psychologists may also have access to documentation from a variety of sources (e.g., schools, health care providers, child care providers, agencies and other institutions) and frequently make contact with members of the extended family, friends and acquaintances and other collateral sources when the resulting information is likely to be relevant. Psychologists may seek corroboration of information gathered from third parties and are encouraged to document the bases of their eventual conclusions.

3. *How does that look in your practice? If you use a variety of interview methods, could you please explain that for us, and help us understand what that might look like in any given evaluation?*
4. *I'd like to ask about your use of a "collateral witness form," a change in your update to this report in our experience, could you explain what that form is?*
 - a. *Did you use this form in both rounds of interviews for all witnesses?*
 - b. *What caused a differentiation in tools or approaches used from one witness to another?*
 - c. *Did you interview any witnesses by phone, or video chat, in writing, or were they all face-to-face?*
 - d. *On page 41 of your first report, why did you claim that we had a personal interview? Is that what you're calling me sitting in-front of a computer for 8 hours while your assistant watches me?*

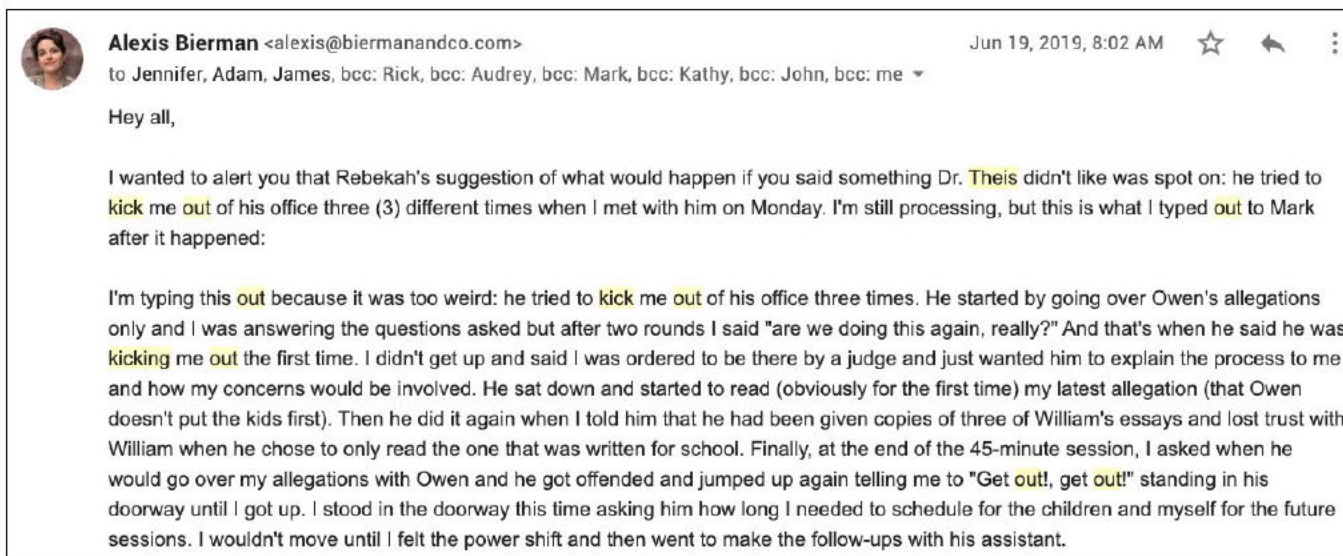
Alexis was seen for individual interview, a home study, and a follow up interview. She arrived on time to her appointments and was cooperative throughout. Her thoughts were logical and goal oriented with no evidence of delusional ideation. She is 42 years old. Alexis has a few health issues including depression, type II diabetes, allergies, migraines, and anxiety. She takes insulin, Wellbutrin, Alprazolam, Farxiga.

- e. What percentage of your reports, in this matter, would you say are based on face to face conversations?*
 - f. and what percentage are based on typed responses sent into your assistant or to yourself directly?*
[additional questions moved to copywriter section for this purpose]
 - g. Was there a change in your process to interview me?*
 - h. How did that procedure change and why?*
5. *Is it correct that two new forms were added for the children in the update process?*
- a. What were they called?*
 - b. Why were they introduced at this time?*
 - c. Did the information from those forms change your opinion of the case at hand?*
 - d. If so, how?*
6. *Could you please explain the tool you use called the “incomplete sentences” tool and how it’s used as part of your evaluation?*
- a. Does this tool hold up to Daubert - the scientific validity test recognized as the standard by the courts?*
 - b. So, why do you like to use it in your practice?*

Incident #2: First Personal Interview in his Office

Summary:

Dr. Theis tried to kick me out of his office three times during our second round of the custody evaluation. I'd like you to please read my take on what happened that day as follows in an email to my "support team" and then compare this to how Dr. Theis presented the situation in his second report:



Evidence: Theis' Take in Report #2

Alexis was seen for individual interview and to review her questionnaire. Throughout, she was angry and upset. She asked numerous questions about the examiner's procedures, and why the procedures were adjusted from the previous evaluation. Her agitation and anger rose to such a level that the examiner stopped the interview and told her she needed to leave the office. At that point, Alexis stated that she would discontinue her negative comments toward the examiner and her antagonistic line of questioning.

Her thoughts were centered on the examiner's previous report. In her paperwork she addressed factors about the examiner's report which she believed were inadequately addressed. Alexis also asked the examiner's assistant numerous questions about why the examiner's procedures changed – please note the examiner adjusted his procedures to accommodate Alexis's stated concerns.

Evidence: Rebekah's Claim

On Thu, Jun 13, 2019 at 10:47 AM Alexis Bierman <alexis@biermanandco.com> wrote:
Hello you three campions of the Roberts children:

I wanted to alert you all that on Tuesday June 11, at 11 am, we had a family session with Adam, which was planned as a way to look at what we wanted our iBeforeE Family2.0 to be like—what lessons had been learned, what habits should stay? It was derailed for a good ten minutes as Rebekah was explaining their time since they'd arrived in back in San Antonio after an early morning flight on Sunday and why William might be grumpy: because they were super tired). She seemed to jump at the chance to tell Adam (and all of us) that Dr. Theis said made her and William feel uncomfortable. Adam pushed her to explain and she said she felt unsafe with him and that he wasn't asking anything about life with Dad and Deidra, just about Mom and Mark. Adam then asked her what she thought Dr. Theis would say if she told him how he was making her feel and she said made a grumpy/mean face and said "get out of my office." At that point Adam took back over explaining that Dr. Theis was a professional and shouldn't make her feel like that, so it was important for her to talk to her therapist (I got a sideline asking if she had an appointment scheduled) and I said it was also important for her to discuss with Mr. Gillen before he saw Dr. Theis.

<https://mail.google.com/mail/u/0?ik=d2977d6763&view=pt&search=all&permmsgid=msg-a%3Ar-8185040857416012344&dsqt=1&siml=msg-a%3Ar-8185040857...> 1/2

6/19/2019

Alexis Bierman Mail - Rebekah's Dr Theis allegations

Leaving it in your hands. I don't think it helps me for my fight against his original report, but if I chose to file a claim with the state board after this, it may be helpful.

Thanks for all your work to help the kids.
Best,
Alexis

Sent from my trusty iPhone: 210-787-8068

Incident #3: Lack of inquiry on fixed vs growth mindset

Summary:

Although I didn't bring these items up in cross-examination, the following comparisons should be made to show where clarification was needed in his "personal interview" rather than drawing entirely on my typed responses.

Evidence, page 83 Second Report

(6) Alexis's own anxiety and depression are elevated when the children spend time with their father. Alexis has for an extended period of time suffered from mental illness: childhood PTSD, anxiety, depression, and sleep disturbance, for which she takes psychiatric medication. Alexis stated that as a child she lived with a "chronic sense of anxiety" and was considered to be a child with Oppositional Defiant Disorder. She stated that her childhood "drama...deepened" when she was in second grade. She stated that her biological mother "began to exhibit erratic behavior. During this time [her] dad was trying to get custody [of her], but couldn't prove [her] mom was sick until she was hospitalized and diagnosed with Bipolar Disorder." She reported a childhood in which she fought with her step-mother, and had grandparents who were all alcoholics. Alexis wrote that as a child she "enjoyed manipulating her step-mother into anger." Alexis stated that she continues to have "abandonment" issues, feelings and thoughts which are likely to be reignited with the possibility of her children moving to Virginia, as well as persistent anxiety, depression, worry, fear, and sleep disturbance.

- The similarities between Alexis's childhood and her concerns for her children (especially William) and their relationship with their father are striking. The examiner's opinion that Alexis believes that her son is going through some of the same conflicts she went through as a child is supported by her report.

Alexis firmly believes that Owen is a mean, angry, and hostile person from whom her children need protection. On the other hand, William believes that he and his mother (Alexis) are very similar, and they appear, to this examiner, to have a "mirroring" relationship in that William will feel (mirror) what his mother feels. He believes that he and his mother both need extra sleep, that they both suffer from anxiety and depression, and that if he were to return to Virginia to live she would be sad. On the other hand, if he were to remain in San Antonio he believes his father would be disappointed. It is this examiner's belief

Draft Closing Statement to Address these assumptions:

Your honor, in summary today, if you take Dr. Theis' assertion that my belief in Owen as an abuser is tied to my belief in the experience of my step-mom as an abuser in my life, then you would be able to assert that I would have a similarly fixed mindset about my stepmother and continue to view her as evil and someone I needed to protect my children from.

***But that is far from the truth.** This summer we went on a family road trip to see the stepmothers: the children's stepfather's stepmother in Kansas and mine in Iowa.*

*It was a celebration of cognitive behavioral therapy for me and my stepmom Audrey --and the power of grandparental love in action. **It was healing.***

So, far from believing Audrey is an evil villain in my life story, I see her as a fellow warrior fighting beside me to keep these two children safe.

And I do have hope that Owen and I, along with Mark and [REDACTED] can agree to be civil and remember to focus on what we liked best about each other enough to accomplish all that we did accomplish in 8 years. That this is our very last time in family court and that you will authorize these requested edits to our divorce decree including restoring residency decision making to me at this time. The advanced learning academy—where the education will be project based and child centered—begins August 12. I suggest that the children have as much vacation as they can with their father before school begins, with the standard 7 days before school return,

So for [REDACTED] that is school starts August 12, so return by August 5.

For [REDACTED] school starts August 19, so return by August 12. Please note this would be her first time flying solo, but I think she can handle it and would love the extra time with her baby sister.

I have also prepared a list of the holidays in the upcoming year and consent and encourage all three day weekends to be utilized for inter-state travel visitation trips, no matter the numerical weekend of the month.

I continue to welcome Mr. Roberts or a member of his family, including his brother-in-law who resides in San Antonio to exercise local visitation, with priority given to the children's extracurriculars when reasonable.

Violation #6

Failure to Follow Professional Standards: Failure to Consult Relevant Experts and Mischaracterization of Communications as required in the Texas Family Code 107.109.5.b

CODE: (5) the obtaining of information from relevant collateral sources
B) relevant physical and mental health records of each party to the suit and each child who is the subject of the suit;

Summary:

As I said in my context statement, I wasn't worried about the evaluation at first -- I'd been doing everything I could think to do to make life better for my kids when my ex-husband wouldn't stop flying them every first/third/fifth weekend. Dr. Theis' assessment of my behavior comes from very limited interactions with me and was not informed by any of the therapists I've consulted or the children's therapists--to make a diagnosis and a claim such as he did (that I was dangerous to my children) should have required consultation with the professionals who were working with parties involved in the case.

Cross Exam Questions

1. *How is the anxiety I feel over my treatment from Owen relevant to whether the children should be removed as permanent residents from the state of Texas?*
2. *Please, tell us more about mirroring.*
3. *Is it an actual diagnosis?*
 - a. *Is it in the DSMR?*
 - b. *Is it actually a biological phenomenon that happens naturally, if your parent is afraid of spiders, you're more likely to be afraid of spiders, etc.?*
4. *This claim is significant: requiring the change of status from wards of the state of Texas to Virginia-- did you discuss your concerns with the children's therapists who would have been familiar with my concerns over the children?*
 - a. *Why not?*
5. *Did you ask me about your concerns of mirroring?*

6. *Did you know if I was aware of this “supposed phenomenon” already?*
- a. *Did you ask my therapist, Krista Delgado, if we had done any shared work to explore how I could best demonstrate mastery of anxiety for the children?*
 - b. *Do you NOT think it is important to speak with a treating professional before accusing someone of a diagnosis worthy of having her children removed from her care?*
 - i. *Why would you not want to speak with the professional?*
 - ii. *Did you speak with Krista to compile your original report, when I sent your office an update of information after I started seeing Krista in August 2018?*
 - iii. *Did you find out why I chose to re-start therapy for myself at this time?*
 - iv. *How many attempts did you make to reach Krista over the course of these two evaluations?*
 - v. *Did your office schedule an appointment with her while I was in the office and then completely ignore the time slot and not call her?*
 - vi. *How did you characterize your attempts to speak with Krista? You write about that at the top of page four of your report?*

Some information collected is based upon the parties’ perceptions, beliefs, and opinions. This examiner, where possible, obtained collateral information to either support or disconfirm the parties’ allegations. All evaluations are limited by statements of history, especially when the information provided are inconsistent. A limitation of this study is the examiner was unable to connect with Alexis’s therapist. Ms. Delgado was unable to speak with the examiner for their first appointment, and then the examiner had to reschedule the second appointment. Numerous other attempts to connect with Ms. Delgado to no avail. This examiner does not believe these limitations have any significant impact on this evaluation or the examiner’s recommendations.

Your honor, I’d like to admit this letter to the court from Krista Delgado explaining her interpretation of the “outside the norm” scheduling issues from Dr. Theis --that his office was difficult and did not communicate in a manner respectful of Ms. Delgado’s time and opinion.



SoulSpace Health & Wellness
1502 South Flores St, Suite 201
San Antonio, TX 78204

July 22, 2019

To whom it may concern,

I am currently working with Alexis Bierman as her counselor. I attempted to coordinate with Dr Theis in the service of the custody evaluation the family is undergoing as ordered by the Bexar County Family Court system.

I was contacted by Dr Theis' office assistant and we setup an appointment for an conference call Tuesday July 2, however I did not receive a phone call from Dr Theis that afternoon. As a result of the no contact, I reached out to office staff to reschedule and offered two alternate appointment times, and the office coordinator selected a time and responded to me with their selection. However, on the day of the next appointment that the office coordinator selected, again there was a no contact from Dr Theis.

The following week, the office coordinator attempted twice to schedule same day appointments, however I was on a planned vacation and unreachable to do being in a national park without consistent cell service.

I am writing the court to clarify the reasons that Dr Theis and I were unable to connect in regards to the custody evaluation.

Respectfully,

Krista Delgado MA, LPC, LCDC
Krista Delgado, MA, LPC, LCDC
SoulSpace Health & Wellness

[note: the following questions were omitted in court, but relevant for your study of the records, I believe]

7. *Given that you didn't speak to any of the therapists I've worked with over the years, and you didn't speak to me about this issue, on what did you base your independent diagnosis?*
8. *Can you elaborate on your stated belief regarding my unwarranted anxiety towards Mr. Roberts as stated in your updated report on the mirroring section?*

Alexis firmly believes that Owen is a mean, angry, and hostile person from whom her children need protection. On the other hand, William believes that he and his mother (Alexis) are very similar, and they appear, to this examiner, to have a "mirroring" relationship in that William will feel (mirror) what his mother feels. He believes that he and his mother both need extra sleep, that they both suffer from anxiety and depression, and that if he were to return to Virginia to live she would be sad. On the other hand, if he were to remain in San Antonio he believes his father would be disappointed. It is this examiner's belief

- a. *Owen Roberts lack of finalizing the "attached" deeds to our divorce decree and lack of participation in a short sale of our shared home resulted in my bankruptcy - could that be a cause of anxiety, and possibly even perceived as*

a trauma?

- b. The children's father stopped paying for his half of the children's medical and extracurricular activities when we declined to force [REDACTED] to play football which meant there were questions about how I was going to make sure my children's wellbeing was provided for...could that cause a parent some anxiety?*
- c. The cessation of shared birthday parties in the decree signified a change in the long-term communication and goals for the children - could that kind of uncertainty support anxiety?*
- d. These proceedings arose from a court request being filed to stop the children from flying across the country every 1st, 3rd, and 5th weekend because while their father didn't acknowledge it, I felt I was witnessing the harm the travel was causing to the children? Couldn't a mother's concern that her children were being harmed AND the gravity of an impending legal action be conducive to anxiety?*
- e. As you stated in your UPDATED report Mr. Roberts continued to ignore any messages in OFW until the judge ordered him to write a daily email: this pattern continued from text messages from years before where I was either ignored or critiqued. **Do you not think that this pattern would foster a valid sense of anxiety?***

Violation #7

Failure to Examine All Files Submitted and Establish Baseline Facts (+ Privacy Violation)

as required by the Texas Family Code 107.109c.5.b

CODE:

(c) The basic elements of a child custody evaluation under this subchapter consist of:
(B) relevant physical and mental health records of each party to the suit and each child who is the subject of the suit;

Summary:

If Dr. Theis had done his due diligence and followed through when stories didn't match up, I wouldn't be writing this complaint. Yet at several points, he presents things as "facts" that the record does not reflect.

Incident #1 *Cross Exam Questions*

1. *Did you do anything to verify Owen's mental health history?*
 - a. *Did you look into my email to his military psychiatrist because he said he would commit suicide if I didn't agree to move to MS and live near him with the children?*
 - b. *How about his parents' history of depression and medication use?*
 - c. *Or his history of adderall use--and the possible abuse--of this stimulant?*
 - d. *Did you look into his weekly therapy records from 2010 and 2011 or any of his personal mental health diagnoses?*
 - i. *Did you follow this guideline, that "Evaluators must be careful to trace ideas, stories, and allegations back to their origins and examine any of the medical records?"*
 1. *Whose records did you look at?*
 - ii. *Are you entrusted to look at medical records based on Sec 107.109.c.5.b of the Texas family code which states "the obtaining of information from relevant collateral sources, including the review of ... relevant*

*physical and mental health records of **each party to the suit** and each child who is the subject of the suit;”*

Why didn't you ask for my health records and Owen's health records given that you had two different stories about one of the parent's mental health?

- e. Did you ask Owen about the claims of being on antidepressants at least two times during the marriage when he only told you about taking them after he was diagnosed with cancer?*
- f. Did you look into the history of Owen's first biological cousin committing suicide, given that suicidal tendencies can be genetic and [REDACTED] has had two such incidents?*
- g. How about the claim of punching a hole in the wall in our base home in Japan? Did you see if there were any records from that?*
- h. Did you look into Owen's continued struggle with his physical fitness requirements in the Air Force and weight gain concerns and how it may be a factor in his hyper-focus on [REDACTED] weight?*

Incident #2 Cross Exam Questions

- 1. I'd like to review the order of events for clarity and discrepancies:
 - a. Could you summarize your understanding of the "paperclip incident" event that is significant in your analysis?
 - i. Did we discuss this incident in person?**
 - b. What did I tell you about your assumptions regarding my knowledge of it being a suicide attempt?*
 - c. Did you ask [REDACTED] school about my version of the story?*
 - d. Did you find whether the school had produced an incident report?*
 - e. Did you consult with [REDACTED] therapist from Laurel Ridge regarding the timing of his admission of a suicide attempt?*
 - f. What was her conclusion?**
- 2. Did you take a verbal or written statement for your report from this person?
 - a. How much time did you spend discussing the case and your concerns about it with this person?**
- 3. Would you please categorize how you continue to present my take of the situation where we allowed [REDACTED] to wait and tell his dad about his admission to the program?
 - a. Could you read from page 36 in your second report?**

Alexis also spoke about her decision to take ████████ to Laurel Ridge, and why she did not tell Owen. She reported that William had expressed to her that Owen “was the cause of his anxiety” and that he “had a tremendous degree of fear about his father learning about his admission.” She stressed that “so much of everything Mr. Roberts thinks or believes about Laurel Ridge is not substantiated by reviewing the medical record.”

In explaining her decision to not immediately contact Owen, Alexis stressed the following: “It was not immediately clear that the paper clip incident was an attempt at self-harm; though it was obvious that William was suffering a tremendous degree of distress that was spurred by the travel and the prospect of visiting his father, it did not become clear that this was an attempt at self-harm until William entered the Laurel Ridge program and expressed during a group therapy session on day 2 of the program.”

Furthermore, Alexis decried Owen’s dismissal of ████████ letter and video that ████████ sent to him, arguing that Owen’s belief they were “fake” only demonstrated “that Mr. Roberts cannot/will not accept that his son was trying to honestly communicate with him and that he dismissed his son at a time of most desperate need.”

- *Did you do anything to confirm any of my claims stated here?*
- *You state that ████████ expressed to “her” his anxiety about his father. He was having this full-on crying, shaking, begging panic attack in front of his step father and his therapist, yet your report reads as if it is just his mother’s recollection of a private conversation.*
- *In this section of your report, you use the word “spoke”-- yet when in your second evaluation period did we talk about this?*
- *Did you follow up with Owen about his and Deidra’s dismissal of ████████ therapy work? Why not?*
- *Several times in the report you refer to the “supposed” and “alleged” involvement of mental health professionals in the decision not to tell Owen about ████████ admission to Laurel Ridge until the beginning of his second full day of treatment.*
 - *Did you review the notes of the mental health professionals involved or interview them about this decision?*
 - *Why not? You state in your reports this boilerplate language:*

Some information collected is based upon the parties’ perceptions, beliefs, and opinions. **This examiner, where possible, obtained collateral information to either support or disconfirm the parties’ allegations.** All evaluations are limited by statements of history, especially when the information provided are inconsistent.

- *Why didn’t you confirm this detail? By phrasing it this way, does it not look as if one party were trying to withhold information from the other? That the mental health professionals and William were leading how information was gathered and needed to be disseminated;*

couldn't that have been confirmed with the unbiased mental health professionals?

- *Could you explain how this therapist knew about the "medication issues" from June 2018 when she treated [REDACTED] for 10 days in December 2017?*
- *What was her overall recommendation regarding your concerns in this case?*
- *What weight did you give her recommendations?*
 - *You ignored it and made no mention of it, why?*

Incident #3 Cross Exam Questions

Yes, I'd like to look at your statement that I filed a claim against you -- this is again a pretty big error in reading a written document, so I want to go over this.

a. In the second report, near the top of page 39, you state:

"Alexis ended the email by stating that she contacted the examiner's State Board and filed a complaint against the examiner."

[Of note to you, he also wrote this: **"Furthermore, Alexis's decision to send an email to the children's therapists, her family members, the amicus attorney, as well as send a complaint to the examiner's professional Board speaks to the extreme nature of her emotional reactions."**]

b. But in my email to Jenn, Adam and Mr. Gillen I stated:

"Leaving it in your hands. I don't think it helps me for my fight against his original report, but if I [choose] to file a claim with the state board after this, it may be helpful."

c. Your honor, I'd like to admit into evidence, email to Adam Avila, Jennifer See and Mr. Gillen regarding allegations

Petitioner's Exhibit XX: Additional Allegations

d. Dr. Theis, why did you change the meaning of my statement in your report?

Violation #8

Failure to Follow Professional Standards: Failure to Read and Acknowledge Information Submitted as required by the Texas Family Code 107.108c

CODE:(c) A child custody evaluator shall follow evidence-based practice methods and make use of current best evidence in making assessments and recommendations.

Summary:

Dr Theis couldn't remember reading two of the documents listed as items reviewed in his table of contents from the first report. He stated he had not reviewed the files and then opposing counsel objected to the reading of the two letters because they had not accessed the case file and I had not brought full copies of the case file, assuming Dr. Theis would come to court with his complete file.

Follow Up Interview w/ Children- 09/05/2018
Phone conference w/ Jennifer See, LPC. - 09/07/2018
Email (school comparisons)- 07/27/2018 Owen
Email (Allegations- Psychiatry Note)- 07/28/2018 Owen; 07/30/2018 A
Email (Autobiography)- 08/02/2018 Owen
Email (Additional Allegations)- 07/19/2018 Alexis
Email (Settlement Communication)- 07/22/2018 Alexis
Email (School Information-Concern)- 08/15/2018 Alexis
Email (Essay concern)- 09/04/2018 Alexis
Email (New Therapist)- 09/05/2018 Alexis

Cross Exam Questions [I was "sort of" able to ask these questions]

- 1. We did not discuss any of my concerns or allegations in person or on the phone--in either round one or again this year. Would you explain why you only discussed one parent's concerns during our interviews?*
- 2. Would it surprise you to know that another custody evaluator who reviewed your report determined "there is a lot of information from Alexis that looks like it wasn't received in a meaningful way?"*

Evidence: Jennifer Espronceda and Dina Trevino Call Notes

12/5

Bierman

2011-CI-13364

- teleconference w/ Dina Riccards request to Theis
(I have the name with the file you provided my client. I have the raw data but
- I have none of the supporting documents in for the raw ~~document~~ data.

~~we are asking for all~~

Psychology
Testing.

we asked for all collateral
info - collateral means
supporting

This is either using best
test + sending us
the report that is
generated or

he is using copyright
test + not generating
a report + making
it up

- either way he is being
undutiful by
withholding the doing
report

- Can tell if it's an original
or not bc when he sends
it, it looks the same

- Dina not avail. Monday morning
family emergency

of tests. The incomplete sentences doesn't pass dan bert but
he uses it all the time. he doesn't indicate where + string

the part the
info that looks like it was
dy name of
There's a lot of
in a meaningful way.
of this family's
recommendation.
received from plus 1

3. *Did you discuss my allegations with Owen?*
4. *Who compiles additional allegations that are emailed in to you after the parents come into your office?*
 - a. *Do you read all of those?*
5. *The original report lists two additional allegations that I submitted, which you did not address in the report.*

Do you recall what those allegations were?
6. *Can you explain why you did not include them in the report?*
7. *Please read the emails to your office for the record.*

EVIDENCE: Your honor I'd like to admit petitioner's exhibit XX: additional allegations

Additional allegations
3 messages

Alexis Bierman <alexis@biermanandco.com> Thu, Jul 19, 2018 at 7:24 PM
To: Nadelle Devries <admintheis@richardtheisphd.com>

Nadelle,

Since you said you were going to send my allegations as a separate page, I was hoping i could amend them with another issue:

Lack of coparenting/exposing children to sexual abuse:
The year Owen left was the same year that Owen's brother's son, Ben Roberts, was sexually abused to the point state troopers arrested his mother and I don't believe she has seen Ben since. Ben is raised by his dad and his grandparents who come ever other week while his dad travels for work.

William and Rebekah's therapist pointed out that abused children usually abuse and that the kids should not be allowed to be alone with Ben until he had been though therapy and probably not until they were all much older. This was communicated to Owen and grandparents, but multiple reports of "sleeping with Ben in the basement" occurred that summer and summers after.

I pray Ben is fine and this isn't an issue, but it was a serious concern, sent by a licensed medical professional and...ignored.

Sent from my trusty iPhone: 210-787-8068

8. *Did you follow up to see if Nancy Roberts was convicted of a child abuse felony?*
9. *Did you call the therapist --listed on my contacts sheet--who made this advisement that the children not be alone with their cousin and verify my claim?*
10. *Did you ask either of the parents in this matter about this concern? Did you ask Mr. Roberts' parents about this concern when you interviewed them?*

From: Matthew Obermeier [mailto:Matt@osgclaw.com]
Sent: Tuesday, May 29, 2018 10:15 AM
To: Christine Rudy <christine@tessmerlawfirm.com>
Cc: Heidi Helstrom <heidi@tessmerlawfirm.com>
Subject: ITIO Roberts Children - SETTLEMENT COMMUNICATION

Christine,

My client has authorized me to offer as proposed resolution of this matter split custody of the children: Owen primary of Rebekah and Alexis primary of William. A possession order would be established to provide for overlapping visits of the children at both residences (I haven't discussed this in detail, but I imagine that would mean one weekend a month at both residences, regular holiday schedule, alternating spring break, and perhaps split summer). Child support would be in accordance with guidelines for both parents, which would put your client at a net positive close to max. Travel expenses to be negotiated.

Best regards,

Matthew J. Obermeier
Partner | Oliva, Saks, Garcia & Curiel, LLP

- a. *Regarding the separation of the children, did you ask either or both of the parents about this?*
 - *Why did you not think this allegation was worthy of further inquiry?*
- b. *Why?*

Violation #9

Failure to Follow Professional Standards: Failure to Maintain Appearance of Non-Bias as required by the Texas Family Code 107.108c

CODE: (c) A child custody evaluator shall follow evidence-based practice methods and make use of current best evidence in making assessments and recommendations.

APA Guidelines <https://www.apa.org/practice/guidelines/child-custody>

5. Psychologists strive to function as impartial evaluators.

Rationale: Family law cases involve complex and emotionally charged disputes over highly personal matters, and the parties are often deeply invested in a specific outcome. The volatility of this situation is often exacerbated by a growing realization that there may be no resolution that will completely satisfy every person involved. In this contentious atmosphere, it is crucial that evaluators remain as free as possible of unwarranted bias or partiality.

Application: Psychologists are encouraged to monitor their own values, perceptions and reactions actively and to seek peer consultation in the face of a potential loss of impartiality. Vigilant maintenance of professional boundaries and adherence to standard assessment procedures, throughout the evaluation process, will place psychologists in the best position to identify variations that may signal impaired neutrality.

Summary:

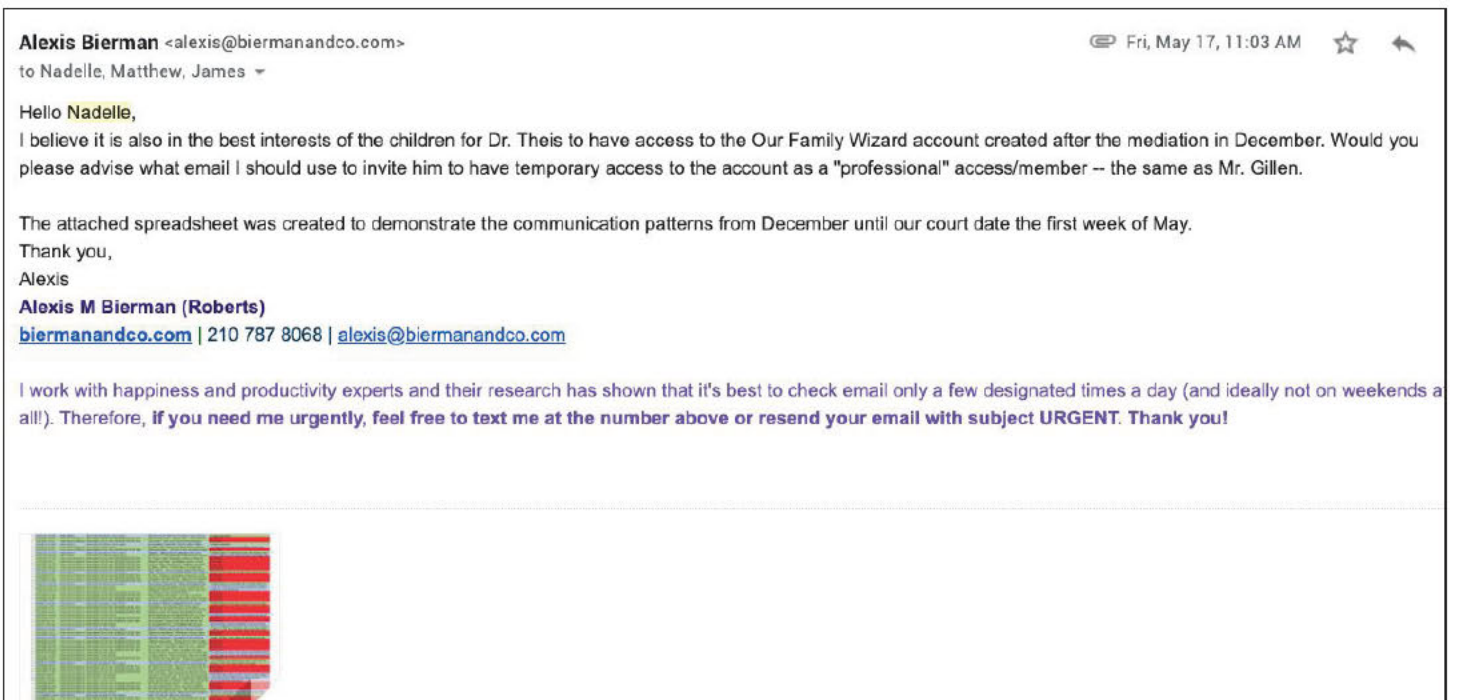
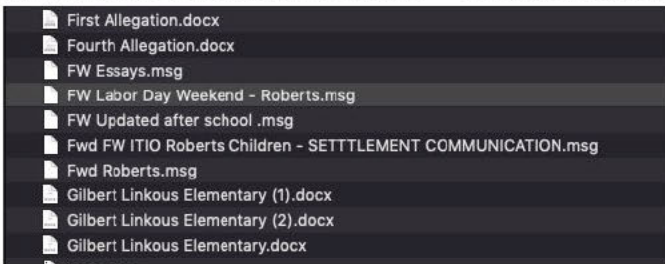
When Dina Trevino started working with me, she told me that the following items really weren't a big deal. But then she let me finish my list of biases demonstrated and she seemed to change her mind a bit. For example, Theis never discussed any of my concerns or allegations with me for the first report. When he would call, he would ask if I had any questions as I would continually ask "when will we talk about what I submitted?" And he said he always waits until the end to read items. Yet we never discussed my concerns before he published the report. Dina Trevino told me she says this to her clients as well, but she does actually read the information and then interviews clients again to discuss anything she might not quite understand or possibly be misinterpreting.

Incident #1 Personal Access to Dr. Theis vs Assistant: *Cross Exam Questions*

- The Roberts were given direct access to your personal email --as evidenced in the case file for the first report with an email sent from Deidra Roberts directly to you, Dr. Theis-- while I was directed to go through your assistant. Could you explain that?*

Your honor, I'd like to introduce this email from Deidra Roberts with two different emails for Dr. Theis that was scanned into the case file as well as my request to Nadelle, Dr. Theis' assistant for his email to use for his OFW access, indicating I had no prior knowledge of his personal email.

Evidence: Deidra emails.msg + Emails Requesting Dr. Theis's Email for OFW



Incident #2 Time: *Cross Exam Questions*

1. *How many hours do you usually spend with each side in a case?*
2. *How many total hours did you spend with my husband, Mark, and myself in our home here in San Antonio, would you say? (55 minutes)*
3. *How many hours did you spend with Owen and his wife, Deidre, in Virginia?*

I think you note about 7 hours in your report

What type of activities did you watch the kids do?

- i. *You say you saw the kids play two different types of games?*
 - ii. *Am I correct that this was fulfilling the requirements of section 107.111.c.3 of the family code asking you to observe each child, "in the presence of each party to the suit, including, as appropriate, during supervised visitation...?"*
 1. *So when did you do this parallel observation of playtime at our home?*
4. *Why were the two homes observed differently in regards to time and subject matter?*

Evidence: Original Report, page 11

Home Study and Parent/Child Observations/Interviews: Owen

This examiner went to Owen's home in Virginia. While there he observed the children with their father, step-mother, and step-brother. The children were observed inside playing, downstairs playing video games, and outside in the swimming pool. When observed together the children were very relaxed, they were responsive to the parents' suggestions and directions, and seemed to get along with one another. While all the children seemed to get along with each other and played together without incident, the two boys seemed especially comfortable with each other and played video games together, laughing and smiling. This examiner has no concerns about the residence nor any concerns from observation of the family members.

Owen was interviewed individually for approximately 75 minutes. The information he shared is summarized elsewhere in this report. Subsequent to this interview Owen and the examiner spoke on the phone two additional times to provide clarification to the information obtained and to respond to allegations made by the other side.

Deidra Roberts, Owen's current wife, was also interviewed individually. She reported that her birthdate is May 29, 1980. She is 38 years old. She is pregnant and is due January 2019. The only medications she currently takes are prenatal vitamins. Throughout the interview the examiner found Deidra to have adequate ability to modulate her emotions, her thoughts were logical and goal directed, and she was responsive and cooperative to questions. She acknowledged feelings of depression around the time of her father's death in 2007. She reportedly took antidepressant medication for one month but discontinued as her symptoms improved. She has never been treated by a counselor or therapist. She denied any family history of mental illness.

Incident #3: Step-Parent Unevenness *Cross Exam Questions*

5. *Could you please explain your parent intake packet and what it entails?*
 - a. *Did you take a parent form intake packet from both [REDACTED] Roberts, the children's step-mother and from Mark Hiebert, the children's step-father then?*
 - i. *Why not?*
 - ii. *Did you reach out to Mr Hiebert or myself to alert us that you would like Mark to complete a packet to make your data more fair and balanced?*

Collateral Information:

Releases-07/17/2018 Owen; 06/27/2018 Alexis
TXDPS -08/20/2018 Owen, 08/20/2018 [REDACTED] 06/27/2018 Alexis, 07/31/2018 Mark
DFPS -08/20/2018 Owen; 08/20/2018 [REDACTED] 08/20/2018 Alexis, 07/31/2018 Mark
New Client Packet-07/17/2018 Owen; 06/27/2018 Alexis
Medication List-07/17/2018 Owen; 06/27/2018 Alexis
Work Schedule-07/17/2018 Owen; 06/27/2018 Alexis
Collateral Contact List-07/17/2018 Owen; 06/27/2018 Alexis
Incomplete Sentences - 07/17/2018 Owen; 06/27/2018 Alexis
Child Information Form-07/17/2018 Owen; 06/27/2018 Alexis
Child History Packet-07/17/2018 Owen; 06/27/2018 Alexis
Adult History Packet-07/20/2018 Owen; 07/12/2018 Alexis
Parent Questionnaire Packet-07/18/2018 Owen; 07/18/2018 [REDACTED] 07/12/2018 Alexis
Initial Parent Packet-07/20/2018 Owen; 07/12/2018 Alexis
Time line of Events - 07/20/2018 Owen; 07/12/2018 Alexis

6. *How long does it take to fill out a parent packet?*
7. *How did you do that with the Roberts living in Virginia and this packet needing to be completed in Texas in time for this court date?*
8. *How do you do that with clients in Texas, like Ms Bierman or Mr Hiebert?*
 - a. *When my paperwork was delayed by Mr. Roberts' not sending in his allegations in a timely manner, would you allow me to complete my forms virtually on my visit to Iowa?*
 - b. *What is your usual reason for having paperwork completed in your office?*
 - c. *How did you ensure that Mr. Roberts, not his lawyer or his wife, wrote his statements in this updated timeline?*

Incident #4: Assistant/Copywriter Involvement *Cross Exam Questions*

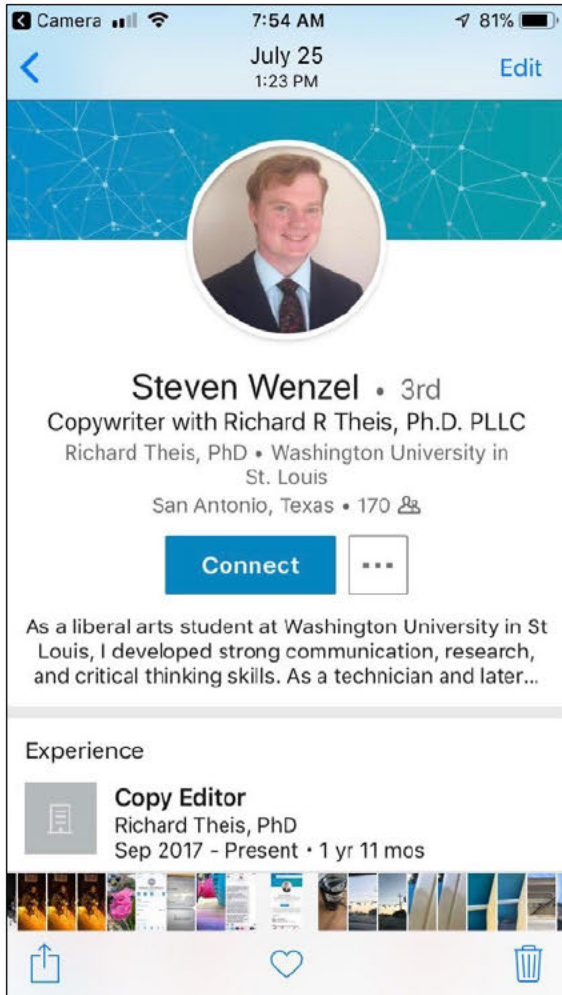
1. *The case file you submitted to my first former council on November 10 2018 shows that I answered some of your packet in writing and some on the computer. Who compiles and matches up these documents for you?*
 - i. *What kind of validation is done to ensure that the sections match up?*
 - ii. *Do you ever review the original versions of the documents or just the printed out signed versions that sometimes have boxes of text that do not print out?*
2. *You also ask parents to prepare some documents ahead of time for you, correct? What are those documents?*
3. *And do you allow clients to reference these documents as they fill out the paperwork?*
4. *What is your assistant's name? What is her role in your office?*
5. *And who is Steven Wenzel?*
6. *What does he do for your office?*
7. *Why does a custody evaluator need a copywriter?*
8. *If I asked you to make a pie chart, what percentage would you assign to your first hand integration and analysis of the interviews, plus how much was based on Ms. DaVries' collating the information and Mr. Wenzel's wordsmithing?*
 - a. *What portion of the reports are actually your personal thoughts and words?*
 - b. *Is it just your recommendation, 2 pages of this 86 page report?*

Evidence: Screenshot: Copywriter's Linked In Bio

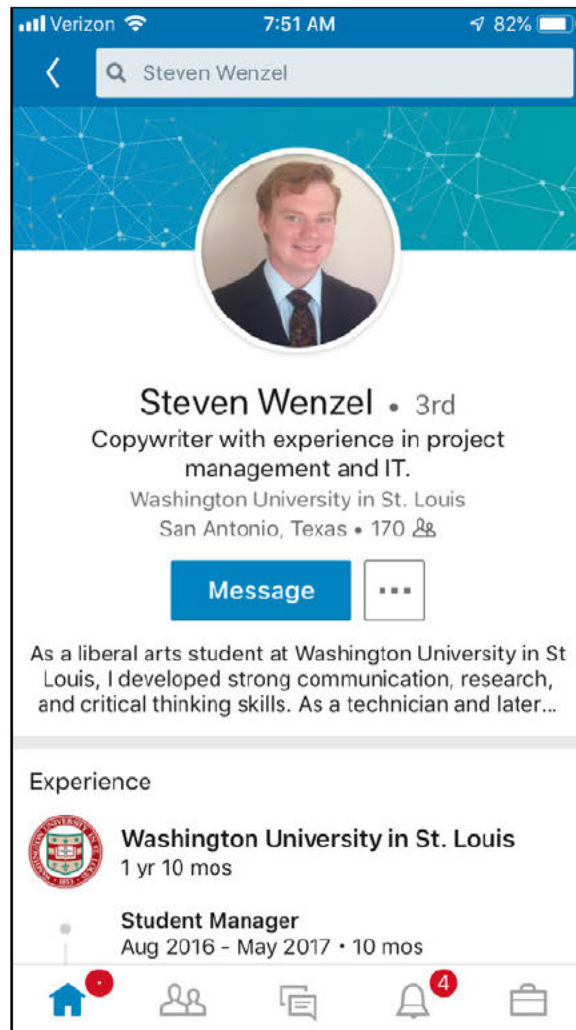
[of note to you: after claiming in court that Steven never really worked for him, “like that,” Dr. Theis or someone from his office must have communicated with Steven Wenzel as I’m including a screenshot of Mr. Wenzel’s profile on the night after Theis’ crosss-exam, July 30, 2019. I am happy to provide the digital files to show the timestamps.]

BEFORE TRIAL

“Copywriter with Richard R Theis”



AFTER TRIAL



9. *In fact your assistant Nadelle told me I could make annotations to points in my autobiography or timeline to avoid repetitive questions.*
 - a. *Again, who handles making those answers match up in your report?*
 - b. *Do you credit Nadelle or Steven-- or any of their work -- in your reports?*
 - c. *In comparing the Daily Schedule form for both parents in the original case file, I see it was handled very differently. For Mr. Roberts there was little information as to the daily parenting duties on his form, it was all about travel schedules.*

Can you explain whether you did any follow-up to be able to better match up who's doing the parenting work in each home?

Evidence: Case File "Schedule"

Richard R. Theis, Ph.D.
 1210 S. Alamo St.
 San Antonio, Texas 78210
 Phone (210) 414-1123 Fax (210) 547-7967

Schedule

Court Order Custody Agreement: William + Rebecca Roberts
Alexis Bierman HMO

Please notate below your schedule pickup times and drop off times with child(ren). Please also notate your daily work schedule hours.

1/8/15 weekends provided - 5:45pm pickup Friday 6:15pm Sunday pickup - see travel schedule

Time	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
5am							
6am							
7am							
8am							
9am							
10am							
11am							
12pm							
1pm							
2pm							
3pm							
4pm							
5pm							
6pm							
7pm							
8am							

Handwritten notes in schedule:
 Monday: WORK
 Tuesday: WORK
 Wednesday: WORK
 Thursday: WORK
 Friday: HMO
 Saturday: Ball games
 Tuesday: Therapy (W)
 Friday: Therapy (W)
 Saturday: Ball (R) practice, Ball (R) practice
 Sunday: X

Vertical note on right: + times vary on Sat

Bottom note: see attached sheet for parenting schedule

Richard R. Theis, Ph.D.
 1210 S. Alamo St.
 San Antonio, Texas 78210
 Phone (210) 414-1123 Fax (210) 547-7967

Schedule

Court Order Custody Agreement: see attached sheet(s)

Please notate below your schedule pickup times and drop off times with child(ren). Please also notate your daily work schedule hours.

Time	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
5am							
6am							
7am							
8am							
9am							
10am							
11am							
12pm							
1pm							
2pm							
3pm							
4pm							
5pm							
6pm							
7pm							
8pm							

Declare Provider: _____ (ph) _____
 Nanny(s): _____ (ph) _____
 After school programs: _____ (ph) _____

OR

Evidence: daily schedule “attachment”

SCHEDULE

Based on the Possession Order, as part of our Final Divorce Decree, I have rights to possession of both children on the **FIRST, THIRD, and FIFTH Weekend (of each month)** along with an **Extended Summer Possession (for a total of 42 days)**, **Spring Break/Vacation (in all years, since I live greater than 100 miles away)**, **Christmas Holiday (in EVEN-numbered years)**, **Week after Christmas (in ODD-numbered years)**, **Thanksgiving (in ODD-numbered years)**, **Father's Day, etc.**

At the time of my divorce (from Alexis), I lived in D'iberville (close to Biloxi), MS, as I was in the Air Force, at the time, and stationed at Keesler Air Force Base. In other words, I lived 600 miles (one-way) from my kids (by car). While I optimally would have gotten my kids every 1st, 3rd, and 5th weekends, because of the distance and because of being a doctor in the military, I was not able to get them every single weekend (because there were times that I was “on-call” and could not leave the area). With that being said, despite being 600 miles from my kids, I consistently went and exercised my visitation with my kids, on average, about twice per month, from Sept 2011, when I initially moved to Mississippi (even prior to being divorced in Dec 2012), until late 2016 (when I initially came up to Virginia for a civilian job). While I occasionally would fly and while I would sometimes bring the kids back to MS, for the majority of those weekends, I drove 1200 miles (round-trip) to stay in a hotel and see my kids (in San Antonio) for a couple of days. I made this sacrifice because I loved my kids and wanted to always be there for them. As such, I consistently remained in their lives (even with the limitations of living 600 miles away). Then, in Dec 2016, I began working temporarily at a hospital in Southwest Virginia (after getting out of the military in Oct 2016). From then until around Mar 2017, I continued to see my kids regularly (flying down to San Antonio to see them). Then, beginning around Apr 2017, when I bought a home and my wife (and stepson) were able to join me in Virginia (after I had begun a permanent position, in Virginia, in Mar 2017), my wife and I began flying the children up (to an airport within a few hours of our location) on the first, third, and fifth weekends (of each month). That continued until early 2018, when I had to cut back on having the kids fly to Virginia, due to financial reasons. More specifically, I could not afford to continue to fly the kids up here as frequently because I had been sued (by Alexis Bierman) for modification of our custody agreement (and for a modification/raise in child support, despite the fact that I had been paying the maximum amount of child support allowed at the time of divorce in Dec 2012). While my visitations with the children were, therefore, decreased in the past 6 months, I was still able to see them some, including once in Feb 2018 (when I flew down to see them) and for their spring break in Mar 2018. They were also due to fly up to Virginia once in Apr 2018, but that weekend visitation was canceled by a court ruling (in which it was felt that the children going to a Fiesta celebration was more important than a weekend visitation with their Father).

My hope, at this point, is that I will ultimately become the primary custodial parent for my children, which will allow me to be with the my children year round (and will, at that point, work with Ms. Bierman to set up a visitation schedule for her). If that is not the case, my goal is to resume having the children fly up here to Virginia (so that we can be a family together, along with my wife and stepson) at least one-to-two times per month.

OR

DAILY GUIDANCE IN THE MATTER OF RJR AND WER

TASK	SAN ANTONIO @ TIME OF DIVORCE	SAN ANTONIO 2018	BLACKSBURG 2019
Who makes the children's meals?	100% Alexis	50% Mark, 35% Alexis 15% Kathy, Granny Susie, Uncle John, or Pilar + School Lunch	-School Lunch
Who bathes/dresses the children and teaches hygiene habits?	100% Alexis	80% Kids, 20% Alexis or Mark Enforcement	
Who stays home from work when a child is sick?	100% Alexis	80% Alexis, 20% Mark	
Who picks up and drops off the children at school?	100% Alexis	80% Alexis, 20% Mark	W: M-TH: Dad Drops Off, F: Bus Bus for pick up R: Bus
Who puts the children to bed?	95% Alexis 5% Owen	R: 100% Alexis (Dishes + 100% Mark!) W: 90% on his own, 10% Alexis	
Type of discipline in home?	Authoritarian/Yelling	Authoritative - Love + Logic	
Do you have individual dates with your children?	Yes, weekly b/c Owen only took one child at a time for the first several months of separation.	Yes, we aim for monthly dates with each parent.	
Have you taken any parenting classes?	Love and Logic with Mission Vineyard Book Study	Love and Logic workshop "Play Therapy Parenting" YES Waiver Program	
What do you like to do with your kids?	Daily Dog Walks Play Group Dinners with Friends Art projects	Alexis: art projects, reading books/listening to audio books together, playing games, watching TV series together Mark: riding bikes, testing experiments, paint/build, matchbox cars + trains, family walks	Owen: Deidra:
Who supervises the completion of homework with the children?	Alexis	W: Alexis or Mark R: Usually done at KINS after school care	
Who communicates with the school, including teachers?	Alexis	Alexis	
Who arranges for and takes children to extracurricular activities?	Alexis	55% Alexis, 40% Mark, 5% Uncle John or Kathy	
How do you teach your children the importance of giving to others?	Mission Vineyard Church Savings Jars via Dave Ramesy	Volunteering: Mark @ Neighborhood Assoc., Alexis @ PTA/School Volunteering: Animal Defense League	
How often are the children allowed to have sleep overs at your home?	W: 2-3 time a year R: 1-2 times a year	Once or twice a month	
Do you have extended family and/or a close support system for help raising the children?	Support system from church at Mission Vineyard, including: • Pilar Almaraz • Amy & Bobo Blankson • Rachelle Powell • Kelci & Jordan Brock	Yes! Mark's Mom: Kathy Alexis' Mom: Susie Alexis' Brother: John Family Friend: Pilar Almaraz Family Friend: Ericka Rapson Family Friend: Mimi Quintanilla Family Friend: Rachelle Powell	

Incident #5: Word Use Bias

Cross Exam Questions

1. The responses of each party were heavily inserted verbatim into your report with your stated caveat that you're editing for clarity and brevity. Regarding that task, would you explain why on the updated report, all of my notes have the word "allegedly" spaced throughout the accusations, **but that word is not present in Mr. Robert's allegations about my actions.**

I count you saying allegedly on my terms 7 different times in round 2 of the report, but there is NOT ONE USE of the word in the section for Mr. Roberts. Would you explain that discrepancy?

Evidence: Report #1 - included as attachment

Incident #6: Belief "Move" Already Happened

Cross Exam Questions

1. *You've stated "I was pleased to learn that the parties came to an agreement at mediation implementing my recommendation,"*
 - a. *Did you confirm your assumption that we had implemented your recommendation was what had happened before you typed those words?*
 - b. *Did you type that summary or did your copy writer Steven?*
 - c. *Did you speak with me before creating your affidavit?*
 - d. *Did you speak with the court-appointed amicus attorney on this case before creating your affidavit?*
 - e. *Do you think it biases your second report for you to have started your re-evaluation/update under this assumption--assuming your plan was being implemented when the children moved to Virginia?*
- i. *You state you think the children's primary residence was already changed, please read here:*

Please read this section of your report, from page 84:

First, as the court is well-aware, stability in a child's life is essential, which is why changing primary custody during temporary orders is, at best, difficult. In this case, the children's primary residence was already moved to Virginia in December 2018. Moving the children again and having the children in three different schools in one year is not recommended and clearly disrupts the children's stability.

- f. Why did you think this happened?*
- g. How is this four-month "visit" really any more disruptive than a long summer visitation?*
- h. Please clarify, how would it be three schools in one year for either child?*
- i. Is your final recommendation that custody is changed to Owen Roberts having primary custody because you believe that has already happened?*
- i. Could you summarize how you described my feelings about your statement that the plan had been implemented in your round 2 report page 34 from your report:*

Alexis was asked about the current custody situation, and how it has changed since the last evaluation. The examiner's report was released in September 2018, and in December 2018 the parties met for mediation. During mediation, Alexis was allegedly asked "what would it take for [her] to feel comfortable with the children trying [a different custody plan] out." Alexis reportedly decided that "it was worth a try to see if we could finally stop the fighting once and for all." Additionally, she felt it was "the only chance" to have Owen agree to help pay for an amicus attorney and "other provisions decided to make the transition easier for the children."

She emphasized, however, that she agreed to allow Owen to have primary custody of the children "for a semester." Additionally, she made note of several stipulations of "what it would take for [her] to feel comfortable" with a changed custody arrangement. These stipulations were as follows:

1. That an amicus attorney would be hired for the case,
2. That the children would be allowed to see their current therapists as often as they wanted,
3. That the children would be seen by a psychiatrist no later than January 15 (to ensure they did not run out of their medications),
4. That the children be allowed to choose their extracurricular activities,
5. That Rebekah get a Spanish tutor,
6. That Owen would help pay for travel each month,
7. That the order would include the Children's Bill of Rights,
8. That Owen and Alexis use Our Family Wizard for communication,
9. That the children's phones not be taken away as punishment, and
10. That the children do not have unsupervised access to their cousin, Ben Roberts (because of Ben's history as a victim of child sexual assault).

Alexis reported that she introduced this list on the morning of the December mediation, and alleged that Owen "chose to argue against each provision in the list, wanting [Alexis] to pay child support, health insurance, and travel for the children – making it so that [Alexis] would see the children probably one to two times a year." The mediation ultimately lasted ten hours, and Alexis noted that the mediator charged

- ii. *Did I emphasize in our meeting that it was always referred to as a trial period?*
1. *When I finished your second report, I was left with the take-away that your main objection to letting the children stay with me is because I have too much of an influence on them, is that correct?*

Would you please read this section that you underlined for emphasis on page 85?

emotional reactions to manipulate others and avoid challenging situations.

Given these concerns, the examiner finds that, by far, there is a greater risk to the children's emotional and psychological well-being, as well as their ability to maintain a positive relationship with their father, if they remain in San Antonio and primarily with their mother. Alexis's past and current behavior clearly suggests that she will, consciously and unconsciously, attempt to align the children's thoughts and feelings about their father with her thoughts and feelings. The examiner believes that the children are well aware of their mother's fears and opinions as related to their father, and both children are easily influenced and manipulated to alter their feelings and thoughts about their father to fit their mother's narrative. It is for this and other reasons that the children's desires for custody should not be a primary factor in determining what is in their best interest.

2. *Did you ask each of the children's therapists about your supposition?*
3. *Did you ask me about this concern?*
4. *Did you ask me if I had discussed a similar concern with my own therapist?*
5. *Did you ask any of my therapists—past or present—about this concern?*
6. *When conducting your report, did you see any patterns of behavior that might play into the children's trouble of truly respecting me??*
 - a. *How about in your report where you cite that apparently "Call Lucifer" is Owen's alarm to call me --as written on page 40?*

██████████ stated that his father was "happy" that he was in Virginia. He stated that they talked about the call times with his mother and how to change the times. He said that one bad thing happened was his father's phone "flipped" open and an alarm sounded and on the phone it said "call Lucifer."

- b. *Or the testimony from my Stepmother on page 77 that ██████████ was screaming "you're not a good mother, you don't take good care of us" on her first week back from her summer visitation last year?*

note: this is attributed to Rick Bierman, but checking the case file will show there were two submissions from Rick Bierman's fax yet only the statement from Audrey Bierman was typed into the report and was attributed to Rick Bierman.

Is there anything else you feel is important to know for this case?

Last summer William expressed his desire to remain living with his mother.

While we were on a family vacation last summer we witnessed Bekah behave very badly to her mother when Alexis reminded her to call her father as they did nightly. Bekah started to scream and physically attack her mother saying "You're a bad mother, you don't take good care of me" All the while flaying her mother with open hands. She even went for her mother's eyes. Alexis did not react, just took it. Mark leapt up and pulled her off her mom. The child was mild. Mark restrained her with appropriate holds we learn in teacher training. As a teacher for thirty years, I have never seen a child do this. As a grandma I was horrified by Bekah's words. All day Bekah stuck to her mom like glue, with the reminder to call her dad she became unglued!

Allegation #10

Failure to Follow Professional Standards: Failure to Update Domestic Violence Training

Summary:

Dr. Theis responded to these questions saying all the missed chances to confirm his theories were just data sets that he already addressed.

Cross Exam Questions

1. *The law lists different combinations of credentials that are sufficient to qualify a person as an evaluator (for example, advanced degrees, professional licenses, professional development, and work in a relevant field under supervision). Family violence training must also be completed.*
 - a. *Could you inform us about the family violence training you've taken and what awareness you use in your evaluations?*
 - b. *Could you explain the concept of domestic violence by proxy?*
 - c. *Did you investigate whether the manipulation of the children and the use of a custody evaluation could be in fact of a form of **domestic violence by proxy** in this case?*
 - d. *The field of childhood trauma has changed pretty dramatically in the last decade. Have you done any recent continuing education in childhood trauma and trauma theory?*
 - i. *Would you please explain how trauma theory would suggest that daily exposure to yelling and fighting parents, even one-sided hostile yelling, often creates long-term behavior issues like [REDACTED] and [REDACTED] have exhibited?*
 - ii. *[REDACTED] my stepmother, a retired teacher and mandatory reporter of neglect and abuse submitted a collateral statement to you, correct? And how did you rate that statement?*
 - iii. *She states*

Is there anything else you feel is important to know for this case?

Last summer William expressed his desire to remain living with his mother.

While we were on a family vacation last summer we witnessed Bekah behave very badly to her mother when Alexis reminded her to call her father as they did nightly. Bekah started to scream and physically attack her mother saying "You're a bad mother, you don't take good acer of me" All the while flaying her mother with open hands. She even went for her mother's eyes. Alexis did not react, just took it. Mark leapt up and pulled her off her mom. The child was mild. Mark restrained her with appropriate holds we learn in teacher training. As a teacher for thirty years, I have never seen a child do this. As a grandma I was horrified by Bekah's words. All day Bekah stuck to her mom like glue, with the reminder to call her dad she became unglued!

1. *Why not?*
2. *Did you ask either of the children's therapists about these statements?*
3. *Did you ask Owen about these statements?*
4. *Who were the statements emailed to?*
5. *Who compiled them for you?*
6. *Did you read the original emails or just the compiled format?*

iv. *And you listed all of the people that sent them in?*

1. *I have a confirmation email from Nadelle that Rick Bierman AND Audrey Bierman sent statements. So did Sophie Almaraz (which you feature) and her mother Pilar Almaraz. So technically this memory listed above is from my Stepmother, Audrey Bierman because I have a copy of what was sent to you -- you list as being from Rick Bierman, my father on page 66.*

Why did you omit Sophie and Rick's two statements ((when it couldn't be because they were from the same family because you included a joint statement from Owen's parents?))

Are you familiar with this book? The Art and Science of Child Custody Evaluations?

- v. *This question is based on one of the best practices described there: Do you regularly discuss your evaluations with colleagues, particularly in very contentious cases or where you do not agree with another appointed expert of the court on your conclusions?*
1. *Did you do that in this case?*

Contact Information

Judge Gonzalez's Court Reporter:

Mary Berry | mberry@bexar.org

Estimated Transcript Costs:

July 30, 2019

Dr. Richard Theis' Testimony:

Estimate Cross by Bierman: \$1,020

Estimate Cross by Gillen: \$210

Estimate Recross by Bierman: \$30

Estimated costs do not include attaching any exhibits to this record.

Child #1 Therapist:

Adam Avilia | Radius Psychotherapy
radiuspsychsa@gmail.com | 210-854-1663

Child #2 Therapist:

Jennifer See | Jennifer See LPC
jennifer@jennifersee.com | 254-458-6620

Mother's Therapist:

Krista Delgado | Soul Space Healing
soulpacehealthandwellness@gmail.com | 717-490-3291

Mother's Retained Expert for Case Review:

Dina Trevino, PhD | 6100 Bandera Rd Ste 414, San Antonio, TX 78238
dina.trevino@gmail.com | (210) 647-7712

Amicus Attorney in Case (January 2019–August 2019)

James Gillen | james@binehamgillen.com | (210) 541-6800

Additional Documentation:

INCOME COMPARISON: IN THE MATTER OF WER AND RJR

	2011	2012	2013	2014	2015	2016	2017
Owen							
Reported Taxable Income	\$134,023	\$174,427	\$161,195	\$163,617	\$111,927	\$175,219	\$411,497
	Joint	Single	Single	Single	Single	Joint	Joint
	4 Exmp	1 Exmp	1 Exmp	3 Exmp	1 Exmp	3 Exmp.	3 Exmp
Non-Taxable Income		\$24,583		\$52,500	\$11,250	\$15,000	\$0
Total Income	\$134,023	\$199,010	\$161,195	\$216,117	\$123,177	\$190,219	\$411,497
Alexis							
Reported Taxable Income	\$21,657	\$29,391	\$48,122	\$39,160	\$13,473	-\$1,533	\$13,638
	Joint	HH	HH	HH	HH	Joint	Joint
	4 Exmp	3 Exmp	3 Exmp	3 Exmp	3 Exmp	4 Exmp	4 Exmp
Non-Taxable income	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Income	\$21,657	\$29,391	\$48,122	\$39,160	\$13,473	-\$1,533	\$13,638
Comparisons							
Reported Taxable Income	619%	593%	335%	418%	831%	n/a	3017%
Owen vs Alexis	6 Times	6 Times	3 times	4 Times	8 Times	n/a	30 Times
Total Income	619%	677%	335%	552%	914%	n/a	3017%
Owen vs Alexis	6 Times	6 Times	3 Times	5 Times	9 Times	n/a	30 Times

Source: Tax Returns and bank statements disclosed during discovery.

OFW Correspondence

A Graphic Representation of Communication & Responsiveness

	A	B	C	D	E
1	Date	Sender	Sent to	Message Subject	Response?
2	04/20/2019 1:06 PM	Alexis Bierman Roberts	Owen Roberts (First View: 04/20/2019 4:07 PM)	"RE: Phones on plane" Telling Owen you are fixing our	No response
3	04/20/2019 8:34 AM	Alexis Bierman Roberts	Owen Roberts (First View: 04/20/2019 4:31 PM)	"RE: Phones on plane" worried about Rebeccah after last night's	No response
4	04/21/2019 4:07 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"William" William lost his phone in flight for a second	No response
5	04/21/2019 3:37 PM	Alexis Bierman Roberts	Owen Roberts (Seen at 04/20/2019 4:07 PM)	"William" Williams had headaches, mood swings and	No response
6	04/21/2019 4:01 PM	Owen Roberts	Alexis Bierman Roberts	"Rebeccah" Rebeccah has lost her phone for two weeks	"Owen and Debra- Thanks for this update. Could you
7	04/22/2019 8:20 PM	Alexis Bierman Roberts	Owen Roberts (First View: 04/20/2019 8:17 PM)	"RE: SSR" "You purchased the otcch meds on the advice	"We follow the recommendation of Glenda Ball, which is
8	04/22/2019 8:21 PM	Alexis Bierman Roberts	Owen Roberts (First View: 04/20/2019 8:17 PM)	"Sports schedules in calendar" Attached are the	"Kids Owen and Debra.
9	04/24/2019 04:04 PM	Alexis Bierman Roberts	Owen Roberts (First View: 04/24/2019 8:43 PM)	"Sports schedules in calendar" Sports schedules not on	No response
10	04/24/2019 7:40 PM	Alexis Bierman Roberts	Owen Roberts (First View: 04/24/2019 8:43 PM)	"Thanks for the baseball video" Alexis thanked them	No response
11	04/24/2019 10:24 AM	Alexis Bierman Roberts	Owen Roberts (First View: 04/24/2019 8:43 PM)	"Phone on plane" Talking about kids using phones on	"We have turned off the San Antonio phones and out
12	04/24/2019 12:18 PM	Owen Roberts	Alexis Bierman Roberts, James Gillen, Mark Heibert	"RE: SSR" "In the way, Williams SSR is in a Zialec bag in	No response
13	04/24/2019 4:50 PM	Alexis Bierman Roberts	Owen Roberts (First View: 04/24/2019 6:32 PM)	"RE: Dental appointments" "OK, the appointments have	No response
14	04/24/2019 4:51 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Dentist" "William had the first dose of three of this	"Thanks for letting us know. What is the remaining
15	04/24/2019 4:54 PM	Alexis Bierman Roberts	Owen Roberts (First View: 04/07/2019 7:33 PM)	"Dentist appointments" "In Owen and Debra - here's the	No response
16	04/24/2019 4:54 PM	Alexis Bierman Roberts	Owen Roberts (First View: 04/07/2019 7:33 PM)	"Dentist appointments" "In Owen and Debra - here's the	"We will make the appointments here."
17	03/20/2019 8:15 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Rebeccah" "Rebeccah went to the doctor today to have	"Thank you for the update. Very much appreciated"
18	03/20/2019 8:45 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Williams share" "William is allowed to take either his	"Hi Owen and Debra
19	03/20/2019 12:11 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/18/2019 8:43 PM)	"DR assessment report - summer dates" "Just wanted to	No response
20	03/20/2019 12:11 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/18/2019 8:43 PM)	"DR assessment report - summer dates" "Just wanted to	No response
21	03/20/2019 7:33 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Psychological Evaluation" "The kids saw Dr. Miller	"Hi Owen and Debra
22	03/20/2019 7:33 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/18/2019 8:43 PM)	"RE: March Visit" "Alexa you're doing well and having a	"I am okay with them not doing MM on Friday, but I
23	03/20/2019 7:51 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/20/2019 5:34 PM)	"William on meds?" "I am glad to hear you haven't gotten	No response
24	03/20/2019 8:27 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Rebeccah" "Rebeccah had to come home early from	"Hi Owen. Thanks for letting us know. We actually heard
25	03/20/2019 8:48 PM	Mark Heibert	Owen Roberts (First View: 03/20/2019 5:34 PM)	"March Visit" "Travel dates and thinking we will come to	"There is MMA on Friday and Girls Scouts on Sunday. They
26	03/20/2019 7:55 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/20/2019 8:15 PM)	"RE: Phones, laptop" Rebeccah concerns about the	No response
27	03/20/2019 8:41 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/18/2019 8:43 PM)	"Rebeccah's backpack" how Rebeccah came in with an	No response
28	03/20/2019 8:21 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Lezanne - Heidi - Leah note" "Rebeccah's new hand	No response
29	03/20/2019 12:06 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/18/2019 8:43 PM)	"En Route - Phones" "The kids are in the plane and	No response
30	03/20/2019 9:29 AM	Alexis Bierman Roberts	Owen Roberts (First View: 03/18/2019 8:43 PM)	"March dates" "...We are wanting to book their March	No response
31	03/20/2019 8:04 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Kids" "The kids are on the flight. William has his SSR in	"Thanks for the heads up. We will run by the cruise store
32	03/20/2019 8:10 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/18/2019 8:43 PM)	"RE: Kids" "Thanks for the heads up. We will run by the	No response
33	03/20/2019 8:52 AM	Alexis Bierman Roberts	Owen Roberts (First View: 03/18/2019 8:43 PM)	"Greenlight and Weekend Visit" "Hoarding the weekend	No response
34	03/20/2019 8:40 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/20/2019 10:50 PM)	"RE: Phones, laptop" "I will need to request an update	No response
35	03/20/2019 8:40 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Psychological Evaluation" "William and Rebeccah have	"Hi Owen. Thanks for the heads up. We look forward to
36	03/20/2019 8:40 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Phones, laptop" Rebeccah concern about how the	"I think the caseworker has really helped the children
37	03/20/2019 8:40 AM	Alexis Bierman Roberts	Owen Roberts, Mark Heibert	"Melatonin" "Please see the attached sleep rules both	"Do you have a referral to a psychiatrist and we will
38	03/20/2019 8:31 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/20/2019 7:33 PM)	"RE: Melatonin" Alexis sent attachment	No response
39	03/20/2019 8:50 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/20/2019 5:01 PM)	"Please confirm with Mom" "I just had a call from	No response
40	03/20/2019 8:56 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/20/2019 2:49 PM)	"Call time" "It would be nice to talk to the kids early	No response
41	03/20/2019 8:11 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/20/2019 2:34 PM)	"RE: Psvch appointments and Spanish Lular #2" "I have	No response
42	03/20/2019 8:13 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Technician" "William and Rebeccah have lost their	"Hi Owen- Thanks for letting us know. First of all- Owen
43	03/20/2019 8:31 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/20/2019 7:33 PM)	"Greenlight cards" "The kids told us you're doing	No response
44	03/20/2019 8:36 AM	Alexis Bierman Roberts	Owen Roberts (First View: 03/20/2019 8:05 PM)	"Leah box for W" "With the seal of not putting the kids	No response
45	03/20/2019 8:21 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/20/2019 3:40 PM)	"Rebeccah's skin" "I'm worried about Rebeccah's skin	No response
46	03/20/2019 8:30 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Psvch appointments and Spanish Lular #2" "It is new	"The kids have a referral to a psychiatrist and we will
47	03/20/2019 8:15 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/20/2019 3:40 PM)	"RE: Psvch appointments and Spanish Lular #2" "It is new	No response
48	03/19/2019 8:32 AM	Alexis Bierman Roberts	Owen Roberts (First View: 03/19/2019 7:20 PM)	"Texas Phones" "Please bring the Texas phones and	No response
49	03/19/2019 8:56 AM	Alexis Bierman Roberts	Owen Roberts, Mark Heibert	"RE: RE weekend visit" "I'm saddened that you can't	"No one will be coming to Roanoke to pick up the kids.
50	03/19/2019 12:30 PM	Alexis Bierman Roberts	Owen Roberts, Mark Heibert	"RE: weekend visit" "Owen- assume no response"	"Other than Rebeccah mentioning that you were coming a
51	03/19/2019 7:33 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"William" William told us that he received his school	"Hi Owen. I think your response was so very small thank
52	03/19/2019 7:11 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/09/2019 3:52 PM)	"Phones as a souvenir" "William says that his phone	No response
53	03/19/2019 4:56 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/09/2019 3:52 PM)	"February travel" "Hope you've had a good Wednesday	No response
54	03/19/2019 8:29 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Williams Lab Results" "Just wanted to let you know	"Thanks. William is very aware of nutrition facts but
55	03/19/2019 8:57 AM	Alexis Bierman Roberts	Owen Roberts (First View: 03/19/2019 8:28 PM)	"Williams Lab Results" "William likes to listen to audio	No response
56	03/19/2019 7:55 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/19/2019 8:28 PM)	"I think" "Hello, please save Williams' shirt collection	No response
57	03/19/2019 10:40 AM	Alexis Bierman Roberts	Owen Roberts (First View: 03/19/2019 8:28 PM)	"March dates" "Since OFW is new to all of us, I wanted	No response
58	03/19/2019 10:45 AM	Alexis Bierman Roberts	Owen Roberts (First View: 03/19/2019 8:28 PM)	"RE: School contacts" "Owen- I've always sent you	No response
59	03/19/2019 8:52 PM	Alexis Bierman Roberts	Owen Roberts, Mark Heibert	"School contacts" "Since the schools here send the kids	"You will need to contact the schools and handle getting
60	03/19/2019 8:52 PM	Alexis Bierman Roberts	Owen Roberts, Mark Heibert	"School contacts" "Since the schools here send the kids	"You will need to contact the schools and handle getting
61	03/19/2019 7:57 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/04/2019 8:24 PM)	"RE: Phones for three way call" "Thank you for ensuring	No response
62	03/19/2019 8:39 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Jam See Apat for RUP" "Here's the info for Rebeccah. She	"I just looked at agreement today and it says the kids
63	03/19/2019 8:39 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Doctor appointments" "Both children established care	"Thanks for his info. Owen. Were any issues
64	03/19/2019 8:16 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/03/2019 8:59 PM)	"RE: Melatonin for kids?" "Thanks for clarifying this. She	No response
65	03/19/2019 5:36 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/02/2019 5:39 PM)	"RE: Adam appointment for William" "I'm sorry to hear	No response
66	03/19/2019 5:29 PM	Alexis Bierman Roberts	Owen Roberts (First View: 03/02/2019 5:39 PM)	"OFW vs lawyers" "How you guys are obnoxious and	No response
67	03/19/2019 8:18 PM	Alexis Bierman Roberts	Owen Roberts, Mark Heibert	"Phones for three way call" "Owen- we would appreciate	"I. The kids almost always have access to their phones.
68	03/19/2019 7:52 PM	Alexis Bierman Roberts	Owen Roberts, Mark Heibert	"Melatonin for kids?" "Owen as I mentioned, didn't send	"I will address that with their doctor. Of note,
69	03/19/2019 8:18 AM	Alexis Bierman Roberts	Owen Roberts, Mark Heibert	"Adam appointment for William" "Owen, please ensure W	"This is not what we agreed to."
70	03/20/2019 11:08 AM	Alexis Bierman Roberts	Owen Roberts (First View: 12/26/2018 6:25 PM)	"RE: Flight and luggage issues" "Don't worry about	No response
71	03/20/2019 11:07 AM	Alexis Bierman Roberts	Owen Roberts (First View: 12/26/2018 6:25 PM)	"Theater appointments" "Hello, both kids scheduled	No response
72	03/20/2019 8:12 AM	Alexis Bierman Roberts	Owen Roberts (First View: 12/26/2018 6:25 PM)	"RE: Flight and luggage issues" "I got two emails from	No response
73	03/20/2019 8:01 PM	Alexis Bierman Roberts	Owen Roberts, Mark Heibert	"Flight and luggage issues" "Owen, we've been unable to	"There was a lone delay with their initial flight, and
74	03/20/2019 8:01 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Kids" "We have the kids safe and sound."	"Thanks for the heads up. Safe trip home."
75	12/28/2018 4:44 PM	Alexis Bierman Roberts	Owen Roberts (First View: 12/28/2018 4:49 PM)	"Birth certificates" "Hello, a friend pointed out that in	No response
76	12/27/2018 8:22 PM	Alexis Bierman Roberts	Owen Roberts (First View: 12/28/2018 3:59 PM)	"Enders Game" "Owen, William doesn't want to take his	No response
77	12/27/2018 11:48 AM	Alexis Bierman Roberts	Owen Roberts (First View: 12/27/2018 12:09 PM)	"William is sick" "FYI Followed up on my text from last	No response
78	12/18/2018 6:07 AM	Alexis Bierman Roberts	Owen Roberts (First View: 12/18/2018 4:40 PM)	"Williams tardy" "Want to alert you to Williams tardy	No response
79	03/21/2019 10:35 AM	Alexis Bierman Roberts	Owen Roberts (First View: 12/13/2018 4:20 PM)	"Savine Break" "Hello. What are the dates for the kids'	No response
80	03/21/2019 5:02 PM	Owen Roberts	Alexis Bierman Roberts, Mark Heibert	"Flights" "I have booked the kids' flights for 28 Dec	"Thank you for the flight information. In the future,
81	12/21/2018 1:05 AM	Alexis Bierman Roberts	Owen Roberts (First View: 12/21/2018 5:49 PM)	"Therapists" "I got Rebeccah and Williams therapists	No response
82	12/16/2018 11:42 AM	Alexis Bierman Roberts	Owen Roberts (First View: 12/16/2018 11:32 AM)	"School Withdrawals" "Hello. I have let both schools know	No response

Green = Correspondence by Alexis Bierman

Blue = Correspondence by Owen Roberts

Red = Correspondence Unanswered by Owen Roberts

Where correspondence was initiated by Owen, it was answered by Alexis.

Where correspondence was initiated by Alexis, the majority of the time it went unanswered by Owen.

Length of time trying to get issues resolved

Many outstanding issues related to documents that were to be filed with final decree of divorce were never filed and have never been provided, despite David Emory (attorney of record) agreeing they needed to be filed/drafted within days of the decree being filed.

Jan 2011	_____	separation begins - Owen Roberts leaves
April 2011	_____	couple's counseling ends - divorce discussions begin
July 2011	_____	Owen Roberts PCS to Mississippi
Dec 2012	_____	Owen Roberts hires David Emory to file decree at advice of courthouse staff ("self-prepared decrees must be reviewed and there is a backlog") DOCUMENTS referenced in the decree were NOT filed with decree , but Emory assures just missing a signature. Alexis was assured they would be filed before the end of the year (2012).
	_____	22 separate email conversations regarding documents - no 6 month reporting as required by decree was performed in addition to lack of documents
	_____	5 requests to get children military ID cards for on-base healthcare
Feb 2014	_____	Work with Realtor, Kristen Schramme , to sell shared home, missing paperwork needed from Owen Roberts
March 2014	_____	Alexis and Children move out of home
April 2014	_____	Short Sale suggested by Realtor, fought by Owen Roberts + Deidra Hirsch
May 2014	_____	Keith Halloway requests agreed upon documents and begins series of conversations with David Emory, increased child support is agreed upon at this time
	_____	Series of 10 email/fax/and letter campaigns to request response from Owen Roberts, most go unanswered or have Emory saying he's waiting for a response from his client.
Aug 2017	_____	Alexis files bankruptcy at advice of Chase Bank to get mortgage of empty house off her responsibility
Oct 2017	_____	Tessmer Law Firm takes overs case and asks for children to reduce travel
May 2017	_____	Owen Roberts responds to October summons with motion for continuance

Recent timeline of custody-related issues

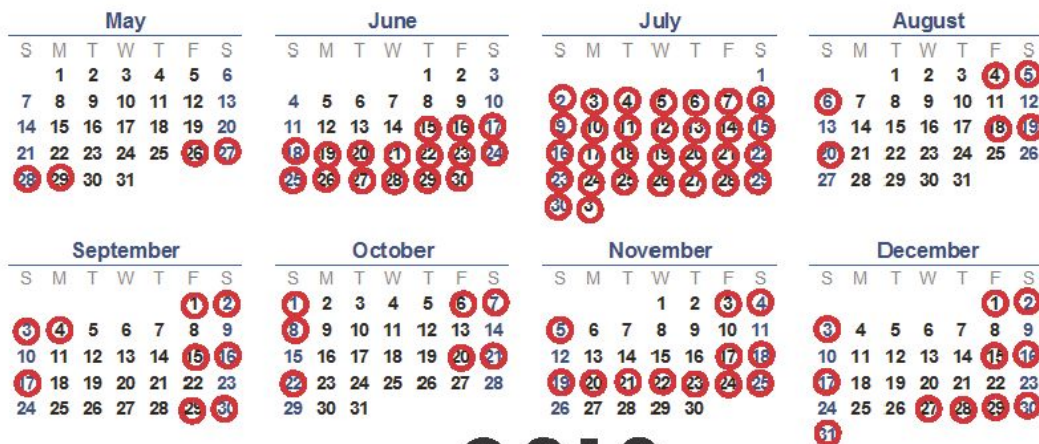
Things in our marriage were rarely peachy, but the intent of our decree was to put the children first, have shared birthday parties, attend school events, and be civil co-parents. Starting in 2014, things deteriorated and no shared parties were had, no were discussions shared about school/medical issues, nor were bills reimbursed as had been prior and are required to be reimbursed based on the decree.

July 2012	Father (Owen) PCS's to Mississippi and regularly drives to San Antonio for weekend visits with the children, often going to Austin for visits with girlfriend or staying at hotels. Visits happen at first on regular "down weekends" based on the hospital schedule (every other week), then 1/3/5 weekends.
Feb 29 2016	Father remarries Dedira Hirsch in Las Vegas
Aug 13 2016	Mother remarries Mark Hiebert, backyard ceremony with children involved
October 2016	Father leaves airforce (stops paying child support until OAG involved 1/2017)
?May 2017	Father moves to VA
May 2017	Children begin flying ever 1, 3, 5 weekend, sometimes only four days apart from SAT to CLT with 19 hours of travel and 12 hours of visit time
September 2017	Due to travel schedule (which Dad would not adjust) William is declassified from a COMPETITIVE fencer to RECREATIONAL fencer, begins to feel anger and sadness when travel weekends approach.
	Children both showing signs of decline, trouble concentrating at school
October 2017	Benefactor offers to pay for court fees to ask Owen to let kids pick their travel weekend per month and offers Owen any other weekend, even if 2nd/4th, original request filed
November 2017	William often showing severe signs of depression, will not get out of bed, no motivation to go to school *November 16 (Th) paperclip incident at BASIS, sent home early
December 2017	December 14, Admitted to Laurel Ridge outpatient program December 15-17 Travel to VA December 18: Father told about Laurel Ridge W requests to NOT visit his dad for the first time is not responded to - forced to board airplane crying
January 2018	William enters YES Waiver program for therapy and both kids see FOCUS AND BALANCE for ADHD and depression/anxiety
April 12, 2018	Temporary Order Hearing hearing for Rebekah to stay for her 2nd grade school performance
April-May 2018	William has panic attacks regarding calling his father - witnessed by social worker
June 7, 2018	Temporary Orders hearing - William requests to speak with judge (denied), custody evaluation agreed to be paid by father, increased child support to start
August 6, 2018	Child Support Obligation Reminder Sent as payments did not start.

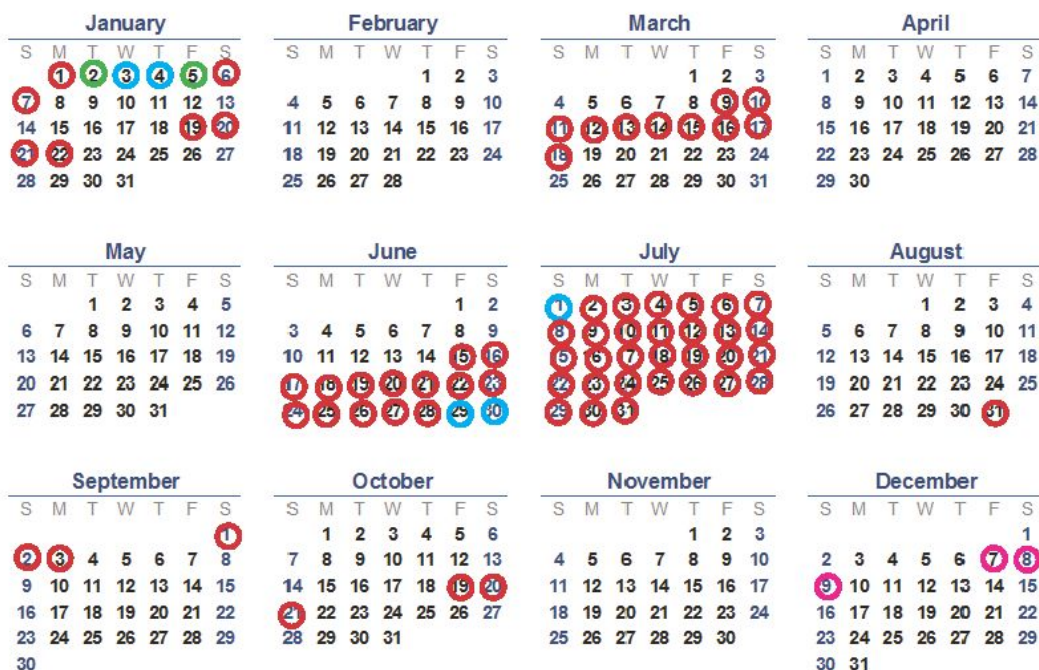
Jan 4	Respondent's Original Answer: General Denial
Jan 18	Child Support Division- OAG Correspondence and Clarification
January 23	Settlement Offer Sent to Roberts
[February]	
March 14	Motion to Set on the Non-Jury Docket --> Set for May 8, 2018.
	SIGNED ORDER Issued
March 20	Rule 11 Agreement: Mediation on May 10, Final Hearing Set for June 15 th
March 20	Bierman: Letter sent requesting compromise for Rebekah's Participation in school performance
April 2	Temporary Orders Motion for Rebekah to attend her Spring Performance
April 11	Respondent's Counter-Petition to Modify Parent-Child Relationship
April 12	Temporary Orders Hearing with Judge Salinas
May 4	Respondent: Request for Continuance
May 8	[Scheduled Court Date]
May 16	Motion for Judge to Confer with Child - William Requests to Speak to the Judge re Summer Visitation → Dianne Martinez Appointed Amicus
May 24	Motion to compel discovery and for sanctions
May 30	Court Report, Amicus Fees awarded to Roberts, (later forgiven in mediation)
June 18	Signed Order Filed - Child Custody Evaluation
[July]	
[August]	
September 20	Child Custody Evaluation Delivered
September 24	Bierman: Request for Jury Trial
October 22	Respondent: Amended Counterpetition + Amended Motion for Additional Temporary Orders
October 25	Temporary Hearing to Set Date
	Court-Ordered Mediation
November 19	Withdrawal of Counsel against client's wishes: Tessmer Law Firm
November 26	Appearance by Jennifer Espronceda
November 30	Special Exemptions Filing
December 6	Motion for Continuance
December 7	Emergency Hearing – Theis File Dismissed for Court on December 10
December 8	Mediation with Ernest Karam – overtime billed to Roberts
December 10	[Scheduled Court Date]
January 2	Order to Appoint Amicus Attorney
January-Feb	Work to get Theis' work product and original scoring (Motions, Orders, etc.)
March 7	Temporary Orders Signed and Filed
March X	Motion to Set on the Non-Jury Docket --> Set for May 6,7 and 8, 2019.
	SIGNED ORDER Issued
March 25	Espronceda Motion for Withdrawal of Counsel
[April]	
May 2	Settlement Offer to Follow Gillen Recommendation Sent
May 6	[Scheduled Court Date]

Roberts Children Travel from
San Antonio to Blacksburg, VA

2017



2018

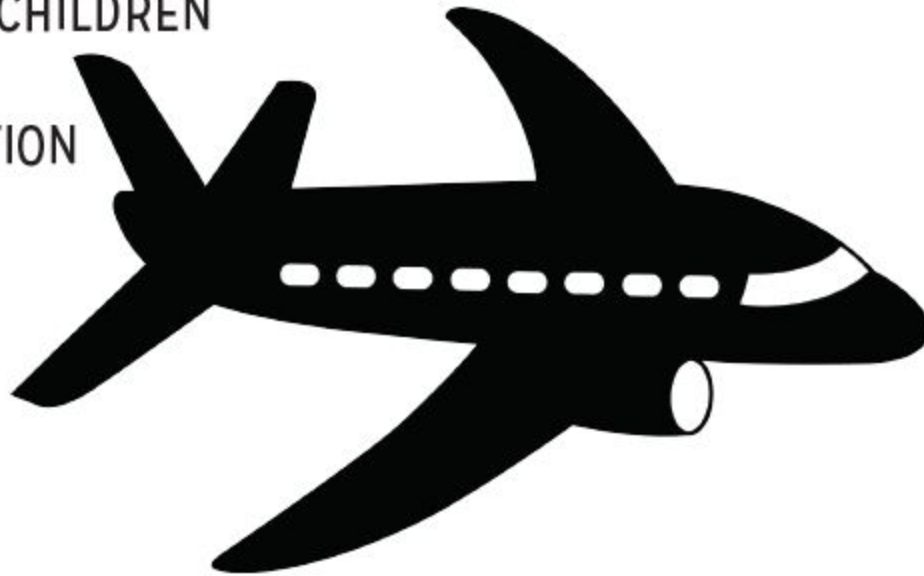


Each way = **3 hours** prep for flight (pick up from school or travel to airport, parking + 2 hours early) + **2.75 hours** flight time + **.25 hours** as last off the airplane + **3 hours** in car from Charlotte, NC

= 9 hours per flight x 2 flights per trip = 18 hours travel

ROBERTS CHILDREN TRAVEL INFORMATION

In effect since
May 2017



EACH FLIGHT ---- 3 hours to prep for flight (parking + 2 hours early)
---- 2.75 hours flight time ----- .25 hours as last off the plane -----
3 hours in car from Charlotte NC to Blacksburg VA

WEEKEND TRIPS

(Since August 2017)

1. August 5-6
2. August 19-21
3. September 1-4
4. September 15-17
5. Sept 29-October 1
6. October 6-8
7. October 20-22
8. November 3-5
9. November 18-25 (thanksgiving)
10. December 1-3
11. December 15-17

Holiday schedule TBD



Cover Sheet

Owen Roberts (father) Cross Exam Outline

Cover Sheet

Dr. Theis Report #1 September 2018

Cover Sheet

Dr. Theis Report #2 **July 2019**