



Press Release

July 7, 2014

TO: Media/Press

FROM: Judicial Conduct Board

SUBJECT: Stephanie Domitrovich
Judge of the Court of Common Pleas
Sixth Judicial District
Erie County
1 JD 2014

Harrisburg. The Judicial Conduct Board today filed formal charges by Board Complaint in the Court of Judicial Discipline against Court of Common Pleas Judge Stephanie Domitrovich of Erie County. The Board Complaint alleges violations of the Pennsylvania Code of Judicial Conduct and the Pennsylvania Constitution. The Board also filed a Petition for Relief seeking interim suspension of Judge Domitrovich based on the filing of the Board Complaint.

Under the Pennsylvania Constitution, Judge Domitrovich, as the subject of the charges, is presumed innocent in all proceedings before the Court of Judicial Discipline. The Judicial Conduct Board has the burden of proving the charges filed in the Court of Judicial Discipline by clear and convincing evidence. The Court of Judicial Discipline may address the Petition for Relief seeking interim suspension of Judge Domitrovich, with or without pay, prior to a hearing.

In accordance with the rules which govern proceedings before the Court of Judicial Discipline, Judge Domitrovich has an opportunity to respond to the charges, obtain and inspect the evidence which forms the basis of the allegations, and the right to a public trial before the Court of Judicial Discipline.

Upon completion of the trial, if the Court determines that the charges have been proven by clear and convincing evidence, it will schedule a Sanctions Hearing to determine what sanctions should be imposed. Possible sanctions include reprimand, suspension, or removal from office.

Counsel

Board: James P. Kleman, Jr., Esquire

**Respondent: Leonard G. Ambrose, Esquire, J. Alan Johnson, Esquire, and
Frederick P. Santarelli, Esquire**

Contact

Robert A. Graci, Chief Counsel

Board Complaint and Petition for Relief are attached.

For more information about the Judicial Conduct Board, please visit our website at www.jcbpa.org.

END

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Stephanie Domitrovich
Judge of the Court of Common Pleas
Sixth Judicial District
Erie County

.....

1 JD 2014

RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2014 JUL -7 A 11:13

IMPORTANT NOTICE

TO: STEPHANIE DOMITROVICH

You are hereby notified that the Pennsylvania Judicial Conduct Board determined that there is probable cause to file formal charges against you for conduct proscribed by Article V, §§17(b) and 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania and Canons 3(A)(3), 3(A)(4), 3(B)(1), and 3(C) of the Code of Judicial Conduct. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.

You have an absolute right to be represented by a lawyer in all proceedings before the Court of Judicial Discipline. Your attorney should file an entry of appearance with the Court of Judicial Discipline in accordance with C.J.D.R.P. No. 110.

You are hereby notified, pursuant to C.J.D.R.P. No. 302(B), that should you elect to file an omnibus motion, that motion should be filed no later than 30 days after the service of this Complaint, in accordance with C.J.D.R.P. No. 411.

You are further hereby notified that within 30 days after the service of this Complaint, if no omnibus motion is filed, or within 20 days after the dismissal of all or part of the omnibus motion, you may file an Answer admitting or denying the allegations contained in this Complaint in accordance with C.J.D.R.P. No. 413. Failure to file an Answer shall be deemed a denial of all factual allegations in the Complaint.

COMPLAINT

AND NOW, this 7th day of July, 2014, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) and files this Board Complaint against the Honorable Stephanie Domitrovich, Judge of the Court of Common Pleas of the Sixth Judicial District, Erie County. The Board alleges that Judge Domitrovich violated the Constitution of the Commonwealth of Pennsylvania, Article V, §§ 17(b) and 18(d)(1), and the Code of Judicial Conduct by virtue of her conduct, delineated specifically as follows:

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Board the authority to determine whether there is probable cause to file formal charges against a judicial officer in this Court and, thereafter, to prosecute the case in support of such charges before this Court.
2. From approximately January 2, 1990, until the present, Judge Domitrovich has served continuously as a duly elected Court of Common Pleas Judge in the Sixth Judicial District, Erie County Pennsylvania, with an office located at the Erie County Courthouse, 140 West Sixth Street, Erie, Pennsylvania 16501.
3. As a Judge of the Court of Common Pleas, Judge Domitrovich is, and was at all times relevant hereto, subject to all the duties and responsibilities imposed on her by the Constitution of the Commonwealth of Pennsylvania and the Code of Judicial Conduct.
4. This matter was investigated by the Board as a result of a request for investigation of Judge Domitrovich's conduct by President Judge Ernest DiSantis of the Court of Common Pleas of the Sixth Judicial District of Erie County.
5. Judge DiSantis' request for investigation presented a number of allegations regarding Judge Domitrovich's conduct.
6. The Board investigated the allegations presented by President Judge DiSantis in his request for investigation and other matters that developed through its investigation of Judge Domitrovich's conduct.
7. As of the time of the initiation of the Board's investigation, Judge Domitrovich's court assignments were, in the main, as follows: (1) presiding over Orphans' Court matters; (2) presiding over final Protection from Abuse hearings; (3) presiding over appeals from summary traffic and non-traffic criminal matters; (4) probation revocation hearings and Accelerated Rehabilitative Disposition cases; and (5) motions' court (on a rotational basis with her colleagues on the Erie County Bench).

8. During her tenure as a Common Pleas Judge, Judge Domitrovich was (and continues to be) engaged in many regional, national, and international educational, charitable and civic endeavors.
9. In stark contrast to her record of non-judicial public service, the judicial administrative authorities in Erie County have received numerous and consistent complaints regarding Judge Domitrovich's demeanor and concomitant behavior both on the bench and off the bench.
10. Generally, the complaints about Judge Domitrovich's in-court conduct that were received by the judicial administrative authorities in Erie County can be categorized as follows:
 - a. Judge Domitrovich's on-bench, impatient, intemperate, belittling, overly-critical, or disrespectful treatment of the following:
 - i. lawyers;
 - ii. litigants; and
 - iii. witnesses.
 - b. Judge Domitrovich's on-bench, impatient, intemperate, belittling, overly-critical, or disrespectful treatment of Erie County employees.
 - c. Judge Domitrovich's off-bench impatient, intemperate, belittling, overly-critical or disrespectful treatment of her personal staff.
 - d. Judge Domitrovich's *ex parte* communications regarding matters pending before her court.
11. Through the course of its investigation, the Board uncovered additional areas of concern, specifically that Judge Domitrovich provided misleading answers to Board counsel at an investigative deposition conducted on February 6, 2014, at the Board's offices.
12. As a result of its investigation, the Board concluded at its June 2, 2014 meeting that there was sufficient evidence to demonstrate probable cause to file formal charges against Judge Domitrovich in this Court for conduct proscribed by Article V, Section 18 of the Pennsylvania Constitution.

PART I. ON-BENCH CONDUCT

A. *Skalos v. Pierce*, CV-12948-2006

13. The ***Skalos*** case was a custody matter that was assigned to Judge Domitrovich in the summer of 2012 outside of her normal judicial assignments because the previously assigned judges had recused themselves from the case.
14. The parties to the case were Lori Skalos (Skalos), Lon Pierce (Pierce), and L.P.,¹ their then six-year old child.
15. When Judge Domitrovich was assigned the case, Skalos was represented by Tina Fryling, Esquire (Fryling), and Pierce was represented by Raquel Taylor, Esquire (Taylor).
16. Judge Domitrovich's first involvement with the case was to rule upon a request for adversarial hearing filed by Pierce, through Taylor, on July 10, 2012.
17. By order dated July 10, 2012, Judge Domitrovich directed the parties to file and serve pre-trial narrative statements by August 3, 2012.
18. The order dated July 10, 2012, also scheduled a custody trial for September 10, 2012, at 9:30 a.m.
19. By order entered July 13, 2012 (dated July 12, 2012), Judge Domitrovich appointed Michael Visnosky, Esquire (Visnosky), as guardian ad litem for L.P., with the parties to share the costs of his appointment.
20. The July 13, 2012 order also scheduled what was termed a "pre-trial status conference" in Judge Domitrovich's courtroom for August 6, 2012.
21. Though termed a "pre-trial status conference," the transcript of the August 6, 2012 hearing indicates that Judge Domitrovich took sworn testimony from the parties.
 - a. Present at the August 6, 2012 "pre-trial status conference" were Skalos, Fryling, Mark Lobaugh (Lobaugh), Skalos' paramour, Pierce, Taylor, and Visnosky. The court reporter was Annette Allegretto.
22. The following issues were discussed at the pre-trial conference by the parties: (1) Where L.P. was going to attend school; (2) domestic violence occurring in Skalos' home between her and Mark Lobaugh, her paramour, that was observed by L.P.; and (3) the custody visitation schedule between the parties.

¹ Throughout this Complaint, where appropriate, the names of minors and adults have been substituted with initials. The attachments have been redacted to reflect initials.

23. The conference began by Taylor outlining the issues for consideration at the pre-trial status conference.
 - a. Thereafter, Visnosky set forth his recommendations regarding the school choice issue and the domestic violence issue on the record.
24. After Visnosky made his recommendations on the record, Judge Domitrovich swore in Skalos and Pierce.
25. Judge Domitrovich questioned Lobaugh regarding his relationship with Skalos but did not swear him in.
26. After Judge Domitrovich finished questioning Lobaugh, she questioned Pierce. **See** Attachment 1 (N.T., pre-trial status conference, 8/6/2012), at 26.
27. During Judge Domitrovich's examination of Pierce regarding his relationship, or lack thereof, with Lobaugh, Taylor interjected and attempted to explain the history of animosity between the two men. **See** Attachment 1, at 26-27.
28. Taylor indicated to Judge Domitrovich the history of the animosity between Lobaugh and Pierce, recounting that both Skalos and Lobaugh were charged with attacking Pierce outside of the Erie County Courthouse.
 - a. Skalos was convicted of disorderly conduct regarding this incident. **See *Commonwealth v. Skalos***, MJ-0621-NT-0000514-2010.
 - b. Lobaugh was convicted of harassment regarding this incident. **See *Commonwealth v. Lobaugh***, MJ-06201-0000513-2010.
 - c. Pierce was not charged; he was the victim in both citations issued to Lobaugh and Skalos.
 - d. Mistakenly, Judge Domitrovich believed that Pierce and Lobaugh, not Lobaugh and Skalos, were convicted of offenses stemming from this incident.

See Attachment 1, at 27-28.
29. After discussion of the domestic violence issue ended, the focus of the hearing moved to, essentially, Skalos' response to Pierce's motion for an adversarial hearing, through Fryling, her counsel.
30. After Fryling stated her position on the record, Judge Domitrovich stated the following about the school attendance issue:

"But wouldn't it be nice to show this child that Judge Brabender gave [Skalos] her way for one year, and now we're going to give the father his way for one year, just to try it out. Just to try it out

between the two enemy camps here, and that's what [Visnosky] is recommending, not for that reason but for other reasons. And I'm just saying just to – can you see that this would be almost a truce, to show that this child can have parents that can try to compromise.

"I mean, we have to have compromise in this case, and I'm not – I mean, it's something that what about Friday, first of all, because we're not going to get anywhere today.

"I can't even get through these lists. You've got friends, you've got relatives, you've got all these people down. How are we going to do this all in one day?"

See Attachment 1, at 34.

31. Skalos attempted to speak after Judge Domitrovich asked "How are we going to do this all in one day?"
32. Though Judge Domitrovich examined both Pierce and Lobaugh (who was not a party to the case) and though the proceeding was termed a "pre-trial status conference," Judge Domitrovich responded to Skalos by stating: "No, you have an attorney. I'm not listening to you. Okay. So – and I listened to Mr. Lobaugh and he seems reasonable and so does Mr. Pierce, so I was hoping that the men could get together." **See** Attachment 1, at 34.
33. After Judge Domitrovich refused to allow Skalos to speak, Lobaugh spoke up and offered to shake Pierce's hand as a "truce." **See** Attachment 1, at 35.
34. Pierce responded to Lobaugh's entreaty to Judge Domitrovich by stating "Your Honor, two weeks ago my son says to me, he says, on a Friday, I'm going to be okay with my mom and [Lobaugh] this weekend because [K.L.] and [E.L.] [Lobaugh's sons] are going to be there, because [L.P.] knows that when [K.L.] and [E.L.] are there, that there won't be domestic --" **See** Attachment 1, at 35.
35. After Pierce made the above statement, the following exchange took place:

[JUDGE DOMITROVICH]: Listen, did you hear what you just said, Mr. Pierce?

[PIERCE]: Yes.

[JUDGE DOMITROVICH]: You said that the child said this. You have now put this child in a very powerful position, to manipulate the parties. And do you know who manipulators are? They are criminals. They are criminal defendants because they learn how to manipulate their parents. He now has given you information about them and about what's happening in their home without you going on Family Wizard and asking what's happening.

So to repeat what the child says in my courtroom doesn't work.

[PIERCE]: I'm sorry, Your Honor.

[JUDGE DOMITROVICH]: I don't want you – I'm going to put out an order right now that neither parent are allowed to examine this child about what happens at either one's house, okay. Neither one.

Miss Skalos, I don't want you asking what's happening in Mr. Pierce's home and visa versa. That's it. You stay contained in each of your homes, and you are not to engage this child as to what is happening in the other's home. That's it. None of this.

[SKALOS]: That's –

[JUDGE DOMITROVICH]: Otherwise this child is in a manipulative position and he's powerful, and he's too powerful at the age of six. Miss Skalos, can you agree to that?

[SKALOS]: Absolutely. It's not my concern what goes on in his household, and that's where the conflict is.

[JUDGE DOMITROVICH]: Okay. Well, there's none of that now. You're not going to know what's happening –

[SKALOS]: I never have.

[JUDGE DOMITROVICH]: -- visa versa. He'll [Visnosky] will stay as the GAL. The child wants to talk to someone, he can talk to Attorney Visnosky and pay the rates to talk to Attorney Visnosky as the GAL. And that's it.

But, in the meantime, neither one of you, and I don't want to hear again out of either of your mouths that you say that he said what's happening in someone else's home. It's off limits, that's it.

See Attachment 1, at 35-37.

36. Throughout the above exchange, Judge Domitrovich was shouting or yelling at Pierce and Skalos.
37. Throughout the above exchange, Judge Domitrovich was pointing her index finger at either Pierce or Skalos.
38. After the above exchange, the focus of the discussion shifted to the school choice issue.

39. Judge Domitrovich and Skalos discussed [L.P.]’s religious preference and her belief that [L.P.]’s continued attendance at Saint Boniface school would benefit him because of his established friendships and activities.

40. The following exchange took place between Judge Domitrovich and Skalos:

[SKALOS]: But I believe religion is very important at this stage in [L.P.]’s life.

[JUDGE DOMITROVICH]: And [Pierce] will be responsible, since it is his suggestion, to take the child to schooling in regard to Sunday school, and it will be –

[SKALOS]: But he has established friendships, he has established school activities.

[JUDGE DOMITROVICH]: Ma’am, are you ready to litigate this for a whole day?

[SKALOS]: I’m just trying to show that I think the negativity of removing him from that would be more detrimental than trying to appease –

[JUDGE DOMITROVICH]: And how are you going to prove that? What we’re doing is one year you had him for Saint Boniface; he’s going to have him for one year at Belle Valley. Then you come back to me after both school years, and then I’ll decide permanently where the child goes. That is the truce, okay. Have a truce. Talk to her, Mr. Lobaugh.

[SKALOS]: And that’s a fair thing to a child for a truce between the parents, or is that in the best interest of the child?

[JUDGE DOMITROVICH]: Oh, my.

See Attachment 1, at 37-38.

41. Throughout the above exchange with Skalos, the tone of Judge Domitrovich’s voice was raised, dismissive and sarcastic.

42. Following a discussion about L.P.’s religious preference and education, Visnosky reminded Judge Domitrovich about the issue Pierce raised in his motion for adversarial hearing regarding the custody schedule between the parties. **See** Attachment 1, at 46.

a. Judge Domitrovich stated, “No. I’m not changing it. It stays as is. That’s it.” **See** Attachment 1, at 46-47.

43. Later at the pre-trial conference, Judge Domitrovich addressed Pierce directly, stating the following:

[JUDGE DOMITROVICH]: [...]. What I would hope for you – I know you dialogued about what happened in the past and Mr. Lobaugh raised his hand over as a truce to bring the two men together. Any way for you, Mr. Pierce?

[PIERCE]: Your Honor, he and I are not the issue.

[JUDGE DOMITROVICH]: Okay, but – yes, it is. You are the issue; the two men are the issue. I can see it now. The two of you are the issue. You have to grow up, Mr. Pierce. Grow up, be mature. Show this child that you two can get along. Why not?

[PIERCE]: [Lobaugh] needs to show that he can get along with [L.P.]’s mother, that is the issue.

[JUDGE DOMITROVICH]: No, absolutely not. He doesn’t have to show me that. He doesn’t have to show you that. Remember, we’re not even going to know what’s going to happen in their homes now unless the child reports it to the G.A.L.

[PIERCE]: Or Doctor Iddings.

[JUDGE DOMITROVICH]: Whoever. The G.A.L. No, the G.A.L. only. Not the doctor, nobody else. That’s his representative. That’s it. The G.A.L. only. Now, can you extend your hand?

[PIERCE]: I can, Your Honor.

[JUDGE DOMITROVICH]: Well, shake his hand.

[PIERCE]: That is fine, Your Honor.
(Mr. Lobaugh and Mr. Pierce shook hands.)

See Attachment 1, at 48-49.

44. In the above exchange where Judge Domitrovich required Pierce to shake Lobaugh’s hand, Judge Domitrovich yelled at Pierce.
45. Later in the hearing, a discussion ensued between Judge Domitrovich, Taylor Fryling, and Visnosky about the date for the forthcoming custody trial and the other issues presented in the motion Taylor filed on Pierce’s behalf. **See** Attachment 1, at 52-54.
46. In the midst of this discussion, Skalos agreed to temporarily resolve the school choice issue by agreeing to send L.P. to Belle Valley. **Id.**, at 52.
47. The following exchange took place regarding the remaining issues and the forthcoming trial date:

[FRYLING]: What other issues are left that we didn't discuss today?

[TAYLOR]: The issues that we're having a pretrial on, on September 10th. Was that just – the pretrial was only going to be for schooling?

[JUDGE DOMITROVICH]: Yes. After I read all the reports and everything, there are no other issues. That's it.

[TAYLOR]: Well, we raised an issue to the custody schedule and attached a different order, so if we're not going to be able to present our case, if you're saying you already ruled and we can't have a trial, [then] that's an issue.

[FRYLING]: I thought everyone agreed that the current schedule was working, the 5-2/2-5.

[JUDGE DOMITROVICH]: I thought we decided that if we're going to go with the father going to Belle Valley, that we're not going to put anything – other change in the child's life other than for that, and the Sunday school. That it would be too much emotionally for this child for now dad to have more time than mom. Okay. We just want to keep the status quo on all the other issues and just change this one so that I know what's happening to the child.

[TAYLOR]: And I understood that's what you said you were going to do, and I'll advise my client, but what I'm saying is we filed for an adversarial hearing, and we haven't put any evidence on.

[JUDGE DOMITROVICH]: That's fine. So you still – I'm the one giving you September 17th. You've now rejected it.

[TAYLOR]: No, no, no, I didn't reject it. I said if we don't need it for the schooling issue, we could come back on the 10th and in between now and then Attorney Fryling and I could try to work something out, and then only if we know it's absolutely necessary would we then take another date on your calendar. That's what I was trying to do. Because –

[SKALOS]: She's talking custody –

[FRYLING]: I don't understand what else we were changing. I thought we were doing a permanent custody order that says the child goes to Belle Valley this year, Saint Boniface Sunday school and everything else stays the same.

[TAYLOR]: We are in agreement with Belle Valley. If you want to do the Sunday school thing, that can be in a stipulation, because that's what the judge has ordered. The underlying custody schedule we are not in agreement with.

I understand that the judge at this point has made a statement –

[JUDGE DOMITROVICH]: You know what, all bets are off. The child doesn't go to any school at all until after we have a hearing. See you September 10th. That's it.

See Attachment 1, at 55-57.

48. Throughout the above exchange, the volume of Judge Domitrovich's voice was elevated and, occasionally, she shouted at the parties.
49. After Judge Domitrovich said "That's it," she left the bench abruptly.
50. After the hearing, the parties executed a settlement that was adopted into an order by Judge Domitrovich that ended the custody litigation that ensued from Pierce's request for an adversarial hearing.

B. In the Matter of the Estate of J.C., Orphans' Court No. 165 of 2011

51. **J.C.** was a case regarding a petition for appointment of a plenary or limited guardian of the person and/or estate of J.C., minor, filed by V.W. and F.W., Sr., J.C.'s grandparents, custodians, and caretakers.
52. Participating in the hearing were the V.W. and F.W., Sr., their daughter, M.W., mother of the minor subject to the petition, and J.C., Sr. (himself a 16 year-old minor), father of the minor. These persons were present in Judge Domitrovich's courtroom. Also participating was Charlotte Pelc (Pelc), an Office of Children and Youth (OCY) employee, who participated *via* telephone. The court reporter was Jeanne Sykes.
53. The minor's parents consented to guardianship of the minor.
54. After Judge Domitrovich questioned the minor's parents regarding their consent, she observed that "Hopefully, there will be no custody issues. If there are, you have to file downstairs with custody court. But, hopefully, we won't have those issues, right?" **See** Attachment 2 (N.T., guardianship petition hearing, 8/9/2011), at 4.
55. In response to Judge Domitrovich's statement, V.W. mentioned that she already had "full custody" of the minor. **See** Attachment 2, at 4.
 - a. V.W. and F.W., Sr., had a June 1, 2011 consent custody decree that gave full legal and physical custody of the minor to her and her husband.
56. Judge Domitrovich stated "I don't know why you're here then. Because if you have custody, we shouldn't really be doing this." **See** Attachment 2, at 4.

57. Judge Domitrovich then proceeded to question the minor's grandparents as to the circumstances of how it was that they petitioned for guardianship of the minor. **See** Attachment 2, at 4-6.
58. In undertaking this examination, Judge Domitrovich questioned Pelc, who, on behalf of her agency, denied advising the minor's grandparents to seek guardianship. **See** Attachment 2, at 5-6.
59. Upon Judge Domitrovich's questioning, V.W. testified that a custody office employee told her that "the next step would be guardianship." **See** Attachment 2, at 6. Upon further questioning from Judge Domitrovich, V.W. testified that "Josh Maloney" (Maloney) did the custody office "intake." **Id.**
60. After questioning Ms. Pelc, using the speaker phone at her bench, Judge Domitrovich telephoned the Custody Conciliation Office and asked for "Josh Maloney." **See** Attachment 2, at 8. Ms. Stephanie Young (Young), a Custody Conciliation Office clerk, answered the telephone and tried to send the call to Maloney. **Id.**
61. Young returned to the call and informed Judge Domitrovich that Maloney was not present. Judge Domitrovich asked for a "Karen," who was also not present in the Custody Conciliation Office. **See** Attachment 2, at 9.
62. Judge Domitrovich asked Young to "pull the file" of the family from the Custody Conciliation Office's records; Young indicated that she would, but Judge Domitrovich continued to speak to her. **See** Attachment 2, at 9.
63. Judge Domitrovich told Young, a clerk, that the minor's grandparents were "saying that they entered into a consent agreement where they received full custody of [the minor], that Josh had indicated to come to guardianship court, and I wanted to put a nip to this, nip this in the bud. It's not necessary to go to guardianship court. In fact, grandparents should be going through custody court. They have the right to appear in custody court. It's not like an aunt or an uncle needing to have guardianship. They don't need to have guardianship. And I want to get that through your office, that please do not send them for a further layer that I am going to dismiss anyway." **See** Attachment 2, at 9-10.
64. When Young went to retrieve the file, V.W. continued to speak, and she expressed to Judge Domitrovich that Maloney (or someone from the Custody Conciliation Office) said "guardianship is better than custody." **See** Attachment 2, at 10.
65. Judge Domitrovich expressed that Maloney was "not a lawyer. That's why he doesn't understand it. I am getting flooded with these cases. I got to find out who is doing all this. I have to dismiss this. And you are not going to be happy because you wasted your time, the court time and--" whereupon V.W. apologized. **See** Attachment 2, at 10-11.

66. Young returned to the call and informed Judge Domitrovich that the minor's grandparents had a custody order for the child subject to the guardianship petition. Judge Domitrovich responded "Right. So there's no need for guardianship. Do you understand that, Stephanie [Young]?" **See** Attachment 2, at 11.
67. Young stated that she did not think that Maloney told the minor's grandparents to seek guardianship of J.C. **See** Attachment 2, at 11.
68. Thereafter, Judge Domitrovich expressed that "—they are under oath today. [V.W.] is here. I need you to report this to Karen so that she understands and [Maloney] understands that once they have custody, there is an agreement, it's not necessary to come to guardianship court, especially with grandparents. You need to talk to your solicitor of your offices to get that straight." **See** Attachment 2, at 11-12.
- a. The transcript does not indicate that any of the witnesses, including V.W., were sworn.
69. Young again expressed that she did not believe that the Custody Conciliation Office referred the case to guardianship court. **See** Attachment 2, at 12.
70. Judge Domitrovich then instructed V.W. to repeat what she had said about Maloney to Young. **See** Attachment 2, at 12.
71. Young and V.W. engaged in a colloquy about what each thought Maloney said to V.W. **See** Attachment 2, at 12.
72. Judge Domitrovich then instructed Young to tell Maloney that "he shouldn't give them any advice to that extent. He does the custody action. He tells them to go see a lawyer if they want something else." **See** Attachment 2, at 12.
73. Judge Domitrovich then dismissed the case. **See** Attachment 2, at 12.

74. After dismissing the case from the bench, Judge Domitrovich executed the following order:

AND NOW, to-wit, this 9th day of August, 2011, following a scheduled hearing attended by all parties on the Petition for Appointment of Plenary Guardian of the Person and Estate of Minor [J.C.], and considering that the June 1, 2011 Consent Agreement gave full legal and physical custody of the minor child to the grandparents, it is hereby ORDERED, ADJUDGED, and DECREED that said Petition is DISMISSED as moot since the parties already entered into a Custody Order before the Custody Conciliator, ***in consideration of the grandparents' testimony that they filed the Petition at the erroneous direction of Joshua Maloney of the Custody Conciliation office.***

BY THE COURT:

/s/ Stephanie Domitrovich, Judge

(emphasis added); **See** Attachment 2, at 14 (unnumbered), 8/9/2011 Order.

76. After the **J.C.** hearing concluded and Judge Domitrovich entered her order, Judge Domitrovich was present at a meeting with Administrative Judge John Trucilla, Mr. Maloney, and Judge Domitrovich's then-law clerk.
77. During the course of this meeting with Judge Trucilla, he asked Judge Domitrovich why she would issue an order criticizing a court employee; Judge Domitrovich responded that Maloney gave the minor's grandparents mistaken guidance.
- a. Maloney denied giving the minor's grandparents any legal advice.
78. Judge Domitrovich's law clerk contradicted her statement and supported Maloney's version of events.

C. In the Matter of the Estate of J.M., CV-289-2011

79. **J.M.** was a petition for appointment of a plenary or limited guardian of the person and/or estate of J.M., a seven-year old minor.
80. The petition was filed pro se by K.L., a friend of Y.M., the minor's mother.
81. K.L. had been J.M.'s primary caregiver since approximately July 2011.
82. K.L. was J.M.'s primary caregiver because Y.M. was recuperating from cancer and the resulting treatment, and, as a result, she could not care for J.M.
83. Judge Domitrovich conducted a hearing on the petition on November 18, 2011.

84. Judge Domitrovich requested the presence of Catherine Mascharka (Mascharka), a caseworker employed by OCY at the hearing.
85. Pursuant to her regular practice involving petitions for guardianship where an OCY caseworker was involved, Judge Domitrovich requested Mascharka's presence because she conducted an investigation of K.L.'s care of J.M.
86. OCY closed the investigation of J.M.'s care because the child was safe in her living situation and, as such, was not a "dependent child" within the meaning of the Dependency Act.
87. Present at the hearing were Y.M., K.L., and Mascharka; the minor was not present. The court reporter was Sandy Hackwelder.
88. At the outset of the hearing, the following exchange occurred:

[JUDGE DOMITROVICH]: Okay. And what do you know in regard – first of all, where is the minor?

[K.L.]: She's in school.

[JUDGE DOMITROVICH]: Okay. It says in all the paperwork that the child must be here.

[K.L.]: Oh, I didn't see that.

[JUDGE DOMITROVICH]: Well, it says so.

[K.L.]: I did not know.

[JUDGE DOMITROVICH]: You can't read? How can you be the guardian?

[K.L.]: I did read it. I'm sorry, Your Honor.

[JUDGE DOMITROVICH]: I'm just going to have to continue it. How old is the child?

[K.L.]: She is seven.

[JUDGE DOMITROVICH]: I don't do these without the child. By statute you have to have the child here, so it has to be continued. Get me a new date and time, please. And, mom, your name for the record?

[Y.M.]: [Y.M.].

See Attachment 3 (N.T., guardianship petition hearing, 11/18/2011), at 2-3.

89. After Y.M. Identified herself, Judge Domitrovich asked her the following:

[JUDGE DOMITROVICH]: Do you know what you're getting into here? This is as close as you get to terminating your rights; do you understand that? Yes, this is permanent until the child turns 18. Do you know what you're getting into?

[Y.M.]: That's not what I was told.

[JUDGE DOMITROVICH]: Who told you that?

[Y.M.]: I was told that this was temporary –

[JUDGE DOMITROVICH]: No. Who told you that?

[Y.M.]: -- until I got on my feet.

[JUDGE DOMITROVICH]: Very well. No. I could dismiss this action. This is until the child is 18, this is what this vehicle is for. If they want to do dependency, they have to do dependency and take the child. Because this is not what this Court is all about. This is for when a parent dies and we need to have the child – someone to take care of the child. This is not a temporary vehicle for OCY, okay?

[MASCHARKA]: Right. That was not my understanding either, that this was a permanent thing.

[JUDGE DOMITROVICH]: Oh, yes, it's always permanent. You talk to Amy Jones, she's your solicitor. She was supposed to stop this nonsense.

See Attachment 3, at 3-4.

90. During the exchanges noted above, Judge Domitrovich had an irritated tone of voice.

91. At points during the above exchange, Judge Domitrovich yelled at the parties whom she addressed.

92. Thereafter, Judge Domitrovich directed some member of her staff to get Amy Jones, Esquire (Jones), Erie County OCY Solicitor, on her bench speakerphone system.

93. After Judge Domitrovich got Jones on speakerphone, the following exchange occurred:

[JUDGE DOMITROVICH]: Hello. Good morning. We're on the record, I'm so sorry to bother you. We have one of your caseworkers here, Ms. Mascharka. Ms. Mascharka was not aware that we are not using these minor guardianships as a temporary vehicle for OCY instead of placing

children. That this – I just explained to this mother, the natural mother here, it's in the case of [J.M.], that this is as close that the natural mother gets to terminating her natural rights. I mean, this is the vehicle right before termination. And this – if I put –

[JONES]: Guardianship Is?

[JUDGE DOMITROVICH]: Yes, minor guardianships, yes.

[JONES]: Okay.

[JUDGE DOMITROVICH]: This is as close – I mean, she will not have any authority over the child, and it's meant to be a permanent vehicle until the child is 18. And I explained that to the mother, that this is not until she gets herself back on her feet in a couple of months. It's not meant to be just for a couple of months. These are minor guardianships meant to be plenary in nature until the child is 18. And, so, I just wanted to place that on the record. We have to stop these caseworkers from thinking that they can come to minor guardianship court, and instead of placing children, do what they need to do. In the meantime, I'm dismissing this action, and they can do whatever they want to do. But this is not for – until the mother gets herself back on her feet in a couple of months. See, guardian has complete control. If this occurs, then she would have to do a motion to revoke. She would have to go through a whole process in regard to her rights, etcetera. I mean, it's just not meant for them to just come to court, say hello, do this, and be a Band-Aid.

[JONES]: Okay.

[JUDGE DOMITROVICH]: And the mother understands that. Do you understand that, ma'am?

[Y.M.]: Yes, ma'am.

[JUDGE DOMITROVICH]: Okay. And as far as school –

[JONES]: The mother would rather have her child placed in foster care?

[Y.M.]: No.

[JUDGE DOMITROVICH]: No, but I'm not doing it through guardianship. She would have to go to custody court, she could go and do the loco parentis through them. Go ahead.

See Attachment 3, at 5-7.

94. At that point, Mascharka interjected to defend herself from Judge Domitrovich's allegation that OCY caseworkers foist their responsibilities to guardianship court.

95. The following exchange occurred:

[MASCHARKA]: May I just say, that this was not of my doing. This was not something –

[JUDGE DOMITROVICH]: It doesn't matter.

[MASCHARKA]: Okay. It's just that – because I happened to have the case for investigation for something else that I got –

[JONES]: We're not advising people to do the guardian –

[MASCHARKA]: Right.

[JUDGE DOMITROVICH]: No, but she was shocked to know that this is –

[MASCHARKA]: I understand that. But that's also because – it wasn't my doing.

[JUDGE DOMITROVICH]: Right. But just so you know.

[MASCHARKA]: I can't advise her, just like you can't –

[JUDGE DOMITROVICH]: No, no, you're not advising her, but you looked shocked, and I wanted to make sure that we communicate this message to all the caseworkers that Judge –

[MASCHARKA]: This is something that they did.

[JONES]: Right. But I don't know if this is being communicated to petitioners at the time they're bringing the petition –

[JUDGE DOMITROVICH]: No, because they're not giving them – they're not advising them. And that's why we need to get someone to –

[JONES]: We can't advise people either. I mean, it puts everybody in a tough position.

[JUDGE DOMITROVICH]: I think it has to start, though, with your caseworkers to spread the word out that this isn't going to happen in my courtroom, okay? There are no judges across the state that use this as a vehicle for just a temporary couple of months, okay? Minor guardianships are meant until the child is 18, okay? That's just the way it is, okay? It's meant for a child that has lost their parents in a car accident and there's money involved, or there's – it's just not meant for this purpose, okay?

[JONES]: Okay.

See Attachment 3, at 7-9.

96. Throughout Judge Domitrovich's exchanges with Jones and Mascharka, delineated above, the tone of her voice was irritated, and, at points, she yelled.
97. The hearing continued, and Judge Domitrovich alternated between dismissiveness and irritation with both Y.M. and K.L. when they attempted to speak to her.
98. At the conclusion of the hearing, Judge Domitrovich addressed K.L., Y.M., and Jones as follows:

[JUDGE DOMITROVICH] Go see a lawyer before you come to court, okay? And I just want to get the word out that this is not happening in this courtroom any longer, okay?

[JONES]: I'll do the best I can. But, again, Judge, we're not telling people to file –

[JUDGE DOMITROVICH]: We understand.

[JONES]: -- I can't – my caseworkers can't give legal advice, you know, it's a systemic issue.

[JUDGE DOMITROVICH]: I understand. But in this case there's – obviously, she cannot take care of the child, you had opened the case, the mother gives the child to, not even a family member; do you have any family?

[Y.M.]: (Shaking head, no.)

[JUDGE DOMITROVICH]: What? Say something, ma'am.

[Y.M.]: No.

[JUDGE DOMITROVICH]: No family?

[Y.M.]: Not here. My family is all in Florida, I'm not even from here.

[JUDGE DOMITROVICH]: I don't know. Wouldn't this be a classic case for OCY? I don't understand.

[JONES]: The child is safe in her current circumstance.

[JUDGE DOMITROVICH]: How do we know? Did you double check?

[MASCHARKA]: Yes.

[JONES]: Absolutely.

[JUDGE DOMITROVICH]: That's fine. Well, then, go get a power of attorney, whatever, but this is not temporary. This is called permanent plenary guardianship over the child until the child is 18. Unless there's some circumstance that would occur that you would be remarkable. But you would start down the journey of a very difficult path to try to get the child back.

See Attachment 3, at 13-15.

99. Judge Domitrovich's tone in the above exchange was angry and, at points, she was yelling or shouting.
100. Thereafter, Judge Domitrovich dismissed the petition and ended the hearing.

D. Linda Martz/Juliza Caban and K.S. v. A.C.T., 17074 of 2012

101. Linda Martz (Martz) is an employee of SAFENET, a private organization that assists individuals with obtaining Protection from Abuse (PFA) orders.
102. Juliza Caban (Caban) is an employee of the Erie County Protection from Abuse office (PFA Office).
103. Both Martz and Caban were often in Judge Domitrovich's court during PFA hearings assisting *pro se* PFA petitioners with the presentation of their cases.
104. In the case of **K.S. v. A.C.T.**, 17074 of 2012, Judge Domitrovich conducted a temporary PFA hearing on May 21, 2012.
105. Martz was present at the hearing with K.S. and assisted her with the presentation of her PFA petition. The court reporter for the hearing was Denice Grill.
106. At the hearing, Judge Domitrovich expressed reservations about the existing partial child custody arrangement that K.S. sought to encapsulate within the proposed PFA order (drafted with the assistance of SAFENET), and she observed that: "We're not doing that. You either have the child or not. Do you want the child?" **See** Attachment 4 (N.T., temporary PFA hearing, 5/21/2012), at 4.
107. K.S. indicated that she wanted custody of the parties' child, and Judge Domitrovich examined her further on the subject.
108. Judge Domitrovich asked K.S. again if she wanted custody of the child, and Judge Domitrovich stressed to her that partial physical custody (and, by implication, custody exchanges) does not "work" in a PFA. **See** Attachment 4, at 5.

109. Ultimately, apparently based on Judge Domitrovich's direction, K.S. agreed to remove the proposed custody arrangement from the proposed temporary PFA order. **See** Attachment 4, at 10.
110. K.S. did not understand either the legal significance or the basis behind the statements Judge Domitrovich made at the hearing.
111. K.S. also did not understand why Judge Domitrovich was, in K.S.' view, upset and rude to K.S. when she tried to explain why she wanted the custody arrangement in the PFA order.
112. K.S., through tears, expressed her lack of understanding on these matters to Martz.
113. Martz asked K.S. if she wanted Martz to attempt to explain K.S.' thinking to Judge Domitrovich; K.S. agreed.
114. After the PFA hearings for the day had concluded, in an off-the-record conversation, Martz asked Judge Domitrovich permission to approach the bench and speak on behalf of K.S.; Judge Domitrovich agreed to this request.
115. Martz attempted to explain why K.S. wanted the partial custody arrangement in the temporary PFA order.
116. Judge Domitrovich stated, in a raised voice, words to the effect of: We are not Burger King and that [K.S.] could not have it her way!
117. Judge Domitrovich stated that Martz was not an attorney and that she had no right to represent anyone, although Judge Domitrovich had previously given Martz permission to speak on K.S.' behalf.
118. Judge Domitrovich, in an aggressive tone, stated to K.S. words to the effect of the following: If you don't want the changes, I will take custody out completely!
119. Judge Domitrovich asked Martz if she had the proposed order with the changes that she had directed her to make; Martz replied that it was in the PFA office and went to retrieve it.
120. While Martz was out of the courtroom, Judge Domitrovich told Caban who was still present in the courtroom, that she would not sign the proposed PFA order.
121. While returning to the courtroom, Martz saw K.S. in tears at the elevator.
122. On May 22, 2012, the following day, after the final PFA hearings had concluded for the day, in an off-the-record conversation, Judge Domitrovich asked Ms. Martz the following: what happened yesterday?
 - a. Judge Domitrovich was referring to the **K.S.** case.

123. Martz responded to Judge Domitrovich that K.S. had not understood what Judge Domitrovich was trying to convey and that was the reason Martz asked to speak to Judge Domitrovich on her behalf.
124. Judge Domitrovich asked Martz what K.S. said about the event.
125. Martz told Judge Domitrovich that K.S. said the following: "I don't want it (meaning the PFA order), I'll just go back to him and let him beat the fuck out of me and it'll be on her (meaning Judge Domitrovich)."
126. Judge Domitrovich was offended by this statement and responded, stating words to the effect of:
 - a. It's not on me, it's on her (K.S.)!
 - b. You shouldn't have tried to explain this, you're not an attorney!
 - c. Debbie (of SAFENET), should not be putting those things in the PFAs!
 - d. I'll just cross off all custody in PFAs like Judge Cunningham!
127. As to the last statement attributed to Judge Domitrovich, Martz responded and said it was her right to remove such custody provisions, and Judge Domitrovich responded with words to the effect of : Okay, but that's on you!
128. Judge Domitrovich's May 22, 2012 discussion with Martz was observed by Caban, who was then in the courtroom.
129. Judge Domitrovich asked Caban at some point close in time to these events to place on the record that Judge Domitrovich did not sign the PFA order because "the woman" had been belligerent in court.
130. Caban refused Judge Domitrovich's request.

PART II. OFF-BENCH CONDUCT:

A. Sandra Foster

131. Sandra Foster (Foster) served as Judge Domitrovich's secretary from January 2011 until approximately April 8, 2011, when she took medical leave.
132. Prior to her brief employment as Judge Domitrovich's secretary, Foster was employed by the Erie County Domestic Relations Office (DRO) for 19 years.
 - a. When she left the DRO, Foster was the office manager.
133. Judge Domitrovich recruited Foster for employment in her chambers in or about December 2010, *via* a telephone call.

134. As Judge Domitrovich's chambers did not have a secretary for several months prior to Foster, Foster was obligated to process a backlog of paperwork that had accumulated in the chambers.
135. Neither Judge Domitrovich nor the other senior members of her staff trained Foster for the responsibilities of her new position.
136. Among the responsibilities that Foster had in Judge Domitrovich's chambers was the duty to fax or otherwise provide draft orders and other legal documents generated or received by the chambers to Ronald Susmarski, Esquire (Susmarski), Judge Domitrovich's husband, for review, editing, and comment.
137. When Foster sought guidance in the performance of her new duties, she was directed by Judge Domitrovich or by Wendy Sydow (Sydow), her tipstaff, to consult notes left by Judge Domitrovich's prior secretary, Sandy Van Volkenburg.
138. Despite the lack of guidance to Foster and her short tenure as a judicial secretary, Judge Domitrovich was overly critical of Foster's job performance and she engaged in inappropriate behavior towards Foster that made it impossible for Foster to develop the skills necessary to perform as Judge Domitrovich's secretary.
139. On one occasion, Foster made a scheduling mistake regarding Judge Domitrovich's planned attendance at a naturalization ceremony in federal court.
140. Infuriated at the scheduling error, Judge Domitrovich called Foster from the federal judge's chambers and screamed at her over the phone.
141. In early April 2011, approximately three months after Foster started working as Judge Domitrovich's secretary, Judge Domitrovich's dissatisfaction with Foster's performance reached its zenith.
142. Judge Domitrovich wrote a letter to Foster on April 5, 2011, that set forth various issues that she had with Foster's performance.
143. Foster drafted a response to Judge Domitrovich on April 6, 2011, with an explanation of her behavior.
144. Foster provided a copy of Judge Domitrovich's April 5, 2011 letter and her response to Thomas Aaron, Erie County Court Administrator (CA Aaron).
145. In a discussion about Judge Domitrovich's letter and her response, Foster indicated to CA Aaron that she was copying her response to the President Judge and the Erie County Personnel Director.
146. CA Aaron told Foster that she did not have to copy the letter to the Erie County Personnel Director, as that person did not have any authority over court employees.

147. Later that same day, Judge Domitrovich spoke with CA Aaron about her April 5, 2011 letter to Foster, and Foster's April 6, 2011 response, which Judge Domitrovich had by then received from Foster.
148. Judge Domitrovich indicated to CA Aaron that Foster crossed out something in the "cc:" section of her April 6, 2011 responsive letter.
149. CA Aaron indicated that he saw both letters, and he told Judge Domitrovich that he instructed Foster that she did not have to copy the Erie County Personnel Director because that person did not have any authority over court employees.
150. The day after Foster provided Judge Domitrovich with her response, Judge Domitrovich confronted her at the end of the day.
151. When Judge Domitrovich confronted Foster, Sydow and Susmarski (who is not an Erie County court employee) were present; Rahkee Vemulapalli, Judge Domitrovich's then-law clerk, was present in an adjacent office with the door open.
152. Judge Domitrovich was loud, aggressive, and threatening to Foster during the entire two-hour conversation that ensued from the confrontation.
153. During the conversation, Susmarski offered his observations of Foster's performance as Judge Domitrovich's secretary.
154. Shortly after Judge Domitrovich's confrontation with Foster, Foster took medical leave from her employment and was treated by a psychologist resulting from her experience in Judge Domitrovich's chambers.
155. On April 15, 2011, CA Aaron returned to work from a pre-scheduled vacation and was informed by his secretary that Foster called in sick to CA Aaron directly and that he would be receiving a letter from her health care provider stating that Foster would be on medical leave until June 2011.
156. Later in the day on April 15, 2011, CA Aaron was informed by Foster that she was filing a "formal complaint" against Judge Domitrovich.
 - a. CA Aaron later received the medical leave request and the "formal complaint" against Judge Domitrovich from Foster.
157. After consulting with President Judge DiSantis, CA Aaron sent Judge Domitrovich, who was in Scotland at that time, an email regarding Foster.
158. The email informed Judge Domitrovich that CA Aaron had information regarding Foster and that he would share it with Judge Domitrovich when she returned from Scotland.

159. Approximately five minutes after CA Aaron sent the email to Judge Domitrovich, he received a call from Susmarski, who asked CA Aaron for the information regarding Foster.
160. CA Aaron declined to provide Susmarski the information about Foster because he could not share personnel information about Judge Domitrovich's employees with anyone other than Judge Domitrovich.
161. While CA Aaron informed President Judge DiSantis about Susmarski's call and request, the following occurred:
 - a. Judge Domitrovich, sounding upset, called CA Aaron, who was on the other line with President Judge DiSantis and did not answer.
 - b. Judge Domitrovich left CA Aaron a voicemail that informed him that Susmarski was authorized by her to talk to CA Aaron about her staff.
162. Thereafter, Sydow called CA Aaron's secretary and indicated that Judge Domitrovich wanted to know if CA Aaron had received her voicemail.
163. CA Aaron was then instructed by President Judge DiSantis to send Judge Domitrovich another email that stated, in essence, the following:
 - a. CA Aaron could not be "authorized" by anyone to discuss personnel matters;
 - b. Judge Domitrovich should not worry about the Foster issue; and
 - c. CA Aaron would talk to Judge Domitrovich about the Foster issue on the following Monday (April 18, 2011) when she returned to work.
164. Judge Domitrovich attempted to call CA Aaron again, but did not reach him.
165. Judge Domitrovich then spoke with President Judge DiSantis, who informed her that he would not discuss the Foster issue with Judge Domitrovich and that CA Aaron would discuss the matter with her on Monday, April 18, 2011.
166. On April 18, 2011, CA Aaron went to Judge Domitrovich's chambers to discuss the Foster issue with her and to provide copies of the medical report and the "formal complaint" Foster made against Judge Domitrovich.
167. Judge Domitrovich asked CA Aaron "what does this mean," referring to the documents provided by Foster.
168. CA Aaron provided an explanation of the documents to Judge Domitrovich

169. Judge Domitrovich denied Foster's version of events regarding the discussion between herself, Foster, Susmarski, and Sydow.
170. While Foster was on medical leave, Judge Domitrovich claimed that she or someone in her office found "mistakes," "nude pictures" of other persons on Foster's work computer and other problems with Foster's work performance.
171. Thereafter, Judge Domitrovich sought to terminate Foster, despite Foster being on medical leave.
172. Ultimately, Judge Domitrovich was informed by President Judge DiSantis that he would not sign the papers necessary to terminate Foster's employment while she was on medical leave.
173. President Judge DiSantis also instructed Judge Domitrovich that, if it was Judge Domitrovich's intent to fire Foster, she would have to sign the termination papers herself.
174. After her medical leave ended, Foster transferred back to the DRO, albeit in a lesser paid and less responsible position than what she had held prior to leaving to join Judge Domitrovich's staff.

B. Stacy Rhoades

175. Stacy Rhoades (Rhoades) is an adult probation officer employed by Erie County.
176. Rhoades had not appeared before Judge Domitrovich in her professional capacity as an adult probation officer since approximately 2002.
177. Rhoades is a personal associate of one K.K., who is the plaintiff in ***K.K. v. S.M.K.***, CV-2009-17805, an ongoing PFA case she has against her former spouse S.M.K., and the victim in ***Commonwealth v. S.M.K.***, CP-25-MD-0000515-2009, CP-25-MD-00000063-2010, CP-25-MD-0000517-2010, the accompanying Indirect Criminal Complaint (ICC) cases.
178. Judge Domitrovich presided over the PFA and ICC hearings in the ***K.*** litigation.
179. A PFA order entered by Judge Domitrovich against S.M.K. remains in effect until November 16, 2015, due to several amendments of the conditions of the order by Judge Domitrovich.
180. Before one of the ICC proceedings in or around July 2010, K.K. saw Rhoades in the courthouse hallway, and Rhoades offered to accompany K.K. to the hearing to provide moral support to her; K.K. accepted this offer.
181. Rhoades was not present at the July 2010 ICC hearing in her capacity as a probation officer or for any reason related to her employment.

182. On October 20, 2010, Rhoades received a telephone call from Sydow, Judge Domitrovich's tipstaff.
183. Sydow told Rhoades the following:
- Rhoades' friend (K.K.) was back in court for another ICC hearing.
 - The ICC charges had been dismissed by the District Attorney.
 - K.K. was upset.
184. At the conclusion of the call with Sydow, Rhoades went to Judge Domitrovich's courtroom to comfort K.K.; Judge Domitrovich was not present in the courtroom when Rhoades arrived.
185. On October 21, 2010, Sydow called Rhoades a second time regarding the **K.** litigation.
186. Sydow told Rhoades the following:
- Judge Domitrovich wanted to see Rhoades about K.K.'s case.
 - Judge Domitrovich was upset that the District Attorney dropped the charges against S.M.K..
 - Judge Domitrovich wanted to speak with Rhoades in her jury room.
187. When Rhoades arrived in Judge Domitrovich's jury room, she saw Judge Domitrovich and several other individuals employed by the Erie County Court system.
188. Judge Domitrovich instructed Rhoades to sit down; Rhoades complied.
189. Judge Domitrovich told Rhoades the following regarding the **K.** litigation:
- She was concerned for K.K.
 - She thought S.M.K. was dangerous.
 - She did not like the fact that the District Attorney dropped the charges.
 - She investigated S.M.K.'s claims of employment near Karen King's residence in Albion, Pennsylvania.
190. Judge Domitrovich also questioned Rhoades about her knowledge of a police officer friend of S.M.K.

191. Judge Domitrovich also told Rhoades to talk to the District Attorney and tell him that S.M.K. is dangerous and that he is friends with the owners of the business near K.K.'s residence in Albion.
192. Rhoades reported the October 21, 2010 conversation with Judge Domitrovich to her supervisor, who, in turn, instructed her to inform Jeffrey Shaw, the Chief of Adult Probation, about Rhoades' conversation with Judge Domitrovich.
193. Chief Shaw reported Rhoades' conversation with Judge Domitrovich to CA Aaron.
194. Thereafter, Chief Shaw told Rhoades (on instructions from CA Aaron) to do nothing that Judge Domitrovich had asked Rhoades to do and he instructed Rhoades to write a statement about the October 21, 2010 conversation.
195. Rhoades complied with the directive from CA Aaron (communicated through Chief Shaw), and she wrote and signed a statement regarding her October 21, 2010 conversation with Judge Domitrovich. **See** Attachment 5, October 22, 2010 statement from Stacy Rhoades.
196. Despite her conversation with Rhoades and her Independent investigation of S.M.K., Judge Domitrovich continued to preside over the *K.* litigation after 2010.

C. Misleading the Board at February 6, 2014 Deposition

197. **Sandra Foster "pornography" issue:**

- a. Judge Domitrovich appeared with counsel Leonard Ambrose and his three co-counsel, including Susmarski, her husband, for an investigative deposition conducted by Board Counsel at the Board's offices on February 6, 2014.
- b. At the February 6, 2014 deposition, Board counsel asked Judge Domitrovich the following series of questions regarding the Foster matter:

[COUNSEL]: There were problems that had surfaced with her employment, am I right in saying that?

[MR. AMBROSE]: Employment with the Judge?

[COUNSEL]: With the Judge, employment with you?

[JUDGE DOMITROVICH]: Yes.

[COUNSEL]: Why don't you tell me about those. What happened there?

[JUDGE DOMITROVICH]: First of all, there was some pornographic email that she was sending to people.

[COUNSEL]: When you say pornographic, what do you mean? Could you describe it?

[JUDGE DOMITROVICH]: A naked body of a woman in a bar and some gay bashing. I don't even understand the joke but that's what she was doing.

[COUNSEL]: Was this sent among court employees?

[JUDGE DOMITROVICH]: Yes, with my tag line.

[COUNSEL]: When did this happen?

[JUDGE DOMITROVICH]: All throughout when she was there. And there were chat rooms that she was in.

See Attachment 6, at 104-105.

- c. As to the pornographic material allegedly sent, Attorney Ambrose held up and showed to Board counsel a Xeroxed photograph of a nude woman, standing at an upright table, with her back to the camera, in what appeared to be a barroom location, but same was not entered into evidence.
- d. At the time the issue arose after Foster left Judge Domitrovich's employment on medical leave, she reported the matter of the allegedly pornographic email to the Administrative Office of Pennsylvania Courts (AOPC) Legal staff for investigation into a potential violation of the Unified Judicial System (UJS) Personnel Policies and Non-Discrimination Policy.
- e. The matter was referred by AOPC Legal to CA Aaron for investigation.
- f. Beside the allegedly pornographic email, CA Aaron was never informed of any other alleged inappropriate use of Foster's court provided computer by Foster, such as her using chat rooms or participating in inappropriate emails.
- g. CA Aaron discovered that Foster was sent one objectionable email containing a nude photograph but that she did not send or forward that email to any other court employee.
- h. The employee who sent the objectionable email to Foster was disciplined by CA Aaron.
- i. At approximately the same time he disciplined the employee who sent the objectionable email to Foster, CA Aaron told Judge Domitrovich that he could not discipline Foster for merely having been the recipient of an email containing an objectionable photograph.
- j. At or near the time CA Aaron told Judge Domitrovich that he could not discipline Foster, CA Aaron sent an email on May 17, 2011, to Judge Domitrovich that confirmed that he disciplined another employee based upon the information Judge Domitrovich provided to AOPC; AOPC counsel was copied on this email.

198. **Participation of Attorney Ronald Susmarski in Judicial Decision Making**

- a. When Inquiring about the Foster matter, *supra*, Board counsel asked Judge Domitrovich the following question about Susmarski:

[COUNSEL]: Does Attorney Susmarski have any involvement in the substantive work of your chambers? Helping draft opinions, things like that?

[JUDGE DOMITROVICH]: No, sir.

[COUNSEL]: No?

[JUDGE DOMITROVICH]: No.

[COUNSEL]: I wanted to step back –

[JUDGE DOMITROVICH]: I'm sorry. That's the role of the law clerk.

See Attachment 6, (N.T., deposition transcript, 2/6/2014) at 126.

- b. Susmarski was present when Judge Domitrovich testified to this fact.
- c. A number of Judge Domitrovich's former staff members, including Foster, informed the Board that Judge Domitrovich often sent legal materials (pleadings, opinions, orders, and the like) to Susmarski for review, consideration and, where appropriate, editing.
- d. Judge Domitrovich did not disclose to the parties involved in cases she sent to Susmarski for review, consideration or edition or to their counsel that she either sought Susmarski's legal opinion on their cases or his advice regarding the drafting of judicial documents related to their matters.

PART III. CHARGES

COUNT 1 (A), (B), (C), (D)

199. By virtue of some or all of the facts alleged above in Parts I(A)-(D), Judge Domitrovich violated Canon 3(A)(3) of the Code of Judicial Conduct, and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

200. Canon 3(A)(3) states, in pertinent part, the following:

A. Adjudicative responsibilities.

* * *

(3) Judges should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom they deal in their official capacity, and should require similar conduct of lawyers, and of their staff, court officials, and others subject to their direction and control.

201. Judge Domitrovich's behavior in the *Skalos, J.C., J.M.*, and the *K.S.* cases as alleged above reflects that she was impatient, undignified and discourteous to the individuals who appeared before her or were involved in those cases.

202. Judge Domitrovich's impatient, undignified, and discourteous behavior in the *Skalos, J.C., J.M.* and *K.S.* cases was marked by, but not limited to, the following activity:

- a. Yelling and other aggressive behavior (finger pointing, sarcasm, storming off the bench) towards those who appeared before her in each case.
- b. Demeaning behavior directed toward a litigant, such as forcing Pierce to shake hands against his wishes and comparing his child to a criminal defendant.
- c. Unwarranted criticism from the bench and in court orders of Erie County employees and agencies for the performance of their duties, as in the *J.C.* and *J.M.* cases.
- d. Bullying and threats to *pro se* litigants and the persons who assist them in filing PFA petitions, as in the *K.S.* case.

203. Through her impatient, undignified, and discourteous behavior delineated above in *Skalos* (Count 1(A)), *J.C.* (Count 1(B)), *J.M.* (Count 1(C)), and *K.S.* (Count 1(D)), Judge Domitrovich violated Canon 3(A)(3).

WHEREFORE, Stephanie Domitrovich, Judge of the Court of Common Pleas of Erie County, Pennsylvania, is subject to disciplinary action pursuant to the Constitution of Pennsylvania, Article V, § 18(d)(1).

COUNT 2 (A), (B), (C)

204. By virtue of some or all of the facts alleged above at Part I(A) (***Skalos v. Pierce***) and Part II(B) (***Stacy Rhoades***) Judge Domitrovich violated Canon 3(A)(4), and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.
205. By virtue of some or all of the facts alleged above at Part II(B), Judge Domitrovich Violated Canon 3(C) of the Code of Judicial Conduct, and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.
206. Canon 3(A)(4) and Canon 3(C) state, in pertinent part, the following:

A. Adjudicative responsibilities.

* * *

- (4) Judges should accord to all persons who are legally interested in a proceeding, or their lawyers, full right to be heard according to law, and, except as authorized by law, must not consider ex parte communications concerning a pending proceeding.

* * *

C. Disqualification.

- (1) Judges should disqualify themselves in a proceeding where their impartiality might reasonably be questioned, including but not limited to instances where:
- (a) they have a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.
207. By virtue of Canon 3(A)(4), Judge Domitrovich had a duty to permit the parties to present their arguments at the ***Skalos'*** "pre-trial status conference" and at the forthcoming custody trial hearing.

208. The facts alleged above at Part I(A) demonstrate Judge Domitrovich would not listen to the positions of the parties at the **Skalos** "pre-trial status conference" and, because she had already reached a decision on certain issues, pressure the parties to abandon issues that they wished to present at the following custody trial; thereby, Judge Domitrovich violated Canon 3(A)(4) (Count 2(A)).
209. The facts alleged above at Part II(B) indicate that Judge Domitrovich initiated an *ex parte* conversation with Rhoades regarding matters that related to the substance of the **K.** litigation.
210. The facts alleged above at Part II(B) indicate that Judge Domitrovich initiated an *ex parte* investigation regarding S.M.K. and other matters that related to the substance of the **K.** litigation.
211. The facts alleged above at Part II(B) indicate that Judge Domitrovich harbored a bias against S.M.K. and sought to obtain answers to evidentiary facts raised in the **K.** litigation.
212. By virtue of Canon 3(A)(4), Judge Domitrovich had a duty to neither initiate or consider an *ex parte* conversation nor conduct an *ex parte* investigation regarding the **K.** case.
213. By virtue of Canon 3(C), Judge Domitrovich was required to disqualify herself from further involvement in the **K.** litigation.
214. Judge Domitrovich both initiated an *ex parte* communication with Rhoades regarding the **K.** case and she conducted an *ex parte* investigation of S.M.K., and thereby violated Canon 3(A)(4) (Count 2(B)).
215. Judge Domitrovich did not disqualify herself from the **K.** litigation after her *ex parte* conversation with Rhoades and her *ex parte* investigation of S.M.K., and thereby violated Canon 3(C) (Count 2(C)).

WHEREFORE, Stephanie Domitrovich, Judge of the Court of Common Pleas of Erie County, Pennsylvania, is subject to disciplinary action pursuant to the Constitution of Pennsylvania, Article V, § 18(d)(1).

COUNT 3

216. By virtue of some or all of the facts alleged above at Part II(A) (**Sandra Foster**) Judge Domitrovich violated Canon 3(B)(1) of the Code of Judicial Conduct, and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

217. Canon 3(B)(1) states the following:

B. Administrative responsibilities.

- (1) Judges should diligently discharge their administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.
218. Judge Domitrovich failed to train, supervise, and manage or ensure that Foster was trained, supervised and managed by Judge Domitrovich's other staff in a competent, professional manner.
219. Judge Domitrovich engaged in inappropriate behavior towards Foster and was overly critical of her job performance in her short tenure as Judge Domitrovich's secretary.
220. When Foster attempted to address the issues regarding her employment in a professional manner by letter, Judge Domitrovich responded by engaging in a non-private, bullying and inappropriate confrontation with Foster, which included Susmarski, who was not a court employee.
221. When Judge Domitrovich learned that Foster had raised issues with her employment to CA Aaron, Judge Domitrovich sought to foist her responsibility to investigate and address the issue upon Susmarski.
222. After Judge Domitrovich learned that Foster complained about her behavior to CA Aaron, she sought to have Foster terminated from her employment while Foster was on medical leave.

WHEREFORE, Stephanie Domitrovich, Judge of the Court of Common Pleas of Erie County, Pennsylvania, is subject to disciplinary action pursuant to the Constitution of Pennsylvania, Article V, § 18(d)(1).

COUNT 4

223. By virtue of some or all of the facts alleged at Part II(C) (***Misleading the Board***), Judge Domitrovich violated Article V, § 18(d)(1) of the Pennsylvania Constitution, in that her conduct was prejudicial to the administration of justice.
224. By providing misleading and false answers to Board counsel's questions at the February 6, 2014 investigative deposition, Judge Domitrovich evidently sought to affect a particular result in a matter pending before the Board, *i.e.*, her own case.
225. Such dishonest conduct is prejudicial to the administration of justice in this Commonwealth.

WHEREFORE, Stephanie Domitrovich, Judge of the Court of Common Pleas of Erie County, Pennsylvania, is subject to disciplinary action pursuant to the Constitution of Pennsylvania, Article V, § 18(d)(1).

COUNT 5 (A), (B), (C), (D)

- 226. By virtue of some or all of the facts alleged at Part I, Judge Domitrovich violated Article V, § 18(d)(1) of the Pennsylvania Constitution in that her conduct brings the judicial office into disrepute (Count 5(A)).
- 227. By virtue of some or all of the facts alleged at Part II(A), Judge Domitrovich violated Article V, § 18(d)(1) of the Pennsylvania Constitution in that her conduct brings the judicial office into disrepute (Count 5(B)).
- 228. By virtue of some or all of the facts alleged at Part II(B), Judge Domitrovich violated Article V, § 18(d)(1) of the Pennsylvania Constitution in that her conduct brings the judicial office into disrepute (Count 5(C)).
- 229. By virtue of some or all of the facts alleged at Part II(C), Judge Domitrovich violated Article V, § 18(d)(1) of the Pennsylvania Constitution in that her conduct brings the judicial office into disrepute (Count 5(D)).

WHEREFORE, the Board asserts that Judge Domitrovich is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

COUNT 6 (A)(1-8), (B), (C)

- 230. By virtue of some or all of the facts alleged at Parts I- III, Judge Domitrovich violated Article V, § 17(b) of the Pennsylvania Constitution.
- 231. Article V, § 17(b) of the Pennsylvania Constitution states, in pertinent part, the following:

Justices and judges shall not engage in any activity prohibited by law and shall not violate any canon of legal or judicial ethics prescribed by the Supreme Court.

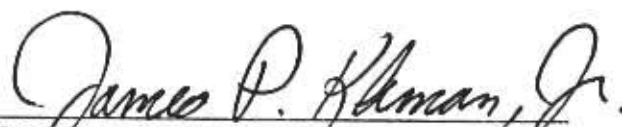
- 232. Judge Domitrovich's violations of Canons 3(A)(3),(4), (B), and (C), set forth individually at Counts 1-3, each constitute an automatic, derivative violation of Article V, § 17(b) (Count 6(A)(1),(2),(3),(4),(5),(6),(7),(8)).
- 233. Judge Domitrovich's violation of Article V, § 18(d)(1), set forth at Count 4, constitutes an automatic, derivative violation of Article V, § 17(b) (Count 6(B)).
- 234. Judge Domitrovich's violation of Article V, § 18(d)(1), set forth at Count 5, constitutes an automatic, derivative violation of Article V, § 17(b) (Count 6(C)).

WHEREFORE, the Board asserts that Judge Domitrovich is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

ROBERT A. GRACI, Chief Counsel

DATE: July 7, 2014

BY: 
JAMES P. KLEMAN, JR., Deputy Counsel
Pa. Supreme Court ID No. 87637

Judicial Conduct Board
601 Commonwealth Avenue, Ste. 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

IN RE:

1 JD 2014

I, James P. Kleman, Jr., Deputy Counsel to the Judicial Conduct Board, verify that the Judicial Conduct Board found probable cause to file the formal charges contained in this Board Complaint. I understand that the statements made in this Board Complaint are subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

Respectfully submitted,

DATE: July 7, 2014

James P. Kleman, Jr.
JAMES P. KLEMAN, JR., Deputy Counsel
Pa. Supreme Court ID No. 87637

Judicial Conduct Board
601 Commonwealth Avenue, Ste. 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

1 LORI SKALOS

: IN THE COURT OF COMMON PLEAS

2 V

: OF ERIE COUNTY, PENNSYLVANIA

3 : CIVIL DIVISION

4 LON E. PIERCE

: NO. 12948 - 2006

5
6
7
8 PRETRIAL STATUS CONFERENCE
9

10 Proceedings held before the Honorable Stephanie
11 Domitrovich, in Courtroom G, Erie County Courthouse,
12 Erie, Pennsylvania, on Monday, August 6, 2012
13 commencing at 2:00 p.m.
14
15
16
17

18 APPEARANCES:

19 MICHAEL VISNOSKY, ESQUIRE, Guardian Ad Litem

20 TINA FRYLING, ESQUIRE, appearing on behalf of Lori skalos

21 RAQUEL TAYLOR, ESQUIRE, appearing on behalf of Lon E. Pierce
22
23
24

25 Annette Allegretto, official Court Reporter

Attachment 1

1 THE COURT: Are we set, or do the parties want
2 to talk? What are we doing? Attorney Fryling?
3 Attorney Taylor?

4 MS. TAYLOR: Well, Your Honor, I received a
5 copy of the report that was filed by Attorney
6 Visnosky, who is the appointed guardian ad litem for
7 [L.P.] [.]
8 [REDACTED]

9 I said in light of the two issues, really,
10 that are pressing before the Court I thought it might
11 be helpful if he addressed the Court first and made
12 recommendations, and recommendations were not
13 incorporated in this report. So I guess I'd like to
14 hear from him first.

15 THE COURT: You, too, Attorney Fryling?

16 MS. FRYLING: I agree with that.

17 THE COURT: And what are the two issues,
18 again, because you're the moving party.

19 MS. TAYLOR: That's correct, we have two
20 issues.

21 Your Honor, the first is the issue regarding
22 where [L.P.] [REDACTED] attends school. The father has asked
23 that he attend Belle valley. The mother would like
24 him to continue at Saint Boniface; so that's the
25 first issue that needs to be decided today in
anticipation of trial because school will start

1 before the trial date.

2 The second issue is my client and my ongoing
3 concern over the domestic issues -- domestic violence
4 that child continues to witness in the mother's
5 residence which was first outlined in a report that
6 was submitted at the time of the custody conference
7 by Doctor Iddings, who is counseling [L.P.] [.] [REDACTED]

8 At that time it became clear that Miss Skalos
9 did not want to, number one, admit that these
10 situations were occurring within her residence. And,
11 number two, she didn't have any appreciation for the
12 affect that this was having on [L.P.] [REDACTED] despite the fact
13 there was a report from an expert provided to her.

14 That's really when, at that point, we made a
15 decision to file the request for an adversarial
16 hearing and now the guardian ad litem is involved.

17 So I guess I'd like to see what he is
18 recommending on the two issues before Attorney
19 Fryling and I can have, really, any dialogue as to
20 how to resolve this matter.

21 THE COURT: Attorney Fryling, what about the
22 domestic violence issue?

23 MS. FRYLING: Your Honor, the child has been
24 in counseling for a while. He's discussed any issues
25 that have come up. My client maintains that there is

1 not domestic violence. She and her husband do argue
2 -- or paramour, they do argue --

3 THE COURT: Paramour, not a husband.

4 MS. FRYLING: Paramour. They do argue just
5 like anyone else who lives together. They, you know,
6 realize that they need to do whatever they can in
7 that area but the child is doing well; and I think
8 Attorney Visnosky will say that he's doing well with
9 the situation the way it is.

10 And regarding the school issue, that's already
11 been decided by Judge Brabender last year before the
12 child started kindergarten. Judge Brabender decided
13 the child should go to Saint Boniface. All the
14 records show he's doing very well and there's really
15 no reason to change schools.

16 THE COURT: And Judge Brabender is now out of
17 the case, right?

18 MS. TAYLOR: He recused himself, Your Honor.
19 But he decided the issue for that year and said that
20 it could be re-evaluated at the end of the year which
21 we're now at the end of the year, beginning of the
22 new year. He then recused himself. And so we're now
23 before Your Honor.

24 THE COURT: Okay. Very well. And Judge
25 Kelly, she's not involved in the case either, right?

1 MS. TAYLOR: She recused herself after the
2 confrontation that occurred between her and Miss
3 Skalos.

4 THE COURT: Okay. And I'm the last person in.
5 Okay. Attorney Visnosky, do you have recommendations
6 as the G.A.L.?

7 MR. VISNOSKY: Your Honor, I do have some
8 discussion. Please the Court, I'll remain seated
9 while I make those.

10 THE COURT: Of course.

11 MR. VISNOSKY: First of all, to me the school
12 choice issue was a paramount concern and I did not
13 put all the research that I did on this issue into
14 the G.A.L. report because it was significant, but I
15 have some of it with me today and I would make it
16 available to the Court for reference, but I could not
17 print out everything on the Millcreek site because it
18 would have been about 180 pages worth of
19 documentation that I thought was a little repetitive.

20 Your Honor, you know that from your experience
21 with me I'm very familiar with this issue, having
22 tried a five-day school choice case issue before you
23 in November of, I believe, 2009 involving the Coupher
24 (Phonetic) family. And it involved a very similar
25 issue, which was the choice between a parochial

1 school and a public school. And in doing my research
2 I tried to keep in mind the importance of a parochial
3 education for children, for a child who's family
4 desired to have a Catholic or religious-based
5 education, I did not ignore that fact.

6 However, in making my recommendation, I tried
7 to consider the location of both schools in relation
8 to the parents' homes, and item 11 of my report I
9 talked about the proximity of the residence of the
10 parties, which is one of the sixteen factors in the
11 Custody Act, but I also discussed the proximity of
12 the -- of the school, in that Mr. -- it's a --
13 Mr. Pierce's home is approximately four miles from
14 the Belle Valley School, and Miss Skalos' home is
15 approximately nine miles. While Miss Skalos' home is
16 approximately four point six miles from Saint
17 Boniface, and Mr. Pierce's home is approximately
18 seven miles from Saint Boniface. I thought that was
19 important with traveling time, particularly in the
20 winter, and I don't think distance from the location
21 of either school is a significant factor in
22 determining which school the child would go to.

23 what I did think was determinative in my
24 recommendation was how Saint Boniface is set up.

25 Saint Boniface has multi-level or multi-age

1 classrooms, and even though they are small in size,
2 it requires one teacher to have two self-contained
3 classrooms and responsibility for two students. Now
4 I have never met Cindy Srnka, that's S-R-N-K-A, who
5 is the first and second grade teacher at Saint
6 Boniface, but I interviewed Cathleen Rankin, who is
7 the reading specialist there last year, and Miss
8 Rankin advised me that she was a well-experienced,
9 well-organized teacher, capable of caring for the
10 multi-level, multi-age classroom.

11 The Belle Valley School offers four small
12 first grades with fewer than twenty students in them
13 each and has four PA certified teachers who all have
14 significant experience in teaching first grade.

15 I would note that Miss Srnka is also a
16 Pennsylvania certified teacher, having received her
17 credits.

18 But all in all, when I came down to the final
19 summary, I believe that Belle Valley would be a
20 better choice for [L.P.] [REDACTED] than Saint Boniface, and
21 there are a couple of reasons for that.

22 First of all, I have watched the number of
23 parochial schools on the east side of Erie and in
24 other parts of Erie dwindle over the past years for
25 closing by Bishop Trautman. The most recent closing

1 was Saint Johns/holy Rosary School which just closed
2 this summer, and Saint Johns/holy Rosary had a
3 greater student enrollment than Saint Boniface School
4 did.

5 The second part of this equation is the
6 continuity in the education of [L.P.] [L.P.] is a
7 very perceptive and somewhat precocious child who
8 understands the situation he's in very well. And I
9 believe that [L.P.] [L.P.] would have a better chance for
10 continuity of education at Saint Boniface, because
11 I'm fearful, but I have no evidence to support this,
12 that one of the next schools to be closed because of
13 it's population -- because of it's student population
14 would be Saint Boniface.

15 THE COURT: You're saying the continuity would
16 be better at Belle Valley?

17 MR. VISNOSKY: At Belle Valley because there
18 is no likelihood of Belle Valley ever being closed.
19 It's going to remain open as a Millcreek public
20 school. It's one of the largest public schools on
21 the east -- in the east county, and I believe with
22 the facilities they have available there, and the
23 faculty that's there, it would be a better choice for
24 [L.P.] [L.P.] to start him off in first grade.

25 There was an issue made of where he had the

1 most friends and I really -- well, I considered that
2 as an anecdotal issue, that isn't what I based my
3 recommendation on.

4 I based my recommendation on what the two
5 school systems can offer [L.P.] in continuing his
6 first -- his elementary school education.

7 Does the Court have any questions regarding
8 that?

9 THE COURT: Is this a special needs child?

10 MR. VISNOSKY: [L.P.] is not a special needs
11 child, Your Honor. He's a very intelligent little
12 boy. And there was issue also raised about his
13 reading. And, you know, [L.P.] is not a reader yet,
14 and I have the great fortune to live, for the past
15 forty-one years, with a woman who's a reading
16 specialist. So I tapped on her knowledge about
17 [L.P.'s] ability to read at this stage in his life,
18 and she says you really can't tell if [L.P.] is
19 reading challenged until he knows how to read. And
20 [L.P.] does not know how to read yet. I'm sure that
21 he recognizes sight words and I'm sure that he
22 understands what some of those words mean but I think
23 if you gave [L.P.] a book and told him to sit down and
24 read it out loud to you, that he would be somewhat
25 challenged to do that, unless it were a book of sight

[L.P.'s]
1 words. So I think [REDACTED] report card and his items
2 about his reading progress are attached as Exhibits
3 one, two and three. I think [REDACTED] [L.P.] did a very good job
4 in improving his reading scores or his -- I don't
5 even think they're reading scores, they're called
6 first sound fluency, phoneme segmentation fluency and
7 nonsense words fluency. He met all the targets
8 there. His title one report of May 20, '12 indicates
9 that he has a rhyme recognition, rhyme production,
10 naming initial sounds, phoneme segmentation and they
11 gave some summer recommendations.

12 His report card indicates that he performed
13 well in his kindergarten class, achieving the highest
14 score that he could in sixty-four of the areas that
15 he was graded on, and only achieving the lowest score
16 in two of those areas, which was identification of
17 upper case study letters and lower case study
18 letters, which I view as something that could be
19 easily remedied with more training and familiarity.
20 [L.P.]

21 So, basically, I believe that [REDACTED] should be
22 in the Millcreek Township School District and I
23 believe that he should be at Belle Valley because
24 it's not an impossible place for either parent to get
25 the child to for school in the morning.

THE COURT: Very well. And those are your

1 recommendations?

2 MR. VISNOSKY: That's my recommendation on the
3 school choice issue.

4 THE COURT: What about the second issue?

5 MR. VISNOSKY: All right. Well, Your Honor, I
6 identified three issues in my report.

7 [L.P.'s]
8 The second issue for me is [REDACTED] asthma and
9 allergies, and it's a fairly simple issue to address.
10 [L.P.]

11 [REDACTED] appears to have juvenile asthma,
12 allergy-induced asthma. And it's very clear from the
13 medical reports, which are attached, which I believe
14 are at Exhibit 4 and Exhibit 5, that [REDACTED] [L.P.] has an
15 allergy to animal dander, particularly, to some
16 extent, to dogs and cats, and to dust mites.

17 There are various ways that you can deal with
18 this. [L.P.] [REDACTED] takes two medications now, which are
19 Asmanex 100 MCG inhaler, it's called a twisthaler,
20 and he also takes a medication that I take called
21 Singulair but he takes five milligrams a day and it's
22 in the form of a chewable tablet.

23 According to Doctor Gallagher, his allergies
24 and asthma are controlled with these two medications
25 at this time.

He also has other medications that he can rely
on to control his allergies and asthma. Hopefully,

[L.P.]

1 [REDACTED] will grow out of his asthma as he grows older.
2 There was some indication in Doctor Gallagher's
3 report that he also has some springtime allergies,
4 which often accompany allergies like he has.

5 Doctor Gallagher made a recommendation that
6 asthma -- that he should -- to me in our telephone
7 conversation, that there should be some consideration
8 given to having allergy injections given. And this
9 is a process where the antigen is injected into the
10 child so that the -- so that it minimizes the
11 reaction to the allergen or the cause of the allergy.
12 I would think that that's at least worth exploring
13 further with Doctor Gallagher. I don't know if he's
14 been back to see Doctor Gallagher since April 27th
15 but I would think that that would be something worth
16 looking into, because it would make [REDACTED] ^[L.P.'s] life a
17 lot more comfortable even though he might experience
18 some discomfort when getting the allergy injections,
19 he will -- he may enjoy fewer asthma attacks, if the
20 allergies are better controlled.

21 The third area was the domestic conflict, and
22 I spent a lot of time in trying to determine the
23 level of domestic conflict, and I've identified, I
24 believe, three areas of conflict among and between
25 these parties, and other parties.

1 First of all, I can tell you that it's my
2 belief that the level of domestic conflict between
3 Mr. Pierce and Miss Skalos is very high, and I can
4 tell you, without equivocation, that [L.P.] is aware
5 of that level of conflict, and he told me in our
6 first meeting when he was brought in by Miss Skalos
7 and I interviewed him, that: My parents don't like
8 each other, and he was very -- that was not prompted
9 or pried upon or after a great deal of questioning.
10 He just came right out and said that his parents
11 don't like each other. And I'm not sure how you cure
12 a situation like that. But it's something that has
13 to be looked into and remedied, and I'm not sure
14 because of the level of dislike and distrust between
15 Mr. Pierce and Miss Skalos that a simple course of
16 counseling with Teena Rood, even though I have great
17 respect for her counseling ability, is going to cure
18 that, because these -- these are two folks which
19 jealously guard their time with [L.P.] and almost
20 insist on minute-to-minute equality, which is
21 virtually impossible.

22 And the one argument that I would focus on is
23 what I'm going to call the birthday party argument.
24 I've heard from both parties about the birthday party
25 argument, and to some extent I find fault with both

1 parties.

2 Miss Skalos, to some extent, for lack of
3 flexibility, and Mr. Pierce, to some extent, for lack
4 of advanced planning and lack of understanding of
5 Miss Skalos' position.

6 As I understand it, and I think this would be
7 the stipulated version, is that it was Miss Skalos'
8 day of partial physical custody, and she was having
9 to travel to Meadville to pick up her son from a
10 prior relationship, who -- and --

11 THE COURT: Another child?

12 MR. VISNOSKY: Another child, who is seventeen
13 years old, his name is [REDACTED] [B.N.]
14 [REDACTED] and she advised Mr. Pierce
15 that she would be back in Erie and meet him at the
16 Peach Street Wal-Mart at approximately [L.P.] [.]
17 p.m. to have an exchange of custody of [REDACTED]

18 Unfortunately, as things occur, the birthday
19 party, as most birthday parties do, don't run on
20 time, and they were --

21 THE COURT: The birthday party that Mr. Pierce
22 was at?

23 [L.P.]
24 MR. VISNOSKY: Was at with [REDACTED] was not
25 running in a timely manner, it was running late. And
they were just sitting down to have dinner and the

1 birthday cake and the children hadn't sung happy
2 birthday and so forth. This was not an adult
3 birthday party; it was a birthday party for a
4 playmate of [L.P.'s] when he's in Mr. Pierce's partial
5 custody. So it was a little boy he knew and he was
6 over at their home for this birthday party.

7 THE COURT: So it wasn't their child's
8 birthday, it was someone other --

9 MR. VISNOSKY: No, it was another child's
10 birthday that [L.P.] knew and [L.P.] was invited to the
11 party. So as things progressed, there was an
12 exchange of telephone calls, between --

13 THE COURT: And we have no control over the
14 other child's birthday party because it runs the way
15 that --

16 MR. VISNOSKY: It runs, right. [L.P.]

17 THE COURT: -- unit wants. And yet [REDACTED]
18 wants to stay and be part of the birthday party.

19 MR. VISNOSKY: That is very accurate.

20 THE COURT: There's the dilemma.

21 MR. VISNOSKY: That's the dilemma because --

22 THE COURT: And it's not about the parents and
23 their schedule, Miss Skalos or Mr. Pierce, it's all
24 about [L.P.] and what would be best for [L.P.] [L.P.] Not
25 about their schedules. Sit back and sit -- and look

1 at it objectively.

2 MR. VISNOSKY: Well, Your Honor --

3 [L.P.] THE COURT: Or put yourself in the position of
4 [REDACTED] But go ahead.

5 MR. VISNOSKY: This is where the level of
6 conflict comes between Miss Skalos and Mr. Pierce
7 because Miss Skalos contends that she has permitted
8 Mr. Pierce to have her time, as she defines it, on
9 other occasions, but that there is no reciprocation
10 when she asks, and she pointed to a situation
11 recently where there was going to be some type of
12 family reunion for her family and it was on Mr.
13 Pierce's time, and he was not willing to relinquish
14 time so that her family could enjoy [L.P.] [REDACTED] company
15 and he could meet his other cousins and her nieces
16 and nephews. So this led to what Miss Skalos called
17 not a significant confrontation, but an exchange of
18 custody and some harsh words being exchanged between
19 the parties about why they had to be the way they
20 were. And according to Mr. Pierce, it was far more
21 than that, with a lot of loud yelling and cursing by
22 Miss Skalos and all in the presence of [L.P.] [REDACTED] which
23 is not -- which is never beneficial.

24 So the domestic issue between Mr. Pierce and
25 Miss Skalos is part of the problem, and I believe

1 that's one of the issues that Doctor Iddings is
2 counseling on, and you can refer to Exhibit 12, which
3 is a copy of an email that I was provided that was
4 written by Doctor Iddings about the birthday party [L.P.]
5 incident, and the stress that's being caused on [REDACTED]
6 by the stress between his mother and father, and the
7 common -- and going back and forth between two
8 households and having two families to live with.

9 The other stress that I believe that Attorney
10 Taylor was referring to are the domestic arguments in
11 the Skalos/Lobaugh residence. I can report to you
12 that there was one incident in 2009, which is set
13 forth, I believe, in Exhibit 6 -- or Exhibit 9, where
14 Mr. Lobaugh called the Pennsylvania State Police when
15 he was attempting to move out of the residence. And
16 that was an incident which I'm not sure should be
17 given much weight to because [L.P.] [REDACTED] was not present at
18 the time.

19 I always recall the Superior Court case where
20 the father was attempting to gain full custody of a
21 child from the mother because she was a prostitute,
22 but her acts of prostitution never occurred when the
23 child was in her partial physical custody, and the
24 superior Court ruled that that was not grounds for
25 termination of the -- or modification of the order

1 because the child was unaffected by that particular
2 argument.

3 However, I'm certain that there are arguments
4 that go on within the Skalos/Lobaugh household and
5 one of which -- which I don't believe I reported in
6 my report -- is one over medication which went out
7 into the street, and I believe had Miss Skalos
8 standing in front of Mr. Pierce's -- or Mr. Lobaugh's
9 vehicle preventing him from leaving and it was about
10 medication. I don't know --

11 THE COURT: Her medication?

12 MR. VISNOSKY: Her medication.

13 THE COURT: Not the child's?

14 MR. VISNOSKY: Not the child's. And I don't
15 know if [L.P.] was present for that argument or not.

16 The third -- the arguments which [L.P.]
17 witnesses could be simple day-to-day arguments that
18 occur in every family, or could be -- they could be
19 more significant than that.

20 [L.P.] reported to me that these arguments
21 occurred about every month to six weeks, and I
22 believe that he was intelligent to know what a month
23 was. And I asked him if you're sure it isn't between
24 a Monday and a Sunday. He said, no, it was longer
25 than that. So I was fairly certain that he was

1 fairly sure of what he was talking about. And the
2 time period was about a month to six weeks, and to
3 some extent [L.P.] confirmed that these arguments do
4 not occur when Mr. Lobaugh's children are visiting,
5 that is [K.L.] and [E.L.] who are ages 16 and 13. So
6 these may be minor arguments but it appears that
7 [L.P.] is sensitive to this discord, and no matter how
8 minor the argument or how major the argument, it has
9 to be avoided in his presence because that's what is
10 causing his anxiety.

11 I viewed his anxiety as being caused by the
12 open hostility between his parents and the day-to-day
13 arguments, no matter how minor they may be, which
14 occur in the Skalos/Lobaugh household. And to some
15 extent these arguments are affected by how [L.P.]
16 views his father's relationship with his mother's
17 family, and his mother views [L.P.'s]
18 relationship with his father's family.

19 THE COURT: It's so sad. It's so sad that
20 this child doesn't have the opportunity to have an
21 extended family. Right now the two parties are at
22 war so much that they're destroying the very child,
23 the very item they're trying to love, they're
24 destroying it.

25 MR. VISNOSKY: Your Honor, if I might comment

1 on extended family for a second. I tried to put
2 together a complete discussion on extended family and
3 that's item five, and I believe that at the present
4 time Mr. Pierce -- Mr. Pierce's extended family,
5 which is comprised of his father and mother, have a
6 stronger and more bonded relationship than the
7 majority of Miss Skalos' family.

8 However, I find that Miss Skalos' mother, who
9 is Mrs. Weidler, that's W-E-I-D-L-E-R, has a good
10 relationship with [L.P.] [REDACTED] because before Mr. Pierce had
11 retired from the Pennsylvania State Police, she
12 provided child care for him during the day while
13 [L.P.] [REDACTED] -- while her (sic) mother was at work and he
14 was not in school. I don't think that Miss Weidler
15 should be excluded from having a relationship with
16 [L.P.] [REDACTED] nor do I believe that Leo and Joanna Pierce
17 should be having a relationship excluded.

18 I do have some questions about Richard Skalos,
19 senior. I think that there should be more checking
20 done on what his background is. He is -- he and Miss
21 Weidler have been divorced for some time and they
22 don't maintain a relationship together, so you're not
23 seeing that continuity of a family displayed in that
24 relationship, and I spoke with Miss Skalos at length
25 about her brothers Rick and John, and I don't believe

1 [L.P.]
that [REDACTED] should ever be permitted to be in their
2 partial physical custody at any time unless Miss
3 skalos is present and [REDACTED] [L.P.] is with her. I have some
4 serious questions, which need to be verified or
5 further investigated, about their backgrounds and
6 their activities.

7 So I find that Mr. and Mrs. Pierce provide a
8 good extended family relationship, as does Ms.
9 Weidler, for [REDACTED] [L.P.] [.] But that there are other members
10 of Miss skalos' family who I have great skepticism
11 about.

12 THE COURT: Okay. So Attorney Fryling,
13 Mr. Lobaugh is here, right?

14 MS. FRYLING: Correct.

15 THE COURT: What's the intention between the
16 two of them? To marry, or are they married, or what?
17 Let me swear everybody in. Sir, you, too. Please
18 stand up, Mr. Pierce, Miss skalos, please stand up
19 and be sworn.

20 (Whereupon, all parties were sworn in.)

21 THE COURT: And Mr. Lobaugh, for the time
22 being, yeah, why don't we give him that chair? Why
23 don't you grab that chair over there, since you're a
24 big guy and sit by Miss skalos.

25 And let's see if we can get the guys to

1 understand, okay? Because it sounds like
2 Mr. Lobaugh, right?

3 MR. LOBAUGH: Lobaugh.

4 THE COURT: Lobaugh. I'm sorry. There's a
5 Judge Lobaugh in -- is that your relative?

6 MR. LOBAUGH: That's my cousin.

7 THE COURT: Ollie?

8 MR. LOBAUGH: Ollie.

9 THE COURT: Yeah, I know him well.

10 MR. LOBAUGH: He's a nice guy.

11 THE COURT: Yeah, he's president judge down in
12 Franklin County. Okay. He's a character.

13 MR. LOBAUGH: He is a character.

14 THE COURT: Okay. Okay -- so, but it's not
15 enough to recuse me because I don't know him other
16 than at the state trial judges' conferences, okay.

17 What do you intend to do with Miss Skalos as
18 far as the life of [L.P.] is concerned? Are you in
19 this relationship? Is this an intact family? What
20 is this?

21 MR. LOBAUGH: We're in it, we will be married
22 as soon as my divorce is finalized, which Tina will
23 be handling for myself. I'm going through it -- it's
24 been a lengthy divorce, and as soon as it's
25 finalized, we do plan on being married. I've already

1 bought her a promise ring, it's on her hand. I have
2 not asked her to marry me but I will, and I do have a
3 good relationship with my ex-wife.

4 THE COURT: Ma'am, he's testifying, so if you
5 could just keep quiet.

6 MR. LOBAUGH: My coach. Yes, I am going
7 through divorce. I am friends with my ex-wife. Lori
8 has a relationship with my ex-wife, with my children,
9 we go to events together. We've been to a couple
10 events together where Lori has sat there with us. We
11 try to make everybody come together and make a bad
12 situation good because divorce is never good.

13 THE COURT: Right.

14 MR. LOBAUGH: But I have children through two
15 separate marriages, they're both well adapted.
16 There's never been -- don't take offense -- but
17 there's never been courts involved in any of my
18 child's upbringing.

19 THE COURT: That's nice. I'd like to go out
20 of business in the custody area, okay. I really
21 would.

22 MR. LOBAUGH: My children are both well
23 adapted. They've never been to psychologists, other
24 than when my father died and my younger son had to go
25 to a psychologist for acceptance of what had

1 happened.

2 THE COURT: Do you love [L.P.] [?]

3 MR. LOBAUGH: I do. I think he's a great
4 little boy. I think he's very intelligent. I try to
5 include him in everything we do.

6 THE COURT: Do you understand the difficulty
7 between Mr. Pierce and Miss Skalos?

8 MR. LOBAUGH: You have --

9 THE COURT: It goes beyond what a psychiatrist
10 or psychologist could ever do in this case.

11 MR. LOBAUGH: Absolutely. I don't understand
12 it. I do not.

13 THE COURT: That's good, in a way.

14 MR. VISNOSKY: Your Honor, if I might add
15 something here. Another part of the relationship
16 issue, which is highly contested, is that Mr. Pierce
17 and Mr. Lobaugh have no relationship. I was aware
18 that these folks plan to marry on completion of the
19 divorce but if [L.P.] -- if Mr. Lobaugh is going to
20 remain in a permanent basis in Miss Skalos' life for
21 some undefined period of time --

22 THE COURT: That's where I was headed.

23 MR. VISNOSKY: -- there has to be some
24 relationship building between Mr. Pierce and
25 Mr. Lobaugh. And Mr. Lobaugh has advised me that Mr.

1 Pierce considers him to be irrelevant even though he
2 provides transportation for the daily partial
3 physical custody that Mr. Pierce enjoys.

4 THE COURT: Okay. That's where I'm headed. I
5 think the only way we're going to break this for
6 [L.P.] to break this impasse, is to have the two men
7 be mature enough to deal with the issue, because we
8 obviously -- Miss Skalos and Mr. Pierce do not get
9 along. They are oil and vinegar, forget about it.
10 We're never going to put this together. This is like
11 Humpty-Dumpty, but there might be some success here
12 that we can have between the two men if they're grown
13 up enough and mature enough and love [L.P.] [.]

14 If you love [L.P.] you have a commonality,
15 that's somewhere to start. [L.P.] deserves to have
16 people in his life who get along. And if he could
17 just start with the two guys who are the figures in
18 his life that some day he wants to grow up and be
19 like, he needs to see that they can get along,
20 because otherwise he's going to have a terrible,
21 terrible image of being a father himself some day.
22 He'll never want to be a father if he sees that the
23 two men in his life cannot get along and present a
24 nurturing type of atmosphere just for [L.P.] [.] Just
25 for the times that you're together for [L.P.] [.] You

1 can hate each other any other time, okay, but for
2 [L.P.] put on a face, be mature, because I can't get
3 the -- I can't -- Mr. Pierce, we know that you and
4 Miss Skalos do not get along, right?

5 MR. PIERCE: It's not as specific and as
6 generalized a question, Your Honor. I attempt to.
7 We communicate on Family Wizard. I try. It's -- you
8 know, it's almost like any type of verbal
9 communication turns out to be a setup, so I try not
10 to have any type of verbal communication with [L.P.'s]
11 mother.

12 And as far as for Mr. Lobaugh, it's a little
13 bit longer than that.

14 THE COURT: Can you try to get along with him?

15 MR. PIERCE: I do not not get along with him.

16 THE COURT: But can you try?

17 MR. PIERCE: The man attempted to assault me
18 outside this courthouse, Your Honor.

19 MS. TAYLOR: Wait a second. I think there's a
20 lot of history in this case, Your Honor, that,
21 unfortunately, now stepping in as the third judge, we
22 haven't had the opportunity to really bring you up to
23 speed on, but there's a long history.

24 You will recall that when Judge Kelly was
25 involved in this case there was a hearing before

1 Judge Kelly and I may be telling something to you
2 that you don't know.

3 There was a hearing in front of Judge Kelly on
4 a specific issue, motion for contempt, brought
5 against Miss Skalos. At the time of the hearing a
6 confrontation ensued when Judge Kelly ordered that
7 Miss Skalos pay some fees for a custody evaluation.
8 She then threatened the judge. The judge recused
9 herself, had a security detail provided by the Erie
10 County sheriff's department for a week, they sat
11 outside Judge Kelly's home, because Miss Skalos
12 informed Judge Kelly she knew her address, and then
13 when Mr. Pierce and his attorney left the courthouse,
14 there was a confrontation that occurred between
15 Mr. Lobaugh, Miss Skalos and Mr. Pierce where
16 Mr. Lobaugh charged at Mr. Pierce and they were both
17 charged, and there was a hearing at the district
18 justice office. Your Honor, I --

19 THE COURT: What was result of the district
20 justice --

21 MS. TAYLOR: They were found guilty.

22 THE COURT: Both of them?

23 MS. TAYLOR: Yes.

24 THE COURT: Oh, wonderful.

25 MS. TAYLOR: I want you to understand, Your

1 Honor --

2 THE COURT: They're two peas in a pod. Why
3 can't we get along?

4 MR. TAYLOR: Because I want you to understand
5 something about this case.

6 THE COURT: But they're dropping off the
7 child. It's the two men doing it. That's my
8 understanding from the paperwork.

9 MS. TAYLOR: No, that's not always the case,
10 Your Honor. Apparently now, in the summer, since
11 Mr. Pierce has retired, there is supposed to be an
12 exchange that occurs with the child at 7:30 in the
13 morning when she -- on her periods of custody for him
14 to provide -- to watch [L.P.] during the day when
15 she's working on her days.

16 He routinely -- Mr. Lobaugh, because his work
17 is more flexible, will bring the child at 8:00, 8:15
18 when he's available to bring the child and Mr. Pierce
19 sits in the parking lot and waits, sometimes for a
20 half an hour, sometimes for forty-five minutes and
21 then he brings [L.P.] and before [L.P.] gets out of the
22 car, Mr. Lobaugh takes a thing of cologne and sprays
23 it all over [L.P.] knowing that that's going to
24 irritate Mr. Pierce.

25 And then Mr. Pierce gets [L.P.] and they go

1 about their day. I could sit here for three hours
2 and tell you --

3 THE COURT: Oh please, not --

4 MS. TAYLOR: But here's the gist of the story.
5 I have had a lot of interaction with Miss Skalos, and
6 I have read about significant interactions with
7 Mr. Lobaugh, and I can tell you that this is not a
8 situation where this is just some arguing between
9 couples. There is a significant problem that is
10 going on in that residence, so much so, Your Honor,
11 that the 17 year old child that Mr. Visnosky is
12 referencing, lives with his father in Pittsburgh and
13 his father had to obtain a PFA against Miss Skalos in
14 Pittsburgh. She does not have primary custody of the
15 child nor does Mr. Lobaugh. He only gets his child
16 on Wednesday nights and every other weekend. So I
17 think that there is a deep history here that is
18 documented by Doctor Iddings and other people that
19 needs to be explored. I'm not sure if that's where
20 Attorney Visnosky is going in his recommendation, but
21 I'm curious to see -- I think I cut him off.

22 MR. VISNOSKY: Your Honor, we need complete
23 copies of Doctor Iddings's reports and I don't have
24 the authority to get those.

25 THE COURT: Okay, I can authorize it.

1 MS. TAYLOR: We certainly would sign any
2 release that's necessary.

3 THE COURT: So the parties will sign the
4 release so I -- Attorney Fryling?

5 MS. FRYLING: Yes.

6 THE COURT: Okay. Here's the thing, okay, it
7 goes back and forth and back and forth in this case.
8 The only issue I see of priority is the schooling.
9 That's it. We have one day, that's all we have in my
10 schedule, so that's all we're going to deal with.

11 What you're recommending in regard to the
12 allergy situation, it's under control, right?

13 MR. VISNOSKY: The allergies are under
14 control, Your Honor.

15 THE COURT: That issue's done. Okay. The
16 issue in regard to domestic violence, we're not going
17 to be able to deal with that issue. There's nothing
18 I can do on that issue. I mean, it is what it is. I
19 can put an order out saying do not have any fights or
20 arguments with the child -- in the presence of the
21 child and that's as good as it gets.

22 MS. TAYLOR: Your Honor, that's already --

23 MS. FRYLING: There's also --

24 MS. TAYLOR: I guess --

25 MS. FRYLING: Excuse me, you've spoken quite a

1 bit.

2 MS. TAYLOR: No, no. You're interrupting,
3 though -- when I looked at the judge, she looked at
4 me, I was going to say something, and you can
5 respond, but there is an order, Your Honor, that was
6 put in place by Judge Kelly that specifically says
7 that and they have continued. And we have a report
8 which is incorporated by Attorney Visnosky indicating
9 that this child is affected and has intrusive
10 thoughts during the day regarding these issues.

11 THE COURT: But we're not here for contempt,
12 we're here on an adversarial proceeding.

13 MS. TAYLOR: Right, Your Honor, but according
14 to my understanding, this was a status conference,
15 and I attached a proposed custody order. That's what
16 I was wondering if Attorney Visnosky, prior to trial,
17 could give us a recommendation, to see if, then,
18 Attorney Fryling and I could try to work something
19 out. Because I know that you often use these status
20 conferences as an opportunity to talk about
21 settlement, so that's why I wanted him to have an
22 opportunity, if he even has a position, to let us
23 know, so that Tina Fryling and I can use it as a
24 basis.

25 THE COURT: Okay. Before we go to you,

1 Attorney Fryling, do you have a recommendation in
2 regard to the domestic violence?

3 MR. VISNOSKY: Your Honor, I don't think very
4 much can be done to the domestic violence.

5 THE COURT: No.

6 MR. VISNOSKY: Except the people should be
7 cautioned that this should not be displayed before
8 [L.P.] [REDACTED] and that applies to all three people who are
9 seated at the table today that are involved with him
10 on a daily basis.

11 The other [L.P.] issue of the proposed custody
12 schedule is that [REDACTED] -- I talked about the proposed
13 custody -- custody schedule with [L.P.] [REDACTED] where he would
14 live more with his father than with his mother, and
15 he said regardless of where he goes to school, that
16 he would like to have the same time with his mom as
17 he does with his dad.

18 THE COURT: Sure.

19 MR. VISNOSKY: I know that he's a six-year-old
20 boy.

21 THE COURT: But he's perceptive, he's smart.

22 MR. VISNOSKY: He was intelligent enough to
23 verbalize some fairly decent reasons why.

24 THE COURT: Okay. Attorney Fryling, but we
25 only have fifteen more minutes left for this. We do

1 have some time this Friday, if we want to bring
2 everybody back together on Friday, to try to resolve
3 this, if the parties are willing, I have a
4 cancellation on Friday, we can do that on Friday.
5 But, otherwise, we're not going to be able to deal
6 with all these issues in regard to the adversarial
7 hearing with all the witnesses that you have, we
8 haven't even gone through the pretrial narrative at
9 this point. So Attorney Fryling?

10 MS. FRYLING: Your Honor, it appears as
11 though, from Attorney Visnosky's report, from
12 everything Doctor Iddings has done, the child is
13 doing fine where he is right now, and I think
14 everybody is agreeing that the 50/50 time seems to be
15 working. Mr. Pierce actually ends up with a lot more
16 time during the summer because Miss Skalos works, Mr.
17 Pierce is retired. We went to custody court, he was
18 able to have the child when mom's working, so that's
19 fine.

20 She is not agreeable to the schooling change.
21 She believes Saint Boniface has been good for him.
22 It's a small classroom, it would be ten children, he
23 would get personalized attention. He's going through
24 a lot, that would be a consistent thing. He has a
25 best friend at Saint Boniface.

1 THE COURT: But wouldn't it be nice to show
2 this child that Judge Brabender gave her her way for
3 one year, and now we're going to give the father his
4 way for one year, just to try it out. Just to try it
5 out between the two enemy camps here, and that's what
6 the G.A.L. is recommending, not for that reason but
7 for other reasons. And I'm just saying just to --
8 can you see that this would be almost a truce, to
9 show that this child can have parents that can try to
10 compromise.

11 I mean, we have to have compromise in this
12 case, and I'm not -- I mean, it's something that --
13 what about Friday, first of all, because we're not
14 going to get anywhere today.

15 I can't even get through these lists. You've
16 got friends, you've got relatives, you've got all
17 these people down. How are we going to do this all
18 in one day?

19 MISS SKALOS: Judge Domitrovich, am I allowed
20 to --

21 THE COURT: No, you have an attorney. I'm not
22 listening to you. Okay. So -- and I listened to
23 Mr. Lobaugh and he seems reasonable and so does Mr.
24 Pierce, so I was hoping that the men could get
25 together.

1 MR. LOBAUGH: Your Honor, I would take this
2 moment right now and hold my hand out for a truce
3 with Mr. Pierce, if it would make a difference. I'm
4 more than willing to try to get along --

5 [L.P.] [.]
6 THE COURT: For [REDACTED]

7 [L.P.'s]
8 MR. LOBAUGH: -- for [REDACTED] sake.

9 MR. PIERCE: Your Honor, two weeks ago my son
10 says to me, he says, on a Friday, I'm going to be
11 okay being with my mom and Mark this weekend because
12 [K.L.] [E.L.] [L.P.]
13 [REDACTED] and [REDACTED] are going to be there, because [REDACTED]
14 [K.L.] [E.L.]
15 knows that when [REDACTED] and [REDACTED] are there, that there
16 won't be domestic --

17 THE COURT: Listen, did you hear what you just
18 said Mr. Pierce?

19 MR. PIERCE: Yes.

20 THE COURT: You said that the child said this.
21 You have now put this child in a very powerful
22 position, to manipulate the parties. And do you know
23 who manipulators are? They are criminals. They are
24 criminal defendants because they learn how to
25 manipulate their parents. He now has given you
information about them and about what's happening in
their home without you going on Family Wizard and
asking what's happening.

So to repeat what the child says in my

1 courtroom doesn't work.

2 MR. PIERCE: I'm sorry, Your Honor.

3 THE COURT: I don't want you -- I'm going to
4 put out an order right now that neither parent are
5 allowed to examine this child about what happens at
6 either one's house, okay. Neither one.

7 Miss Skalos, I don't want you asking what's
8 happening in Mr. Pierce's home and visa versa.
9 That's it. You stay contained in each of your homes,
10 and you are not to engage this child as to what is
11 happening in the other's home. That's it. None of
12 this.

13 MISS SKALOS: That's --

14 THE COURT: otherwise this child is in a
15 manipulative position and he's powerful, and he's too
16 powerful at the age of six. Miss Skalos, can you
17 agree to that?

18 MISS SKALOS: Absolutely. It's not my concern
19 what goes on in his household, and that's where the
20 conflict is.

21 THE COURT: Okay. Well, there's none of that
22 now. You're not going to know what's happening --

23 MISS SKALOS: I never have.

24 THE COURT: -- visa versa. He'll stay as the
25 G.A.L. The child wants to talk to someone, he can

1 talk to Attorney Visnosky and pay the rates to talk
2 to Attorney Visnosky as the G.A.L. And that's it.

3 But, in the meantime, neither one of you, and
4 I don't want to hear again out of either of your
5 mouths that you say that he said what's happening in
6 someone else's home. It's off limits, that's it.

7 So, now we're down to school. That's it.
8 That's the only issue here. And he is recommending
9 Belle Valley, and I know what the school is like, I
10 know how comfortable it is. I know it's one of their
11 premier schools, and I know that it's there to stay
12 because they're investing millions of dollars in
13 education and buildings for the Millcreek school
14 system.

15 MISS SKALOS: But I believe religion is very
16 important at this stage in [L.P.'s] life.

17 THE COURT: And father will be responsible,
18 since it is his suggestion, to take the child to
19 schooling in regard to Sunday school, and it will be
20 --

21 MISS SKALOS: But he has established
22 friendships, he has established school activities.

23 THE COURT: Ma'am, are you ready to litigate
24 this for a whole day?

25 MISS SKALOS: I'm just trying to show that I

1 think the negativity of removing him from that would
2 be more detrimental than trying to appease --

3 THE COURT: And how are you going to prove
4 that? What we're doing is one year you had him for
5 Saint Boniface; he's going to have him for one year
6 at Belle Valley. Then you come back to me after both
7 school years, and then I'll decide permanently where
8 the child goes. That is the truce, okay. Have a
9 truce. Talk to her, Mr. Lobaugh.

10 MISS SKALOS: And that's a fair thing to a
11 child for a truce between the parents, or is that in
12 the best interest of the child?

13 THE COURT: Oh, my.

14 MISS SKALOS: That's just what I'm trying to
15 understand.

16 THE COURT: Okay. You talk to your attorney.
17 In the meantime, we're going to have to reconvene
18 because I can't get all of this done before the
19 trial. When is the trial again?

20 MS. TAYLOR: Your Honor, we may have to depend
21 on your calendar to move it because we're -- I'm --
22 on Friday I'm out until the 20th. So I don't think
23 it's going to be the end of the world if we have to
24 --

25 MS. FRYLING: If this is important to Mr.

1 Pierce to determine where the child is going to
2 school, our trial is not until September 10th.

3 MS. TAYLOR: No, I got the understanding that
4 the judge was going to decide that today.

5 THE COURT: No, No, preliminarily -- I'll
6 issue an order based on all the information I have so
7 far. Preliminarily, the child goes to Belle Valley.
8 That's it. I'll issue an order temporarily that the
9 child goes there so that -- because I can't -- we
10 cannot get it into our schedule until September 10th.
11 I have forty-five days to make findings and
12 conclusions of law, it would be too late. Too late.

13 So I would put the child in Belle Valley based
14 on the information I preliminarily have. It would be
15 a temporary order until we get to September 10th, we
16 can further litigate it, and you can find out more in
17 the meantime. We will have experienced Belle Valley
18 -- this is -- the child's only six years old, what
19 does it matter at this point? Where are you going to
20 come up with science or medical information that says
21 it's going to be harmful to put the child into
22 another school system preliminarily?

23 MISS SKALOS: That was something that I never
24 had --

25 THE COURT: Ma'am --

1 MISS SKALOS: -- in my childhood, that I
2 thought would be beneficial for him to have in his
3 life.

4 THE COURT: Ma'am, did you ever have parents
5 that fought like the two of you?

6 MISS SKALOS: Absolutely. Absolutely. If I
7 had --

8 THE COURT: Oh, you did. That's why we're
9 continuing this --

10 MISS SKALOS: If I had had the religion and
11 had that structure and that to turn to in my life,
12 may not have the difficulties --

13 THE COURT: The child goes to Sunday school.
14 It's a wonderful program and it's at Saint Boniface.

15 MR. VISNOSKY: Your Honor, if I could point
16 out one problem. There's also a conflict in religious
17 education. Miss Skalos has recently completed the
18 RCIA Program.

19 THE COURT: She's not even Catholic?

20 MR. VISNOSKY: No, she's completed it, she was
21 baptized on Easter at Saint Boniface. Mr. Pierce,
22 according to information that I received from Miss
23 Skalos, has had the child baptized into the Russian
24 Orthodox faith at Monsignor Huzada's church on East
25 Avenue without her consent. I'm not sure of the

1 accuracy of that, but it appears that the child is
2 baptized into the Russian Orthodox faith --

3 THE COURT: And that's it.

4 MR. VISNOSKY: -- which comes under the
5 purview of the pope. But --

6 THE COURT: Right, of the Orthodox church.
7 Not our pope. Not the pope of the Catholic Church,
8 no. It's total -- and you cannot rebaptize a child
9 into the Catholic faith. So the child is baptized.

10 MR. VISNOSKY: He's baptized Russian Orthodox
11 and he attended a Roman Catholic school, and this is
12 another area of contention of -- on the lack of
13 communication or the lack of these parties to be able
14 to decide lifetime issues between the child.

15 THE COURT: Mr. Lobaugh and Mr. Pierce, if you
16 two could just try to get along. There's one God.
17 That's all there is.

18 MR. VISNOSKY: Your Honor, I don't think --

19 THE COURT: If we even believe in one God. Go
20 ahead.

21 MR. VISNOSKY: Your Honor, I don't really
22 think that pleading with Mr. Pierce and Mr. Lobaugh
23 is really the solution to the problem. And, quite
24 frankly, I'm not sure what the solution to the
25 problem is.

1 THE COURT: Well, I thought I had came up with
2 some kind of solution, though. But what are we going
3 to do for a whole day? Fight over what? Have
4 relatives come in and tell me yea, nay? I mean, what
5 -- why would I sit here and listen about impact on a
6 child's schooling from relatives? So where are we
7 going?

8 MS. TAYLOR: Well, my understanding, Your
9 Honor, was the purpose of today is you were going to
10 make a decision on the school whether it be temporary
11 or final.

12 THE COURT: And I did.

13 MS. TAYLOR: Which is fine.

14 THE COURT: That's it, Belle Valley.

15 MS. TAYLOR: I don't know that when we come
16 back for a custody trial, if a custody trial is
17 warranted on the other issues, that we need to
18 litigate that. There are, of course, other issues
19 that need to be dealt with but that can be dealt --

20 THE COURT: I'm making a temporary order. We
21 still have to litigate the school if you two cannot
22 agree, okay?

23 MS. TAYLOR: Okay.

24 THE COURT: The school issue is still up for
25 grabs. I'm doing a preliminary order so we can get

1 the child into some school because if the two of them
2 had their way neither -- the child would be not in
3 school at all, okay, because they cannot see each
4 others' issues. So I need to put the child
5 somewhere, and I'm going to go with Belle Valley.
6 okay. Temporarily. Temporary order will issue for
7 that purpose, so we can get the child on his way.

8 In the meantime, Sunday school at Saint
9 Boniface. That's all I have to offer right now.
10 okay. And I know Father Jay, and we'll make sure
11 that he gets into their Sunday school program, which
12 is wonderful.

13 MS. FRYLING: Your Honor, he is in that Sunday
14 school program but only when the mom has him every
15 other weekend so --

16 THE COURT: No, under this temporary order
17 every Sunday, regardless of where the child is, he
18 goes to Sunday school at Saint Boniface. See, this
19 is called compromise. The two of them are at war
20 again. Okay. The child will go to Sunday school at
21 Saint Boniface every Sunday, and the father gets his
22 way, temporarily, at Belle Valley, okay.

23 Attorneys, talk to your clients.

24 MS. TAYLOR: Is there an objection to him
25 continuing, also, to go to the Greek Orthodox Church,

1 which he's been doing? It's our understanding that's
2 the only church he's been going to. He hasn't been
3 going all summer to Saint Boniface.

4 MS. FRYLING: He has gone to Saint Boniface,
5 Your Honor, and this baptism was done without even
6 consulting Miss Skalos. She knew nothing about it
7 until after it had happened.

8 THE COURT: All I can do is -- okay, that's
9 all I can do. I can't solve all their problems. No
10 Russian Orthodox Church in the meantime unless it
11 does not conflict with the Catholic Church. This kid
12 is going to be religioused out. Okay. EVERY Sunday
13 Saint Boniface. Okay. With mass, and going to
14 Sunday school.

[L.P.]

15 MR. PIERCE: Your Honor, may I? [REDACTED]
16 recognizes himself as being Orthodox --

17 THE COURT: That's fine. That's great.

18 MR. PIERCE: And we could be here for extended
19 period of time with me trying to explain the reasons
20 why. [REDACTED] [L.P.'s] mother has never been baptized, has
21 never participated in any type of church.

22 THE COURT: Doesn't matter. This is my
23 temporary order, I'm issuing it. That's it, we're
24 done. And then we'll see you September 10th, and
25 before then I can see you on August 31st at 1:30 to

1 do -- to go through the list of all your witnesses
2 for this one issue.

3 MS. FRYLING: Your Honor, I can't be there at
4 that time --

5 THE COURT: Okay. How about 9:30 --

6 MS. FRYLING: -- I have a school district
7 hearing.

8 THE COURT: August 31st?

9 MS. FRYLING: That's fine.

10 MR. VISNOSKY: Your Honor, if you could get me
11 out of a trial in Ridgway and Elk County before Judge
12 Masson --

13 THE COURT: I can't.

14 MR. VISNOSKY: I'd be very appreciative.

15 THE COURT: I know that judge, too. He's a
16 wonderful judge. What about Monday, August 27th at
17 9:30?

18 MR. VISNOSKY: Your Honor, I'm not available
19 from August 27th through September 2nd.

20 MS. TAYLOR: Why don't we transfer the date
21 that we have for September 10th, use that as another
22 settlement conference, and then at that time if we
23 need to get another date, we can get another date. I
24 mean, doesn't that --

25 THE COURT: Yes, that makes sense.

1 MS. TAYLOR: And then that's on your calendar,
2 Your Honor, for the 10th at 9:00 a.m. or 9:30.

3 THE COURT: Okay. Attorney Fryling?

4 MS. FRYLING: That's fine.

5 THE COURT: So what do we have? The whole day
6 for a pretrial narrative?

7 MR. VISNOSKY: Your Honor, I would suggest to
8 the Court that there might -- the more pressing issue
9 is now that you've determined you're going to enter a
10 temporary order on the school issue and religious
11 education, is the attention to the 5-2/2-5 schedule
12 and to determine whether or not that schedule should
13 be modified in any way. I think that --

14 THE COURT: No, I'm not changing it. It stays
15 as it is. That's it.

16 MS. TAYLOR: But I wanted to know if there --
17 that's why I was asking him and maybe I wasn't clear
18 with the Court what his recommendation was. Because
19 if his recommendation is to deviate from the 5-2/2-5,
20 I would like to know now so that I can have dialogue
21 between now and September 10th and solve this with
22 Attorney Fryling. If we know what his position is
23 going to be, then her and I can talk and work
24 something out. I don't --

25 THE COURT: What is your position?

1 MR. VISNOSKY: Your Honor, I don't believe
2 that the Court should deviate from that schedule.

3 THE COURT: I agree.

4 MR. VISNOSKY: And let it work into the school
5 year, to see how it works out.

6 THE COURT: Too many changes are not going to
7 be good for this child. We have to be able to make
8 one big change and that's the schooling, and that's
9 it. And then Sunday school every Sunday with the
10 Catholic Church, and that's it. Those are the
11 changes.

12 We'll see you September 10th. What time do
13 you want, the morning or the afternoon?

14 MS. FRYLING: Doesn't matter.

15 MS. TAYLOR: Morning.

16 THE COURT: Morning?

17 MR. VISNOSKY: Morning.

18 THE COURT: 9:30. So we'll convert that into
19 a status conference, and then I don't know how we're
20 going to ever get this back in again. There's a
21 custody trial slot, Wendy, why don't you try to grab
22 it temporarily, September 17th. Do you think that
23 works?

24 MS. FRYLING: That's fine with me.

25 THE COURT: And then I have Orphan's Court at

1 9:30 so I can give you the whole day on September
2 17th. Do you think you could check? So that's a
3 week later from where we were.

4 MR. VISNOSKY: September 17th looks okay for
5 me.

6 THE COURT: Does it look okay for you,
7 Attorney Taylor?

8 MS. TAYLOR: Yes, it does, Your Honor.

9 THE COURT: And you, too, Attorney Fryling?

10 MS. FRYLING: Yes.

11 THE COURT: Well, we're going to hope that
12 they didn't take that time away for custody, the
13 court administrator.

14 What I would hope for you -- I know you
15 dialogued about what happened in the past and
16 Mr. Lobaugh raised his hand over as a truce to bring
17 the two men together. Any way for you, Mr. Pierce?

18 MR. PIERCE: Your Honor, he and I are not the
19 issue.

20 THE COURT: okay, but -- yes, it is. You are
21 the issue; the two men are the issue. I can see it
22 now. The two of you are the issue. You have to grow
23 up, Mr. Pierce. Grow up, be mature. Show this child
24 that you two can get along. Why not?

25 MR. PIERCE: He needs to show that he can get

[L.P.'s]

1 along with [REDACTED] mother, that is the issue.

2 THE COURT: No, absolutely not. He doesn't
3 have to show me that. He doesn't have to show you
4 that. Remember, we're not even going to know what's
5 going to happen in their homes now unless the child
6 reports it to the G.A.L.

7 MR. PIERCE: Or Doctor Iddings.

8 THE COURT: Whoever. The G.A.L. No, the
9 G.A.L. only. Not the doctor, nobody else. That's his
10 representative. That's it. The G.A.L. only. Now,
11 can you extend your hand?

12 MR. PIERCE: I can, Your Honor.

13 THE COURT: Well, shake his hand.

14 MR. PIERCE: That is fine, Your Honor.

15 (Mr. Lobaugh and Mr. Pierce shook hands.)

16 THE COURT: We're starting. That's it.

17 MR. LOBAUGH: Start again, okay, Lonnie?

18 THE COURT: okay? start it. Grow up the two
19 of you. That's it. She's out of the picture as far
20 as us trying to bring some peace here. Two men, two
21 fathers, acting as fathers, nurturing in front of
22 [REDACTED] and leave all the other issues in regard to
23 religion and everything else for us to deal with.

24 But, in the meantime, we have a temporary
25 order, okay. And in the meantime the attorneys can

1 try to work with their clients. Good luck.

2 Miss Skalos, do you understand why we're
3 trying to get the men together? You're crying.

4 MISS SKALOS: Absolutely, but the problem is
5 is that he has to sit back and keep his mouth shut --

6 THE COURT: No, he won't.

7 MISS SKALOS: -- to see how he treats me and
8 [L.P.] treats [REDACTED] in this whole situation. And that's why
9 there is such conflict.

10 THE COURT: Don't worry about Mr. Lobaugh. He
11 can handle himself. Okay. Just stay out of it so
12 the men can try to get along.

13 MISS SKALOS: But when he's trying to say,
14 [L.P.] hey, [REDACTED] got his teeth brushed today, he's had
15 breakfast, he'll turn around and walk away from him.
16 That makes it very difficult.

17 THE COURT: Mr. Lobaugh, why was the child
18 late for him? That episode, tell us?

19 MR. LOBAUGH: Child late for what episode?

20 THE COURT: In the morning he was waiting in
21 the parking lot at 7:30.

22 MR. LOBAUGH: Honestly, I am there between
23 8:15 and 8:20 every time and, honestly, I am sure
24 because I've seen it happen before and I'm not
25 throwing a stone --

1 THE COURT: Yeah, but he's there at 7:30. Are
2 you supposed to be there at 7:30? Maybe it's a
3 communication --

4 MISS SKALOS: There's a --

5 THE COURT: Ma'am, I'm talking to Mr. Lobaugh.
6 Let him do it.

7 MISS SKALOS: Because he doesn't know the
8 court order.

9 THE COURT: It doesn't matter.

10 MR. LOBAUGH: I start work at 8:30 every
11 morning and I work at Auto Express, which is on Route
12 8 and I meet at the Country Fair on Route 8. Lori
13 works in North East. She takes a side road straight
14 across to North East, it's about ten miles closer
15 instead of going around, so I said I will take him.
16 It's a half hour later than what Lori is supposed to
17 have him there, and we asked him if it would be okay.
18 But nothing is ever okay. But I'm there every day
19 between 8:15 and 8:20. I start work at 8:30.

20 THE COURT: Okay. So we'll change the time.
21 I'm changing the court order, 8:15.

22 MR. LOBAUGH: I will be there every day.

23 THE COURT: 8:15 you'll make it?

24 MR. LOBAUGH: I'll be there every day at 8:15.

25 THE COURT: That's it. So now we've changed

1 it to 8:15.

2 We have another custody trial on September
3 17th. That's not going to work.

4 We could do the morning on the 17th. Why don't
5 we just start with a half a day. It's just on the
6 school issue. We're not having all three. Do you
7 think we can do it in half a day? Attorney Fryling?

8 MS. FRYLING: I don't see why not, and
9 hopefully Attorney Taylor and I can work something
10 out.

11 MS. TAYLOR: If it's only going to be the
12 school issue on the 17th, then there's nothing --

13 THE COURT: There's a half a day, that's it.
14 Half a day, work out -- give me an amended order --
15 amended pretrial narrative on just this issue as to
16 who you're going to call. So that means each of you
17 get an hour for testimony.

18 MS. FRYLING: Your Honor, I think my client
19 has an offer to make.

20 MISS SKALOS: I just wanted to say thank you,
21 and I accept your proposition and hopefully we can
22 all make this work.

23 MS. FRYLING: You mean for the school?

24 MR. LOBAUGH: For the school.

25 MISS SKALOS: You know, until we can come to

1 an agreement on a permanent level. I know this was
2 temporary, but --

3 MS. TAYLOR: So are we having the trial on the
4 school on the 17th or not? Because we can just --

5 MR. LOBAUGH: Review it in a year.

6 MISS SKALOS: Let's review --

7 THE COURT: Someone will have to file
8 something to bring it back again. If you don't go
9 through -- don't go through downstairs. I can -- my
10 law clerk has to write this all up, but we would have
11 you petition the Court to waive the custody process
12 downstairs and bring it back for the school issue
13 only.

14 MISS SKALOS: Then it will be okay for him to
15 take him to school because it's going to be out of
16 our school district since I have to be to work at
17 eight?

18 THE COURT: Sure. Is that okay? It has to
19 be.

20 MR. VISNOSKY: School at Belle valley, the
21 students cannot arrive before 8:25. They're not
22 admitted until -- they can be admitted to the
23 building. They have to be in their classroom by
24 8:45.

25 THE COURT: Could -- in the interest of

1 showing some unity of some sort, can we get a
2 stipulation that the attorneys write up on this with
3 more details?

4 MS. FRYLING: Sure.

5 THE COURT: So my law clerk doesn't have to --

6 MS. FRYLING: Since we were talking about the
7 summertime, the ending time in the summer isn't
8 exactly right either because she works longer than
9 the order says.

10 MISS SKALOS: It says for me to pick [L.P.] up
11 until 4:15, but I don't get out until 4:30, that's
12 why we deviated a half hour dropping off in the
13 morning because I was getting him a half hour later.
14 That was why there was that half hour time
15 difference.

16 THE COURT: Can we do that?

17 MS. TAYLOR: Yes. My question then becomes
18 why don't we just leave September 10th and then not
19 schedule it for a custody trial at this point and
20 figure out where we're at on the 10th. Because we're
21 not going to get anywhere on the other issues in a
22 half a day and I don't want to issue subpoenas for a
23 bunch of experts -- I have already issued them for
24 September 10th, now I have to re-issue them.

25 MS. FRYLING: But if she's agreeing for Belle

1 Valley for this school year and then he agrees to put
2 the Saint Boniface every Sunday school in, we're
3 done, and then next year we would review --

4 MS. TAYLOR: On that issue, but we filed an
5 adversarial hearing on other issues so if you and I
6 can talk, and see what we can work out.

7 MS. FRYLING: What other issues are left that
8 we didn't discuss today?

9 THE COURT: What other issues?

10 MS. TAYLOR: The issues that we're having a
11 pretrial on, on September 10th. Was that just -- the
12 pretrial was only going to be for schooling?

13 THE COURT: Yes. After I read all the reports
14 and everything, there are no other issues. That's
15 it.

16 MS. TAYLOR: Well, we raised an issue to the
17 custody schedule and attached a different order, so
18 if we're not going to be able to present our case, if
19 you're saying you already ruled and we can't have a
20 trial, than that's an issue.

21 MS. FRYLING: I thought everyone agreed that
22 the current schedule was working, the 5-2/2-5.

23 THE COURT: I thought we decided that if we're
24 going to go with the father going to Belle Valley,
25 that we're not going to put anything -- other change

1 in the child's life other than for that, and the
2 Sunday school. That it would be too much emotionally
3 for this child for now dad to have more time than
4 mom. Okay. We just want to keep the status quo on
5 all the other issues and just change this one so that
6 I know what's happening to the child.

7 MS. TAYLOR: And I understood that that's what
8 you said that you were going to do and I'll advise my
9 client, but what I'm saying is we filed for an
10 adversarial hearing, and we haven't put any evidence
11 on.

12 THE COURT: That's fine. So you still -- I'm
13 the one giving you September 17th. You've now
14 rejected it.

15 MS. TAYLOR: No, no, no, I didn't reject it.
16 I said if we don't need it for the schooling issue,
17 we could come back on the 10th and in between now and
18 then Attorney Fryling and I could try to work
19 something out, and then only if we know it's
20 absolutely necessary would we then take another date
21 on your calendar. That's what I was trying to do.
22 Because --

23 MISS SKALOS: She's talking custody --

24 MS. FRYLING: I don't understand what else we
25 were changing. I thought we were doing a permanent

1 custody order that says the child goes to Belle
2 Valley this year, Saint Boniface Sunday school and
3 everything else stays the same.

4 MS. TAYLOR: We are in agreement with Belle
5 Valley. If you want to do the Sunday school thing,
6 that can be in a stipulation, because that's what the
7 judge has ordered. The underlying custody schedule
8 we are not in agreement with.

9 I understand that the judge at this point has
10 made a statement --

11 THE COURT: You know what, all bets are off.
12 The child doesn't go to any school at all until after
13 we have a hearing. See you September 10th. That's
14 it.

15 * * *

16 (Hearing concluded at 3:10 p.m.)
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the hearing of the above-captioned cause and that this copy is a correct transcript of the same.

Annette Allegretto
Annette Allegretto
Official Court Reporter

The foregoing record of the proceedings upon the hearing of the above cause is hereby approved and directed to be filed.

Honorable Stephanie Domitrovich

1 IN THE MATTER OF THE

2 ESTATE OF
3 [J.C.]

: IN THE COURT OF COMMON PLEAS
: OF ERIE COUNTY, PENNSYLVANIA
: ORPHANS' COURT
: No. 165 of 2011

4
5 PETITION FOR APPOINTMENT OF PLENARY
6 OR LIMITED GUARDIAN OF THE PERSON
7 AND/OR ESTATE OF A MINOR OR MINORS
8

9
10
11 Proceedings held before the Honorable Stephanie
12 Domitrovich, Courtroom G, Erie County
13 Courthouse, Erie, Pennsylvania, on Tuesday, August
14 9, 2011, commencing at 11:09 a.m.
15

16
17 APPEARANCES:

18 [V.W.] [F.W., Sr.]

19 [REDACTED] and [REDACTED],
20 appearing pro se.
21
22
23
24

COPY

25 Jeanne M. Sykes -- Official Court Reporter

Attachment 2

1 THE COURT: Your name?
[V.W.] [V.W.]

2 [REDACTED] [REDACTED] [Address Redacted]

3 THE COURT: You live at [REDACTED]?
[V.W.]

4 [REDACTED] Yes, ma'am.

5 THE COURT: That's the same address you put in
[F.W., Sr.]
6 the petition. [REDACTED] [REDACTED], is here?
[F.W., Sr.]

7 [REDACTED]: Yes.

8 THE COURT: You look familiar to me. Have I
9 seen you before?
[V.W.]

10 [REDACTED] Yes, ma'am. We were going
[J.]
11 to take guardianship of [REDACTED] baby here a couple
12 years ago, remembering she got in the courtroom and
13 kind of threw a little fit. I think you probably
14 remember.

15 THE COURT: who is [REDACTED]?
[V.W.] [J.W.]

16 [REDACTED] [REDACTED] is my
17 daughter. She pretty much got her act together, is
[M.]
18 doing good. This is [REDACTED]?
[V.W.]

19 [REDACTED]: Yes.
[M.]

20 THE COURT: [REDACTED], that's you?
[M.W.]

21 [REDACTED]: Yes.
[M.W.]

22 THE COURT: [REDACTED]. You still live at
[Address Redacted]
23 [REDACTED]?
[M.W.]

24 [REDACTED]: Yes.

25 THE COURT: How old are you?

1 [M.W.] [REDACTED] Nineteen.
2 [J.C., Sr.]
3 THE COURT: We have [REDACTED]?
4 [J.C., Sr.]
5 [REDACTED]: Yes.
6 THE COURT: You are the father?
7 [J.C., Sr.]
8 [REDACTED] Yes.
9 [J.C., Sr.]
10 THE COURT: [REDACTED], [REDACTED]?
11 [J.C., Sr.]
12 [REDACTED] Uh-huh.
13 THE COURT: Could you give me your address?
14 [Address Redacted]
15 [REDACTED]
16 THE COURT: [REDACTED] -- [Address Redacted]
17 [J.C., Sr.]
18 [REDACTED] -- [REDACTED] [Address Redacted]
19 THE COURT: That's in Erie, Pa?
20 [J.C., Sr.]
21 [REDACTED] Yeah.
22 THE COURT: 16?
23 [J.C., Sr.]
24 [REDACTED] What's --
25 [M.W.]
[REDACTED] [Zip Code Redacted]
THE COURT: We have the consent of both
[J.C., Sr.]
parents here, [REDACTED] you are consenting, right --
[J.C., Sr.]
[REDACTED] Yes.
THE COURT: -- to guardianship by the
grandparents, right?
[J.C., Sr.]
[REDACTED] Yes.
THE COURT: [REDACTED] you too?
[M.W.]
[REDACTED] Yes.
THE COURT: You understand that they will have

1 all the responsibilities to deal with all of the
2 issues regarding [J.C.]? You understand that?
3 [J.C., Sr.]

4 [M.W.] Yes.

5 [M.W.] Yes.

6 THE COURT: Hopefully, there will be no
7 custody issues. If there are, you have to file
8 downstairs with the custody court. But, hopefully,
9 we won't have those issues, right?

10 [V.W.]

11 [M.W.] Can I say something?

12 THE COURT: Yes.

13 [V.W.]

14 [M.W.] We already have full custody
15 of the child.

16 THE COURT: I don't know why you're here then.
17 Because if you have custody, we shouldn't really be
18 doing this.

19 [V.W.]

20 [M.W.] We have full custody, and
21 then we were told we should go for the guardianship.

22 THE COURT: Who told you that please?

23 [V.W.]

24 [M.W.] I believe it was down in
25 Domestic Relations.

[M.W.]

[M.W.] When we were in court last
time.

[V.W.]

[M.W.] Judge Brabender.

THE COURT: Judge Brabender said --

[F.W., Sr.]

[M.W.]: Yes, because I brang

1 the paperwork and gave everything to the secretary.
2 [V.W.]

3 [REDACTED] We have an order signed by
4 Judge Brabender. said he would refer it to you.

5 THE COURT: Why would you go to Judge
6 Brabender for guardianship when you already have full
7 custody?

8 [V.W.]
9 [REDACTED] We don't know how to do
10 this.

11 THE COURT: Charlotte --

12 (Charlotte Pelc via telephone.)

13 CHARLOTTE PELC: What they are doing is
14 relinquishing their parental rights.

15 THE COURT: This isn't what you are doing.
16 [V.W.]

17 [REDACTED] I don't know.

18 THE COURT: Charlotte, you are on the phone
19 please?

20 CHARLOTTE PELC: I am here.

21 THE COURT: Your full name?

22 CHARLOTTE PELC: Charlotte Pelc.

23 THE COURT: You work for?

24 CHARLOTTE PELC: Office of Children and Youth
25 Services.

THE COURT: I think there is a misunderstanding
here in regard to the process of guardian. We
don't do IVTs in this courtroom without IVT

1 paperwork. She already has full guardianship, both
2 grandparents. So I am going to dismiss this action
3 because it's not necessary.

4 CHARLOTTE PELC: Okay.

5 THE COURT: Do you understand?

6 CHARLOTTE PELC: Yes. It wasn't our agency
7 that sent them there.

8 THE COURT: Who sent you to guardianship
9 court?

10 [V.W.]

11 [REDACTED] When we went down in front
12 of -- after we had the custody hearing in front of
13 Judge Trucilla, then we went for visitation at the
14 custody hearing. We were in there, and they said the
15 next step would be guardianship.

16 THE COURT: Who is they?

17 [V.W.]

18 [REDACTED]: Josh Maloney?

19 [F.W., Sr.]

20 [REDACTED]: Yeah.

21 [V.W.]

22 [REDACTED] Is who did this intake for
23 us.

24 THE COURT: No. You have full custody. So
25 you have custody; is that what you are saying?

[V.W.]

[REDACTED] Yeah.

THE COURT: Could I see it please? Despite
having already obtained a court order. You did --
I'm sorry. It's not necessary, ma'am. I don't see

1 why you need guardianship. You have full custody,
2 you and your husband. I am going to dismiss this
3 action. It's a lot easier to deal with these issues
4 in custody court.

5 I don't know why Josh Maloney is even giving
6 any legal advice. He's not allowed to. Charlotte,
7 let's get your information on the record. You are
8 saying you did not do this, right?

9 CHARLOTTE PELC: That's right.

10 THE COURT: Your agency's okay with the
11 custody arrangement, right?

12 CHARLOTTE PELC: Yes.

13 THE COURT: Anything else that you'd like to
14 say, Charlotte?

15 CHARLOTTE PELC: Nope.

16 THE COURT: And this has been an open case
17 with this family?

18 CHARLOTTE PELC: It was open in intake.

19 THE COURT: And then closed?

20 CHARLOTTE PELC: Yes.

21 THE COURT: June 1st, 2011?
22 [V.W.]

23 [REDACTED] Let me check to make sure I
24 have that exact date.

25 THE COURT: That's what I have.

CHARLOTTE PELC: I have June 1st.

1 THE COURT: It was open on March 2nd and
2 closed down on June 1st with no action by your
3 agency, right?

4 CHARLOTTE PELC: Correct.

5 THE COURT: That is the information we
6 received from Kim Bohrer. I am in the judicial
7 branch. I am not allowed to see your records.
8 That's why we need you to participate. Kim Bohrer
9 had given us that information so I knew what was
10 going on, and you are in the executive branch. We
11 appreciate your helping us today. Thank you,
12 Charlotte.

13 CHARLOTTE PELC: You're welcome.

14 THE COURT: Take care.

15 CHARLOTTE PELC: Bye.

16 (End of telephone call with Charlotte Pelc.)

17 THE COURT: Hit 6234, 451-6234.

18 (Stephanie Young via telephone.)

19 STEPHANIE YOUNG: Custody office.

20 THE COURT: Hi. It's Judge Domitrovich. Is
21 Josh Maloney here?

22 STEPHANIE YOUNG: Yes, he is. Hang on just a
23 minute please.

24 THE COURT: Thanks. Yeah, it's clear that it
25 says that the maternal grandparents shall have the

1 legal and physical custody of the child, the child
2 shall reside with the maternal grandparents except
3 that the mother and father shall have visitation with
4 the child by mutual agreement. So you're all set to
5 go. I don't know why they put you through all this.
6 Did you have to pay for this?

[V.W.]

7 [REDACTED] No.

8 THE COURT: But it was your time.

[V.W.]

9 [REDACTED] We had to do -- just for the
10 custody, to go down and see them.

11 THE COURT: That's different.

[V.W.]

12 [REDACTED] We were on the --

13 STEPHANIE YOUNG: I'm sorry. He stepped out
14 for a moment. Could I have him call you right back?

15 THE COURT: Is Karen there?

16 STEPHANIE YOUNG: No, I believe -- sorry,
17 she's not in today.

18 THE COURT: Stephanie, can you pull the file
19 [F. and V. W.]

of [REDACTED]?

20 STEPHANIE YOUNG: Sure.

21 THE COURT: They are saying after they entered
22 into a consent agreement where they received full
23 custody of this child, that Josh had indicated to
24 come to guardian court, and I wanted to put a nip to
25 this, nip this in the bud. It's not necessary to go

1 to guardianship court. In fact, grandparents should
2 be going through custody court. They have the right
3 to appear in custody court. It's not like an aunt or
4 an uncle needing to have guardianship. They don't
5 need to have guardianship. And I want to get that
6 through your office, that please do not send them for
7 a further layer that I am going to dismiss anyway.

8 STEPHANIE YOUNG: Hang on just a minute. Let
9 me pull the file.

10 THE COURT: Thank you.
11 [V.W.]

12 [REDACTED] when we talked to Joshi, he
13 said that you could get custody. That's why with
14 [J.] -- why we came for the guardianship also
15 because said you can get custody but guardianship is
16 better than the custody.

17 THE COURT: No, not with grandparents.
18 Grandparents, no. You should all go down to custody
19 court. If there is a custody issue, then they can
20 deal with all this. I can't in guardianship court.
21 [V.W.]

22 [REDACTED] I understand.

23 THE COURT: He should not be giving legal
24 advice. He's not a lawyer. That's why he doesn't
25 understand it. I am getting flooded with these
cases. I got to find out who is doing all this. I
have to dismiss this. And you are not going to be

1 happy because you wasted your time, the court time
2 and --

3 [V.W.]

4 [REDACTED]: I apologize.

5 THE COURT: No, it's not your fault. I just
6 got to stop this.

7 [V.W.]

8 [M.] [J.C., Sr.]

9 [REDACTED] We talked to [REDACTED] and [REDACTED]
10 last week at the support office, and they are
11 [J.C.] [.] agreeing for us to adopt [REDACTED].

12 THE COURT: You go see a lawyer, and you'll
13 take care of it there.

14 [V.W.]

15 [REDACTED] So we don't need to waste
16 the time of the courts.

17 STEPHANIE YOUNG: Which child is this
18 regarding?

19 [J.C.] [.]

20 THE COURT: This is in regard to [REDACTED].

21 STEPHANIE YOUNG: They do have a custody
22 order.

23 THE COURT: Right. So there's no need for
24 guardianship. Do you understand that, Stephanie?

25 STEPHANIE YOUNG: I don't think Josh told them
to go to guardianship.

THE COURT: That's what -- they are under oath
today. [V.] [REDACTED] is here. I need you to report this
to Karen so that she understands and he understands
that once they have custody, there is an agreement,

1 it's not necessary to come to guardianship court,
2 especially with grandparents. You need to talk to
3 your solicitor of your offices to get that straight.

4 STEPHANIE YOUNG: Again, I don't believe they
5 were referred there from us.

6 THE COURT: [REDACTED], why don't you tell her?

7 [REDACTED] Ma'am, when we was talking
8 with Mr. Maloney, he said that we could go for
9 custody but then to pursue on for the guardianship
10 because the guardianship is more binding, I guess,
11 than the custody. So that's the reason that we
12 pursued this, is because we were under the
13 understanding this was the next step.

14 STEPHANIE YOUNG: No, he would have -- he said
15 you want to see what guardianship would offer, and it
16 would be up to you to decide which one works.

17 THE COURT: I know, but he shouldn't give them
18 any advice to that extent. He does the custody
19 action. He tells them to go see a lawyer if they
20 want something else. Okay?

21 STEPHANIE YOUNG: Okay.

22 THE COURT: Thank you. Have a great day.
23 Case dismissed. Have a great day. Sorry, everyone.

24 (Hearing concluded at 11:20 a.m.)
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the hearing of the above cause, and that this copy is a correct transcript of the same.

Jeanne M. Sykes
Official Court Reporter

The foregoing record of the proceedings upon the hearing of the above cause is hereby approved, and directed to be filed.

Honorable Stephanie Domitrovich

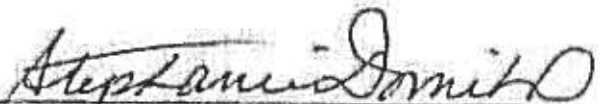
IN THE MATTER OF THE ESTATE OF
[REDACTED] [J.C.] [.]
Minor

: IN THE COURT OF COMMON PLEAS
: OF ERIE COUNTY, PENNSYLVANIA
:
: ORPHANS' COURT DIVISION
: NO. 165-2011

ORDER

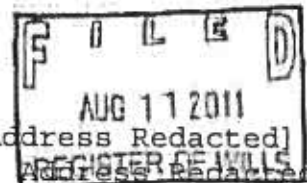
AND NOW, to-wit, this 9th day of August, 2011, following a scheduled hearing attended by all parties on the Petition for Appointment of Plenary Guardian of the Person and Estate of [J.C.] [.] Minor [REDACTED] and considering that the June 1, 2011 Consent Agreement gave full legal and physical custody of the minor child to the grandparents, it is hereby **ORDERED, ADJUDGED, and DECREED** that said Petition is **DISMISSED** as moot since the parties already entered into a Custody Order before the Custody Conciliator, in consideration of the grandparents' testimony that they filed the Petition at the erroneous direction of Joshua Maloney of the Custody Conciliation Office.

BY THE COURT:


Stephanie Domitrovič, Judge

COPY

cc: The Honorable John J. Trucilla
Joshua Maloney, Custody Conciliation
Karen Heberle, Custody Conciliation
Charlotte Pele, Office of Children and Youth [V. and F.W.] [Address Redacted]
[REDACTED] [J.C., Sr., Address Redacted]
[REDACTED] [M.W.] [Address Redacted]



1 IN THE MATTER OF THE ESTATE : IN THE COURT OF COMMON PLEAS
2 OF [REDACTED] :
3 [J.M.] : OF ERIE COUNTY, PENNSYLVANIA
4 : ORPHANS' DIVISION
5 : NO. 269 OF 2011
6

7 PETITION FOR APPOINTMENT OF PLENARY OR LIMITED GUARDIAN OF
8 THE PERSON AND/OR ESTATE OF A MINOR OR MINORS
9

10
11 Proceedings held before the Honorable Stephanie
12 Domitrovich, in Courtroom G, Erie County Courthouse, Erie,
13 Pennsylvania, on Friday, November 18, 2011, commencing at
14 9:15 a.m.
15

16
17
18
19
20 APPEARANCES:

21 Cathy Mascharka, Office of Children and Youth, Caseworker
22
23

24
25 Sandy Hackwelder -- Official Court Reporter

P-R-O-C-E-E-D-I-N-G-S

THE COURT: We're here in regard to [REDACTED]

[REDACTED] [J.M.] [.]

MS. MASCHARKA: Yes,

THE COURT: Come forward.

(Whereby, the parties were sworn en masse.)

THE COURT: Okay. Your name for the record?

MS. MASCHARKA: Catherine Mascharka.

THE COURT: And, Ms. Mascharka, who do you work for?

MS. MASCHARKA: Office of Children and Youth.

THE COURT: Okay. And what do you know in regard -- first of all, where is the minor?

[K.L.]

[REDACTED] She's in school.

THE COURT: Okay. It says in all the paperwork that the child must be here.

[K.L.]

[REDACTED] Oh, I didn't see that.

THE COURT: Well, it says so.

[K.L.]

[REDACTED] I did not know.

THE COURT: You can't read? How can you be the guardian?

[K.L.]

[REDACTED] I did read it. I'm sorry, Your Honor.

THE COURT: I'm just going to have to continue

1 it. How old is the child?
[K.L.]

2 [REDACTED] she's seven.

3 THE COURT: I don't do these without the
4 child. By statute you have to have the child here,
5 so it has to be continued. Get me a new date and
6 time, please. And, mom, your name for the record?
[Y.M.] [Y.M.]

7 [REDACTED] [REDACTED]
8 THE COURT: Do you know what you're getting
9 into here? This is as close as you get to terminating
10 your rights; do you understand that? Yes, this is
11 permanent until the child turns 18. Do you know what
12 you're getting into?
[Y.M.]

13 [REDACTED] That's not what I was told.

14 THE COURT: Who told you that?
[Y.M.]

15 [REDACTED] I was told this was temporary --

16 THE COURT: No. Who told you that?
[Y.M.]

17 [REDACTED] -- until I got on my feet.

18 THE COURT: Very well. No. I could dismiss
19 this action. This is until the child is 18, this is
20 what this vehicle is for. If they want to do
21 dependency, they have to do dependency and take the
22 child. Because this is not what this Court is all
23 about. This is for when a parent dies and we need to
24 have the child -- someone to take care of the child.
25 This is not a temporary vehicle for OCY, okay?

1 MS. MASCHARKA: Right. That was not my
2 understanding either, that this was a permanent
3 thing.

4 THE COURT: Oh, yes, it's always permanent.
5 You talk to Amy Jones, she's your solicitor. She was
6 supposed to stop this nonsense.

7 MS. MASCHARKA: Okay.

8 THE COURT: And this needs to stop. Let me
9 get her on the phone. Give me Amy Jones.

[K.L.]

10 [REDACTED] Your Honor, may I say something,
11 please?

12 THE COURT: Sure.

[K.L.]

13 [REDACTED] I got a call from the school that
14 the child is attending at, and they -- because the
15 mother doesn't have any identification at all --

16 THE COURT: That's an issue you need to see a
17 lawyer for.

[K.L.]

18 [REDACTED] Pardon?

19 THE COURT: You need to see a lawyer, okay?
20 They're supposed to take an affidavit from you
21 indicating -- just hit 6600. They're supposed to
22 take an affidavit from you that the child is residing
23 with you, and that should be enough, okay? You need
24 to talk to the school, that's it. And if they don't
25 want to keep the kid because -- hit zero. It's

1 called an affidavit -- hi, it's Judge Domitrovich,
2 I'm looking for Attorney Jones, Amy Jones, can you
3 get her, please?

4 UNIDENTIFIED SPEAKER: For Amy, Judge?

5 THE COURT: Yeah, could you, like, page her or
6 something? I really need to talk to her.

7 UNIDENTIFIED SPEAKER: I have to go through
8 her secretary, just a moment.

9 THE COURT: Oh, you're sweet. Thank you.

10 UNIDENTIFIED SPEAKER: You're welcome.

11 MS. FRONZAGLIA: Hello, Judge, this is Judy.

12 THE COURT: Judy, it's Judge Domitrovich.

13 MS. FRONZAGLIA: Hi, Judge.

14 THE COURT: I really need to talk to Amy Jones

15 MS. FRONZAGLIA: You do? Okay. Let me
16 transfer you.

17 THE COURT: Thanks.

18 MS. JONES: Good morning, Judge.

19 THE COURT: Hello. Good morning. We're on
20 the record, I'm so sorry to bother you. We have one
21 of your caseworkers here, Ms. Mascharka. Ms.
22 Mascharka was not aware that we are not using these
23 minor guardianships as a temporary vehicle for ocy
24 instead of placing children. That this -- I just
25 explained to this mother, the natural mother here,

[J.M.]

1 it's in the case of [REDACTED] that this is as
2 close that the natural mother gets to terminating her
3 natural rights. I mean, this is the vehicle right
4 before termination. And this -- if I put --

5 MS. JONES: Guardianship is?

6 THE COURT: Yes, minor guardianships, yes.

7 MS. JONES: Okay.

8 THE COURT: This is as close -- I mean, she
9 will not have any authority over the child, and it's
10 meant to be a permanent vehicle until the child is
11 18. And I explained that to the mother, that this is
12 not until she gets herself back on her feet in a
13 couple of months. It's not meant to be just for a
14 couple of months. These are minor guardianships,
15 meant to be plenary in nature until the child is 18.
16 And, so, I just wanted to place that on the record.
17 We have to stop these caseworkers from thinking that
18 they can come to minor guardianship court, and
19 instead of placing children, do what they need to do.
20 In the meantime, I'm dismissing this action, and they
21 can do whatever they want to do. But this is not for
22 -- until the mother gets herself back on her feet in
23 a couple of months. See, guardian has complete
24 control. If this occurs, then she would have to do a
25 motion to revoke. She would have to go through a

1 whole process in regard to her rights, etcetera. I
2 mean, it's just not meant for them to just come to
3 court, say hello, do this, and be a Band-Aid.

4 MS. JONES: Okay.

5 THE COURT: And the mother understands that.
6 Do you understand that, ma'am?

7 [Y.M.] Yes, ma'am.

8 THE COURT: Okay. And as far as school --

9 MS. JONES: The mother would rather have her
10 child placed in foster care?

11 [Y.M.] No.

12 THE COURT: No, but I'm not doing it through
13 guardianship. She would have to go to custody court,
14 she could go and do the loco parentis through them.
15 Go ahead.

16 MS. MASCHARKA: May I just say, that this was
17 not of my doing. This was not something --

18 THE COURT: It doesn't matter.

19 MS. MASCHARKA: Okay. It's just that --
20 because I happened to have the case for investigation
21 for something else that I got --

22 MS. JONES: We're not advising people to do
23 the guardian --

24 MS. MASCHARKA: Right.

25 THE COURT: No, but she was shocked to know

1 that this is --

2 MS. MASCHARKA: I understand that. But that's
3 also because -- it wasn't my doing.

4 THE COURT: Right. But just so you know.

5 MS. MASCHARKA: I can't advise her, just like
6 you can't --

7 THE COURT: No, no, you're not advising her,
8 but you looked shocked, and I wanted to make sure
9 that we communicate this message to all the
10 caseworkers that Judge --

11 MS. MASCHARKA: This is something that they
12 did.

13 MS. JONES: Right. But I don't know if this
14 is being communicated to petitioners at the time
15 they're bringing the petition --

16 THE COURT: No, because they're not giving
17 them -- they're not advising them. And that's why we
18 need to get someone to --

19 MS. JONES: We can't advise people either. I
20 mean, it puts everybody in a tough position.

21 THE COURT: I think it has to start, though,
22 with your caseworkers to spread the word that this
23 isn't going to happen in my courtroom, okay? There
24 are no judges across the state that use this as a
25 vehicle for just a temporary couple of months, okay?

1 Minor guardianships are meant until the child is 18,
2 okay? That's just the way it is, okay? It's meant
3 for a child that has lost their parents in a car
4 accident and there's money involved, or there's --
5 it's just not meant for this purpose, okay?

6 MS. JONES: Okay.

7 THE COURT: If you have parental neglect and
8 you can't deal with the child then, you know, you got
9 to do something else, but it's not for this. This is
10 meant until she's 18.

[Y.M.]

11 [REDACTED] I was ill, that's why she took
12 care of her, took her into custody. I was very ill,
13 I had cancer and I had to go through a whole bunch of
14 surgeries and couldn't maintain my place and maintain
15 --

16 THE COURT: Well, you need to go see a lawyer.
17 You can do a power of attorney for medical care, or
18 whatever, but, you know, this is not the vehicle. If
19 the child is in loco parentis with her, then she can
20 file downstairs for custody and be the primary
21 custodian of the child, and then you have partial
22 custody. I can't do partial custody in my courtroom,
23 that's the other reason. Judge Trucilla said, you
24 can't be holding custody hearings inside guardianship
25 court. This is not --

1 MS. JONES: I understand, Judge. But I just
2 want you to understand that we are not advising
3 people to do this, we are not encouraging. We don't
4 even know when they do it. We don't know.

5 THE COURT: I know. But I just --

6 MS. JONES: And I don't know if the message
7 needs to get out at an earlier phase in the legal
8 process before it comes to you.

9 THE COURT: And nobody wants to advise
10 anybody.

11 MS. JONES: I know.

12 THE COURT: And they come here shocked.

13 MS. JONES: Well, yeah.

14 THE COURT: And wasted their time, wasted
15 their money.

16 MS. JONES: I understand. I agree completely.

17 THE COURT: And I need to get the word out
18 somehow. And it's always the caseworkers are here
19 because we, obviously, bring you into the process
20 because I don't know who these people are, and it's
21 just a mess. And she needs to understand, ma'am, the
22 proposed guardian, that if you're having problems in
23 school there's an affidavit -- right, Amy Jones?

24 MS. JONES: Right.

25 THE COURT: There's an affidavit that she

1 signs, you don't need to use this as a vehicle for
2 school. The mother has no papers, has no ID; is that
3 what you're saying, ma'am?

[Y.M.]

4 [REDACTED] Yeah, I got robbed.

5 THE COURT: You got robbed.

[Y.M.]

6 [REDACTED] When I was recovering from my
7 surgery someone broke into my house and stole all of
8 my paperwork, stole my PlayStation, and all sorts of
9 stuff.

10 THE COURT: So I couldn't even ID you to find
11 out if you are the natural mother. The child isn't
12 here on top of it. The statute says the child has to
13 be here. I mean, there's so many problems in this
14 case.

[K.L.]

15 [REDACTED] May I ask you a question?

16 THE COURT: Sure.

[K.L.]

17 [REDACTED] What is the difference between a
18 person going into the military and leaving
19 guardianship to a relative or somebody else while
20 they're serving and take that child -- take care of
21 that child for a certain point of time, and then they
22 get guardianship -- they get their rights back?

23 THE COURT: No, that's called custody
24 downstairs. They go to custody court, okay? They
25 don't go to guardianship court. I haven't had any

1 military person have guardianship court, okay? None.
2 And I'm 22 years on the bench. So I don't know what
3 you're talking about.

[K.L.]

4 [REDACTED] We're all new to this. So, I
5 mean, we're not trying to, you know, offend anybody
6 in any way, we're just trying to take care of this
7 child.

8 THE COURT: I agree. Take care of the child,
9 OCY is involved -- you're involved?

10 MS. MASCHARKA: Not anymore. I was involved
11 in the past, that's how I got asked to come.

12 THE COURT: But, there's no -- she's not able
13 to take care of the child. Who is the father?

[Y.M.]

14 [REDACTED] I was raped.

15 THE COURT: You were raped, Okay. So you
16 should be involved in this case.

17 MS. MASCHARKA: Well, because she's had her
18 and she's safe with her.

[Y.M.]

19 [REDACTED] Yeah, we're friends, me and her.

20 THE COURT: They're friends. And I don't know
21 who your friend is. I don't even have a check on
22 her. She could be -- I don't know -- I mean, there's
23 no way I could double check all these people and give
24 something precious like guardianship to someone,
25 okay? At least if someone is in the military,

1 they've been checked and everything else.
2 [Y.M.]

3 [REDACTED] I have no intention of giving my
4 daughter up completely.

5 THE COURT: It's not completely, but all the
6 responsibility would be to your friend, everything.
7 Anything you wanted to do, you couldn't do because
8 she would be stepping into your shoes.

9 [K.L.]
10 [REDACTED] And I'm willing to take that
11 responsibility, Your Honor.

12 THE COURT: Yeah, but she's not willing to
13 give it up, okay? Do you understand? She's not
14 willing to give it up.

15 [K.L.]
16 [REDACTED] Are you saying there's -- we're
17 not here to offend anybody --

18 THE COURT: Go see a lawyer. Go see a lawyer,
19 okay?

20 [K.L.]
21 [REDACTED] Thank you.

22 THE COURT: Go see a lawyer before you come to
23 court, okay? And I just want to get the word out --
24 Attorney Jones, I just want to get the word out that
25 this is not happening in this courtroom any longer,
okay?

MS. JONES: I'll do the best I can. But,
again, Judge, we're not telling people to file --

THE COURT: we understand.

1 MS. JONES: -- I can't -- my caseworkers can't
2 give legal advice, you know, it's a systemic issue.

3 THE COURT: I understand. But in this case
4 there's -- obviously, she cannot take care of the
5 child, you had opened the case, the mother gives the
6 child to, not even a family member; do you have any
7 family?

[Y.M.]

8 [REDACTED] (Shaking head, no.)

9 THE COURT: What? Say something, ma'am.
[Y.M.]

10 [REDACTED] No.

11 THE COURT: No family?
[Y.M.]

12 [REDACTED] Not here. My family is all in
13 Florida, I'm not even from here.

14 THE COURT: I don't know. Wouldn't this be a
15 classic case for DCY? I don't understand.

16 MS. JONES: The child is safe in her current
17 circumstance.

18 THE COURT: How do we know? Did you double
19 check?

20 MS. MASCHARKA: Yes.

21 MS. JONES: Absolutely.

22 THE COURT: That's fine. Well, then, go get a
23 power of attorney, whatever, but this is not
24 temporary. This is called permanent plenary
25 guardianship over the child until the child is 18.

1 Unless there's some circumstance that would occur
2 that you would be remarkable. But you would start
3 down the journey of a very difficult path to try to
4 get the child back.

[Y.M.]

5 [REDACTED] I don't want that.

6 THE COURT: Right. Exactly. This is not for
7 a couple of months, okay? Very well. Case
8 dismissed.

9 MS. JONES: Thank you.

10 THE COURT: Thank you.

11
12 (Whereby, the hearing concluded at 9:28 a.m.)
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the trial of the above cause, and that this copy is a correct transcript of the same.


Sandy Hackweider
Court Reporter

The foregoing record of the proceedings of the above cause is hereby approved, and directed to be filed.

Honorable Stephanie Domitrovich

[K.S.]

1 [REDACTED]

: IN THE COURT OF COMMON PLEAS

2

-VS-
[A.C.T.]

: OF ERIE COUNTY, PENNSYLVANIA

3

[REDACTED]

: NO. 17074 OF 2012

4

:

5

6

- - -

7

TEMPORARY
PROTECTION FROM ABUSE

8

- - -

9

10

Proceedings held before the Honorable

11

Stephanie Domitrovich, in Courtroom "G #222, at the

12

Erie County Courthouse, 140 West Sixth Street, Erie,

13

Pennsylvania, 16501, on Monday, May 21, 2012,

14

11:30 a.m. and concluding at 11:55 a.m.

15

16

- - -

17

18

19

APPEARANCES:
[K.S.]

20

[REDACTED], pro se

21

22

23

24

REPORTED BY: Denice A. Grill, CM
OFFICIAL COURT STENOGRAPHER

25

P-R-O-C-E-E-D-I-N-G-S

[K.S.]

CLERK:

(At which time, the witness was
first duly sworn.)

THE COURT: Your name for the record.
[K.S.] [K.S.]

THE COURT: And you're filing against [A.]
[K.S.] [A.]

THE COURT: Could you spell it?
[K.S.] [A.]

THE COURT: That's [A.] And he is your
ex-boyfriend?
[K.S.]

[K.S.] Yeah.

THE COURT: You have a five month old baby
with him?
[K.S.]

[K.S.] Yeah.

THE COURT: You have all these injuries to
your body as a result of what he did to you?
[K.S.]

[K.S.] Yes.

THE COURT: All of these bruises?
[K.S.]

[K.S.] Uh-huh.

THE COURT: Yes? Is that a yes?
[K.S.]

[K.S.] Yes.

THE COURT: She cannot take down uh-huhs, it

1 has to be yes or no, okay?

[K.S.]

2 [REDACTED] okay.

3 THE COURT: So something happened May 15th at
4 12 p.m. What happened?

[K.S.]

5 [REDACTED] I went to drop my son off at
6 his house and one of my friends that hangs out at my
7 house, I don't know who it is, they tell [REDACTED] [A.]
8 everything that I do and say. And so I asked him
9 what this person be telling him. And he was like, I
10 don't want to fight in front of [REDACTED] [A.T.]
11 [A.T.] so I told him
12 to have my friend take [REDACTED] into a different room.
13 And he came up to me and grabbed my arm and grabbed
14 me back to the bedroom, got in my face was yelling at
15 me, threw my phone, told me I'm the only woman that's
16 ever made him want to hit.

17 And then he wouldn't let me like even hug or
18 kiss my son goodbye or tell him that I love him or
19 anything. And he --

20 THE COURT: Who has the child now?

[K.S.]

21 [REDACTED] He does.

22 THE COURT: You just have a verbal agreement?
23 You have no custody order?

[K.S.]

24 [REDACTED] No.

25 THE COURT: You're asking for the child to get
back to you?

[K.S.]

1 [REDACTED] I want to do every two weeks.

2 THE COURT: We're not doing that. You either
3 have the child or not. Do you want the child?

[K.S.]

4 [REDACTED] Yeah.

5 THE COURT: Right now, yes?

[K.S.]

6 [REDACTED] Yes.

7 THE COURT: Are you with Safe Net?

[K.S.]

8 [REDACTED] Yes.

9 THE COURT: Why would we want to uphold some
10 oral item when the child is in danger, right?

[K.S.]

11 [REDACTED] Yes.

12 THE COURT: He's mad at you. He might hurt
13 the child?

[K.S.]

14 [REDACTED] I don't think that he would
15 hurt him --

16 THE COURT: But you don't know.

[K.S.]

17 [REDACTED] Yeah, I don't know.

18 THE COURT: He's angry?

[K.S.]

19 [REDACTED] Yes.

20 THE COURT: In fact he's going to be really
21 angry when he sees that you're coming to court,
22 right?

[K.S.]

23 [REDACTED] Yeah.

24 THE COURT: You don't think he's going to be
25 happy, do you?

[K.S.]

No.

THE COURT: Where is the child right now?

[K.S.]

He's with him in Edinboro.

THE COURT: Well, we're taking -- Then you wanted temporary custody. That's in the proposed order. None of this made any sense. It makes no sense, this proposed order. I'm going to make it nice and clean. You have down here that you want custody. Isn't that what you want?

[K.S.]

Yes.

THE COURT: It's in here, but yet you have this crazy arrangement with him.

[K.S.]

We made at that arrangement right after we broke up.

THE COURT: It doesn't work in a PFA, okay?

[K.S.]

okay.

THE COURT: So we're taking it out. I can't uphold a verbal, okay. It's a lot cleaner for the law enforcement. You have it here that you want custody. I don't know how I can fix this.

You want the child to be turned over to you through the sheriffs, right?

[K.S.]

Yes.

THE COURT: Or law enforcement; is that correct?

[K.S.]

1 [REDACTED] Yes.

2 THE COURT: Until further Order of Court,
3 correct?

[K.S.]

4 [REDACTED] Yes.

5 THE COURT: Okay. So somebody has to correct
6 this proposed order.

7 CLERK: I can run to the office.

8 THE COURT: Okay. Then you have here -- what
9 happened on January 1st?

[K.S.]

10 [REDACTED] He was talking to girls on
11 Chat Roulette and I asked him why and he looked at me
12 and he said, why are you being such a cunt and he
13 smashed my hands in the door and leaned up against it
14 so I couldn't get my hands out. And they were
15 bruised and I couldn't move my fingers or anything.

16 THE COURT: Oh my word. Why didn't you leave
17 him then?

[K.S.]

18 [REDACTED] Because my family didn't want
19 to talk to me and I have I had nowhere else to go.

20 THE COURT: Really?

[K.S.]

21 [REDACTED] Yeah.

22 THE COURT: So she wants a copy of this order.
23 You say he has machetes and knives. What's that all
24 about? Did he do the scar to your arm?

[K.S.]

25 [REDACTED] No, that happened when I was

1 younger.

2 THE COURT: Okay, go ahead.
[K.S.]

3 [REDACTED] He has a machete. He has a
4 lot of knives, like pocket knives.

5 THE COURT: Why?
[K.S.]

6 [REDACTED] I don't know.

7 THE COURT: What's the machete for?
[K.S.]

8 [REDACTED] I don't know.

9 THE COURT: Where did he get it, do you know?
[K.S.]

10 [REDACTED] I have no clue.

11 THE COURT: It's an actual machete?
[K.S.]

12 [REDACTED] Yes.

13 THE COURT: He has it on the wall or --
[K.S.]

14 [REDACTED] He kept it by the bed when we
15 were living together.

16 THE COURT: Really?
[K.S.]

17 [REDACTED] At one point he kept it under
18 the mattress.

19 THE COURT: Isn't that scary?
[K.S.]

20 [REDACTED] Yes.

21 THE COURT: Okay. He's never used it on you?
22 (Off-the-record discussion.)

23 THE COURT: Law enforcement is to grab the
24 child from him when they serve him and give the child
25 to her. Does Safe Net know what I'm talking?

1 CLERK: I believe so, your Honor.

2 THE COURT: The police are not going to
3 understand what it means.

4 When did this two weeks start that you have
5 the child and he has the child?

6 [K.S.]
7 [A.T.] I left him April 12th and he
8 took [REDACTED] then. And then two weeks later I got him
9 and then --

10 THE COURT: That's not good for a five month
11 old baby to be away from you for --

12 [K.S.]
13 [REDACTED] It's the only way that I could
14 see him at all, because he told me if I left him he
15 was going to take [REDACTED] from me.
16 [A.T.]

17 THE COURT: Why would we even promote this?
18 I'm not promoting this. It's in the best interest of
19 the child to be with you?

20 [K.S.]
21 [REDACTED] Yes.

22 THE COURT: How is he taking care of this five
23 month old baby, this heartless man?

24 [K.S.]
25 [REDACTED] I don't know.

THE COURT: Don't you see it's not logical he
would be nice to the child?

23 [K.S.]
24 [REDACTED] Yes.

25 THE COURT: Is it his mother taking care of
the child or who else is in this?

[K.S.]

1 [REDACTED] He lives with his mom and dad.

2 THE COURT: They're in the picture?

3 [K.S.] [REDACTED] Yeah.

4 THE COURT: But still, it's a baby. The baby
5 needs to have consistency.

6 [K.S.] [REDACTED] Yeah, I know.

7 THE COURT: And you're stable, right?

8 [K.S.] [REDACTED] Yes.

9 THE COURT: You have no mental health issues?

10 [K.S.] [REDACTED] Depression, but I'm on
11 medicine for that.

12 THE COURT: Okay. No alcohol issues?

13 [K.S.] [REDACTED] No.

14 THE COURT: No criminal record?

15 [K.S.] [REDACTED] No.

16 THE COURT: What were you two fighting about
17 by the way?

18 [K.S.] [REDACTED] What was he fighting about, I
19 asked him what my friends were telling him because he
20 told me that he has eyes and ears in my house and he
21 knows everything I do and say.

22 The COURT: So these secret agents or double
23 agents told him things about you?

24 [K.S.] [REDACTED] Yeah.

25 THE COURT: Or at least he says that?

1 [K.S.]
2 [REDACTED] Yes.
3 THE COURT: Do you believe that's true?
4 [K.S.]
5 [REDACTED] Um, I don't know. He wouldn't
6 really tell me what they were saying.
7 THE COURT: So he doesn't know?
8 [K.S.]
9 [REDACTED] Yeah.
10 THE COURT: He made it up. Okay, you just had
11 this baby five months ago, right?
12 [K.S.]
13 [REDACTED] Yes.
14 THE COURT: Since April, when the child was
15 only four months old, you haven't seen this child
16 since he was three and a half months old?
17 [K.S.]
18 [REDACTED] I had him for two weeks.
19 THE COURT: No, we're going to change this,
20 okay?
21 [K.S.]
22 [REDACTED] Okay.
23 THE COURT: Good. Have a seat, we'll give you
24 a copy. [K.S.]
25 [REDACTED] Okay, thank you.

(At which time, 11:55 a.m., the
proceedings were concluded.)

C-E-R-T-I-F-I-C-A-T-I-O-N

I, Denice A. Grill, CM, do hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the trial of the above cause, and that this copy is a correct transcript of the same.



Denice A. Grill, CM
Official Court Stenographer

The foregoing record of the proceedings upon the trial of the above cause is hereby approved, and directed to be filed.

Judge Stephanie Domitrovich

10/22/10

TO: JEFF SHAW

IN JULY 2010 I WAS ON THE SECOND FLOOR OF THE COURT HOUSE WHEN I SAW A FRIEND OF MINE. SHE WAS WAITING FOR ICC HEARINGS TO BEGIN. I ASKED HER AS HER FRIEND IF SHE WOULD LIKE ME TO SIT WITH HER FOR A LITTLE MORALE SUPPORT. SHE SAID THAT WOULD BE NICE. I SAT WITH HER THROUGH HER HEARING; I ONLY SPOKE TO HER AND NO ONE ELSE. AFTER HER HEARING I LEFT THE COURTROOM WITH HER.

ON 10/20/10 I WAS AT MY DESK WHEN I RECEIVED A CALL FROM WENDY SYDOW TELLING ME THAT MY FRIEND HAD BEEN BACK IN ICC COURT TODAY AND THAT THE VIOLATION HAD BEEN WITHDRAWN. MY FRIEND WAS STILL IN COURT AND WAS PRETTY UPSET. I SAID I WOULD COME DOWN AND TALK TO HER. I SAT WITH HER THROUGH ANOTHER HEARING UNTIL SHE COULD SPEAK TO THE DA ABOUT HER OPTIONS OF MOVING. AFTER THAT WE SPOKE IN THE HALL FOR A FEW MOMENTS AND THEN SHE LEFT AND I RETURNED TO MY OFFICE.

THEN ON 10/21/10 I RECEIVED ANOTHER CALL FROM WENDY SYDOW TELLING ME THAT THE JUDGE WOULD LIKE TO SEE ME. I WENT DOWN AND MET WITH THE JUDGE IN THE JURY ROOM. PRESENT WAS A FAMILY ATTORNEY, ED KOFFLER FROM DOMESTIC THE JUDGE AND MYSELF. THE JUDGE SAID THAT SHE WAS SORRY ABOUT MY FRIEND AND WHAT HAPPENED YESTERDAY. SHE SAID SHE FEELS THIS GUY IS DANGEROUS THAT HE IS A STALKER. I DID AGREE AND SAID THAT HE IS THE TYPE THAT IF HERE IS THE LINE HIS TOE IS GOING TO BE RIGHT ON IT. I ALSO STATED THAT SHE IS AFRAID SO MUCH TO THE POINT THAT SHE IS TRYING TO RELOCATE EVEN IF IT MEANS WALKING AWAY FROM HER BUSINESS. THE JUDGE STATED THAT SHE HAD TALKED TO ADA FERRICK YESTERDAY AND AGAIN TODAY. SHE ALSO SAID THAT SHE MET WITH DA DANERI IN REGARDS TO THIS AND LEARNED THAT THE ADA HAD BEEN WORKING ON THIS CASE SINCE TUESDAY. THE DA'S OFFICE TOLD HER THAT THIS WAS THE MANS JOB AND THEY FELT HE WASN'T DOING ANYTHING WRONG. THE JUDGE READ IN THE TRANSCRIPTS THAT IT WAS NOT AND CHECKED WITH THE SUPPORT OFFICE AND IT IS NOT LISTED AS INCOME. SHE STATES THAT SHE ALSO TOLD THE DEFENDANT AT THE LAST HEARING TO STAY AWAY FROM WEST PENN COLISION. SHE ASKED WHAT THE RELATIONSHIP WAS WITH THE ALBION COP. I TOLD HER I DID NOT KNOW. I THOUGHT THE DEFENSE HAD CALLED HIM. I DID NOT KNOW IF THE DEFENDANT WAS PAID TO BE AT WEST PENN AUTO OR NOT. I KNEW THAT THE DEFENDANT AND THE OWNER WERE FRIENDS. THEY HAD ALL BEEN FRIENDS AS COUPLES. WHEN THE DEFENDANT AND HIS WIFE SEPERATED, THE OWNER OF WEST PENN AND HIS WIFE REMAINED FRIENDS WITH THE DEFENDANT. SHE ASKED ME TO TELL DA DANERI OR CALL HIS SECRETARY JEN, TO LET HIM KNOW THIS. SHE WOULD LIKE THE DA TO HEAR IT FROM ME THAT THE DEFENDANT IS HANGING OUT THERE AS A FRIEND, BECAUSE HE AND THE OWNER HAVE BEEN FRIENDS FOR A LONG TIME.

I RETURNED TO MY OFFICE AND SPOKE WITH MY DIRECT SUPERVISOR WHO INSTRUCTED TO TALK TO DIRECTOR SHAW. DIRECTOR SHAW HAS INSTRUCTED ME TO DO NOTHING.

Stacy Rhoades

Attachment 5

COMMONWEALTH OF PENNSYLVANIA
JUDICIAL CONDUCT BOARD

IN RE:

HONORABLE STEPHANIE A. DOMITROVITCH: JCB File 2012-031

Deposition of: HON. STEPHANIE A. DOMITROVITCH

Taken by : James P. Kleman, Esquire

Before : Rhonda A. Adams, RMR, CMRS

Date : Thursday, February 6, 2014

Place : Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue
Suite 3500
Harrisburg, PA 17106

APPEARANCES:

JAMES P. KLEMAN, ESQUIRE
ROBERT A. GRACI, ESQUIRE
601 Commonwealth Ave., Suite 3500
P.O. Box 62525
Harrisburg, PA 17106-0901
For - Judicial Conduct Board

Attachment 6

Rhonda A. Adams, RMR (717)299-8091

1 time, right?

2 A. She worked for the DRS office, answered
3 phones. I don't know what else she did, but I think she
4 did a lot of customer service type of work.

5 Q. Was she excited to take a position?

6 A. Excited in a good way or a bad way?

7 Q. In a good way. Was she interested in it?

8 A. Yes. In fact, she moved in right away. Once
9 we talked about it, she brought all her furnishings, and
10 yes, came in.

11 Q. Was your initial interview with her positive?

12 A. Yes. As I recall, yes, or else I wouldn't have
13 had her come on board, yes. It was just a phone call.
14 I'm sorry. It was just a phone call. We didn't go over
15 her background or anything. I just knew about her and
16 said come on up.

17 Q. There were problems that had surfaced with her
18 employment, am I right in saying that?

19 MR. AMBROSE: Employment with the Judge?

20 BY MR. KLEMAN:

21 Q. With the Judge, employment with you?

22 A. Yes.

23 Q. Why don't you tell me about those. What
24 happened there?

25 A. First of all, there was some pornographic email

1 that she was sending to people.

2 Q. When you say pornographic, what do you mean?
3 Could you describe it?

4 A. A naked body of a woman in a bar and some gay
5 bashing. I don't even understand the joke but that's
6 what she was doing.

7 Q. Was this sent among court employees?

8 A. Yes, with my tag line.

9 Q. When did this happen?

10 A. All throughout when she was there. And there
11 were chat rooms that she was in. She was also the head
12 of a suicide watch program.

13 She had a child who died. She maintained and
14 continued to maintain that she wanted to be president of
15 this suicide watch. And the problem was she was taking
16 calls there, in my office.

17 I tried to explain to her the Code of Judicial
18 Conduct but it still continued. Rude jokes, things like
19 that in the emails.

20 And then simultaneously to all this, because of
21 her distraction, she is making many errors. I go to the
22 personnel director and I explained, we have some issues,
23 can you talk to her? I don't know what to do.

24 And then he says -- do you have the letter? I
25 sent her a letter, but I didn't want to send it. I said

1 her and then I get a check and then I can send it in.

2 Q. Thank you, Judge.

3 Does Attorney Susmarski have any involvement in
4 the substantive work of your chambers? Helping draft
5 opinions, things like that?

6 A. No, sir.

7 Q. No?

8 A. No.

9 Q. I wanted to step back --

10 A. I'm sorry. That's the role of the law clerk.

11 Q. Okay.

12 I wanted to go back to that meeting with
13 Foster.

14 A. Yes.

15 Q. She was sitting down and where were you
16 located?

17 A. I was ready to leave. There's no room. It's
18 just right there. It's very small, a very small area
19 and she's looking out the window. She's upset and I'm
20 standing there.

21 Q. You were standing in front of her or around
22 her?

23 A. To the side, yes, because I'm leaving. I'm on
24 my way out. I had closed my door. I'm ready to leave.
25 I'm going with my husband.

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2014 JUL -7 A 11:16

IN RE:

Stephanie Domitrovich
Judge of the Court of Common Pleas
Sixth Judicial District
Erie County

.....
1 JD 2014
.....

PETITION FOR RELIEF FOR INTERIM SUSPENSION WITH OR WITHOUT PAY

AND NOW, this 7th day of July, 2014, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board), by and through Robert A. Graci, Chief Counsel, and James P. Kleman, Jr., Deputy Counsel, and files this Petition Relief For Interim Suspension With or Without Pay pursuant to Article V, § 18(d)(2) of the Pennsylvania Constitution, Rule 701 of the Court of Judicial Discipline Rules of Procedure, and Rule 13(A) of the Board Rules of Procedure and in support thereof, avers the following:

1. The Pennsylvania Constitution provides this Court with the authority to impose interim suspension as follows:

Prior to a hearing, the court may issue an interim order directing suspension, with or without pay, of any justice, judge or justice of the peace against whom formal charges have been filed with the court by the board or against whom has been filed an indictment or information charging a felony. An interim order under this paragraph shall not be considered a final order from which an appeal may be taken.

Pa. Const, Art. V, § 18(d)(2).

2. From approximately January 2, 1990, until the present, Judge Domitrovich has served continuously as a duly elected Court of Common Pleas Judge in the Sixth Judicial District, Erie County Pennsylvania, with an office located at the Erie County Courthouse, 140 West Sixth Street, Erie, Pennsylvania 16501.

3. Contemporaneously with the filing of this Petition, Board Counsel is filing a Board Complaint against Judge Domitrovich alleging six counts of judicial misconduct. A copy of the Board Complaint is attached hereto, made a part hereof, and incorporated herein by reference as though set forth in full. **See** Attachment "A" (Board Complaint).
4. The allegations contained within the Board Complaint against Judge Domitrovich undermine both public confidence in the judiciary and its reputation. If Judge Domitrovich is permitted to continue participating in cases before the Erie County Court of Common Pleas during the pendency of the Board Complaint, the public's confidence in the judiciary will continue to erode.

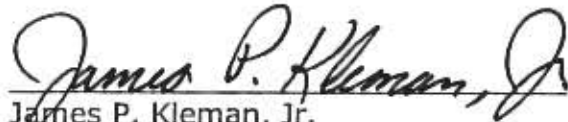
WHEREFORE, it is respectfully requested that this Honorable Court enter an interim order suspending Judge Domitrovich, either with or without pay, pending disposition of the Board Complaint filed against her and to grant such other relief as may be deemed appropriate.

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

DATE: July 7, 2014

BY:


James P. Kleman, Jr.
Deputy Counsel
Pa. Supreme Court ID No. 87637

Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Stephanie Domitrovich
Judge of the Court of Common Pleas
Sixth Judicial District
Erie County

:
:
: 1 JD 2014
:
:
:

PROOF OF SERVICE


In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on July 7, 2014, a copy of the Board's Petition For Interim Suspension With or Without Pay was sent by certified mail to Judge Domitrovich's counsel, Leonard G. Ambrose, III, Esquire at the following address:

Leonard G. Ambrose, III
Ambrose Law Firm
319 West Eighth Street
Erie, PA 16502

Certified Mail No. 7161 7145 5373 0150 1290
Return Receipt Requested

Respectfully submitted,

DATE: July 7, 2014


James P. Kleman, Jr.
Deputy Counsel
Pa. Supreme Court ID No. 87637
Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911