

1 COURT: Thank you. That's all for today.

2 **DANIEL BREWINGTON – JURY TRIAL – OCTOBER 5, 2011**

3 COURT: You may be seated. Good morning ladies and
4 gentlemen. We are back on on 15D02-1103-FD-84,
5 the State of Indiana versus Daniel Brewington. The
6 parties appear in person and by counsel and the jury
7 is also present at this time. Is the State ready to
8 proceed with your case, Mr. Negangard?

9 MR. NEGANGARD: Yes your honor.

10 COURT: You may call your next witness.

11 MR. NEGANGARD: Thank you, your honor.

12 COURT: You can come on up. Before you have a seat please
13 raise your right hand. Do you swear or affirm under
14 the penalties for perjury that the testimony you are
15 about to give is the truth, the whole truth and
16 nothing but the truth?

17 MRS. BREWINGTON: Yes.

18 COURT: Please have a seat. You may proceed Mr.
19 Negangard.

20 MR. NEGANGARD: Your honor, I'm sorry, for the record, the State calls
21 Melissa Brewington. Um, Ms. Brewington, would
22 you please state your name for the record?

23 MRS. BREWINGTON: Melissa Brewington.

24 MR. NEGANGARD: And could you tell us how your relationship with
25 the Defendant, Mr. Brewington?

1 MRS. BREWINGTON: I was married to him.

2 MR. NEGANGARD: Okay. Um, how, if you could, if you could tell us,
3 how old were you when you got married to Mr.
4 Brewington?

5 MRS. BREWINGTON: Um, I met Dan, I believe that it was in April of '99
6 and we got married, and I was about twenty (20)
7 years old then and I got married to him in August of
8 2002, about twenty-two (22) or twenty-three (23).

9 MR. NEGANGARD: And could you tell us about your marriage to Daniel
10 Brewington?

11 MRS. BREWINGTON: Um, it was not a good marriage by any means. Dan
12 was diagnosed with ADD um, back in 2000 and at
13 that time they had put him on Ritalin, 200 mg. a
14 day. He would take 50 mg. every four (4) hours.
15 Um, our marriage was um, there was lots of
16 arguing, lots of verbal abuse on Dan's part toward
17 me. Um, he was unemployed for most of our
18 marriage. He did not help around the house. He
19 didn't help to take care of our animals or our kids
20 for that much. Um....

21 MR. NEGANGARD: Let me ask you this. You say he was unemployed.

22 MRS. BREWINGTON: Yes.

23 MR. NEGANGARD: What did he spend his time doing during the day?

24 MRS. BREWINGTON: He would work on his "projects". Most of the time
25 it was doing things on the internet. I'm not really

1 sure exactly what he was doing on the internet but
2 um, most of his time was spent doing things on the
3 internet.
4 MR. NEGANGARD: When he was on the internet, did he produce any
5 income from all these projects on the internet?
6 MRS. BREWINGTON: No.
7 MR. NEGANGARD: Um, did you have any children with Mr.
8 Brewington?
9 MRS. BREWINGTON: Yes, two (2) girls, Mary and Audrey.
10 MR. NEGANGARD: And when were they born?
11 MRS. BREWINGTON: Mary was born October 30, 2003. Audrey was born
12 February 6, 2006.
13 MR. NEGANGARD: February what?
14 MRS. BREWINGTON: 6th of 2006.
15 MR. NEGANGARD: And um, when he was unemployed had you had at
16 times um, at one point, at least from 2003 to 2006
17 you had one (1) child and then from 2006 on you
18 had two (2) children. During the period of time he
19 was unemployed, how would the arrangement with
20 the children work? Would he stay and take care of
21 the kids?
22 MRS. BREWINGTON: Um, no. They would go to daycare. On the days
23 that I worked during the week, they would go to
24 daycare. Um, he said that he was unable to take
25 care of the girls because he had projects, or this

1 business or whatever he was doing at home that he
2 needed to work on and he couldn't take care of the
3 girls. So the girls were in daycare on the days that I
4 worked all the way up until the time that we had our
5 provisional hearing and then after our provisional
6 hearing which was in February of 2007, um, he had
7 changed, he had changed what he had stated and
8 said that he was now a stay at home dad and did not
9 want the girls to go to daycare at that time. I guess
10 to set the precedence that he took care of the girls.
11 MR. NEGANGARD: But he hadn't taken care of the girls during the
12 period of time.
13 MRS. BREWINGTON: No.
14 MR. NEGANGARD: Um, during the marriage prior to the filing of the
15 divorce. Is that correct?
16 MRS. BREWINGTON: No.
17 MR. NEGANGARD: When did you file for divorce in this case?
18 MRS. BREWINGTON: In January of 2007.
19 MR. NEGANGARD: And during the course of the marriage, were you
20 employed?
21 MRS. BREWINGTON: Yes.
22 MR. NEGANGARD: And what was your, what is your occupation?
23 MRS. BREWINGTON: I'm a registered nurse.
24 MR. NEGANGARD: During that entire in 2002 to present you were a
25 registered nurse or did you, I mean when you started

1 out the marriage, did you start out as a registered
2 nurse?

3 MRS. BREWINGTON: I graduated from Mount Saint Joe in 2001.

4 MR. NEGANGARD: Okay.

5 MRS. BREWINGTON: So I've been employed as a nurse since then.

6 MR. NEGANGARD: So you were employed as a nurse during the course
7 of the marriage.

8 MRS. BREWINGTON: Yes.

9 MR. NEGANGARD: And are still employed as a nurse.

10 MRS. BREWINGTON: Yes.

11 MR. NEGANGARD: Um, when you would come home and he had, the
12 children were in daycare, um, what was the
13 condition of the home when you would return home
14 from work?

15 MRS. BREWINGTON: It was a disaster. He wouldn't help to keep up the
16 home at all. Um, he would be just you know, food
17 wrappers everywhere. He wouldn't clean up his
18 papers. He would just throw them everywhere. He
19 wouldn't help with the laundry. He wouldn't help
20 with cleaning. The dishes would all be in the sink.
21 It was a complete mess.

22 MR. NEGANGARD: When you disagreed with him, could you describe
23 his behavior during the periods of times when you
24 would have disagreements?

25 MRS. BREWINGTON: It was like all out war. Anytime that I disagreed

1 with him, instant firing back of nasty words, um,
2 whether I was a crazy psycho bitch or if he would
3 say condescending things like you don't have any
4 friends and you never will. Um, he would follow
5 me around from room to room yelling. There were
6 times when if our children were present that I would
7 take them into the bathroom and lock the door and
8 turn on the water so that they would not have to
9 hear it. There were times that I tried to leave the
10 home and couldn't. Um, whether he put things
11 behind my car or if we ran out to the car - me and
12 the girls. Uh, there was one time that he um, was
13 pounding so hard on my car window that it could
14 have broke. Very argumentative and
15 confrontational, um, if I had ever said anything that
16 was contrary to what he wanted, it was never a good
17 thing.

18 MR. NEGANGARD: Now did he ever accept responsibility for I mean,
19 during the course of the fight, I've been married
20 nineteen (19) years, I've said I'm sorry a lot. Did he
21 ever admit or accept responsibility for anything
22 during any of those arguments?

23 MRS. BREWINGTON: On a very rare occasion.

24 MR. NEGANGARD: Did he um, you said he would uh, that he would um,
25 say condescending thing to you. What sort of

1 things?

2 MRS. BREWINGTON: There were a lot of comments that would fall under

3 verbal abuse easily – just anything to bring my self

4 esteem down. I felt like part of that was just to keep

5 me around. If I didn't have good self esteem I

6 wouldn't want to leave. Um, like I had said, he

7 would call me a crazy psycho bitch. He would tell

8 me, you don't have friends and you never will, um,

9 things of that nature.

10 MR. NEGANGARD: At any point did you try to go to counseling?

11 MRS. BREWINGTON: Yes.

12 MR. NEGANGARD: Who did you try to go to counseling with?

13 MRS. BREWINGTON: Um, we went up to uh, one of the only places that

14 Dan would agree to was the Affinity Center which

15 was where he was getting treatment for ADD. He

16 had agreed to go see a counselor. I think his name

17 was Doug up there. I think we went to two (2)

18 sessions and Dan said that he didn't want to go

19 back.

20 MR. NEGANGARD: Did you ever try to seek counseling on your own?

21 MRS. BREWINGTON: Yes I did.

22 MR. NEGANGARD: Who did you try to seek counseling with?

23 MRS. BREWINGTON: Her name was Mary Jo Polluck and um, I can't

24 remember exactly when I started seeing her but it

25 was probably after Mary was born in late 2003 or

1 early 2004. Um, so I went and talked to her at that
2 time. She had said that I had depression and um,
3 OCD and I had worked with her for several years on
4 this and um, uh, Dan did not, around the time that I
5 said I was going to file for a divorce, Dan did not
6 like the idea of me going and talking to her. So
7 what he had done was he went behind my back and
8 tried to get on to her scheduled. Once she told him
9 that she could not see because it was a conflict of
10 interest, he took it upon himself to once again try
11 and sneak on her schedule.

12 MR. BARRETT: Judge we're going to object. We're going way
13 beyond the scope of the question.

14 MR. NEGANGARD: Your honor may we approach?

15 COURT: Yes. What's the response?

16 MR. NEGANGARD: I think that things that happened during the course
17 of the marriage is relevant because of the numerous
18 blog postings and the attacks on Dr. Connor and
19 Judge Humphrey indicating that they are corrupt,
20 they are criminal because they didn't agree with me,
21 um, I think it's relevant for that purpose.

22 MR. BARRETT: (inaudible).

23 COURT: I'm going to allow a little bit of it. I understand, I
24 think the initial objection, I think he is correct and I
25 think she is going way beyond the question.

1 MR. NEGANGARD: Okay.

2 COURT: Let's try to maybe limit the questions but again I

3 don't want to spend a ton of time on this. I can

4 understand you need to establish a little bit and you

5 have latitude to do that.

6 MR. NEGANGARD: I'll rephrase my question.

7 COURT: So I'm going to sustain the objection as to that

8 question. You can rephrase and ask another one.

9 MR. NEGANGARD: Let me just ask you; did he attempt to interfere with

10 that process?

11 MRS. BREWINGTON: Yes he did.

12 MR. NEGANGARD: Now um, because of the things that you testified, at

13 some point did you decide to file for divorce?

14 MRS. BREWINGTON: Yes and it was about May of 2006 when he said that

15 he was going to "start a business" after being

16 unemployed for large amounts of our marriage. I

17 had told him that he had six (6) months to try and

18 go ahead and come up with this business that he

19 wanted to do but after that that if he didn't have a

20 job by October that, you know, things would be

21 changing.

22 MR. NEGANGARD: Um, when you told him that you were going to get a

23 divorce, what was his response or you were going to

24 file for divorce, what was his response?

25 MRS. BREWINGTON: Very negative. He told me that if I was unhappy to

1 go ahead and file for divorce but if I filed for
2 divorce that we would not be friends any more and
3 that we would be enemies.

4 MR. NEGANGARD: Did he say anything else?

5 MRS. BREWINGTON: He was not happy by any means. At the time that I
6 had told him that I was going to file for divorce, um,
7 I had come home from work one night and found...

8 MR. NEGANGARD: I'm going to redirect you.

9 MRS. BREWINGTON: Okay.

10 MR. NEGANGARD: Let me just ask you a more specific question. Did
11 he tell you that he would make your life a living
12 hell...

13 MRS. BREWINGTON: ...yes he did...

14 MR. NEGANGARD: ...if you filed for divorce? And has he followed
15 through on that?

16 MRS. BREWINGTON: Absolutely.

17 MR. NEGANGARD: When um, you filed for divorce, he decided he
18 would take a more active role in the kids' lives. Is
19 that correct?

20 MRS. BREWINGTON: Yes, he had stated he wanted to exercise his
21 parenting time.

22 MR. NEGANGARD: Not something he had done during the course of the
23 marriage.

24 MRS. BREWINGTON: No. After our provisional orders came out, that is
25 when he said that he did not want the girls in

1 daycare any more. He wanted to take care of them
2 during the time I had to work.

3 MR. NEGANGARD: So um, in scheduling, for a period of time schedule
4 time with him and kids while you were working?

5 MRS. BREWINGTON: Can you repeat that?

6 MR. NEGANGARD: Um, from the provisional orders hearing to the final
7 order in that case, during that period of time, was
8 there visitation with Mr. Brewington?

9 MRS. BREWINGTON: Yes.

10 MR. NEGANGARD: The children went to spend time with Mr.
11 Brewington.

12 MRS. BREWINGTON: Yes.

13 MR. NEGANGARD: And um, at the provisional orders hearing, um, who
14 was his attorney?

15 MRS. BREWINGTON: At that time it was Amy Streater.

16 MR. NEGANGARD: And who did you hire for your divorce?

17 MRS. BREWINGTON: Angela Loechel.

18 MR. NEGANGARD: And as a result of the, at the provisional orders
19 hearing, did he um, ask for custody?

20 MRS. BREWINGTON: Yes he did.

21 MR. NEGANGARD: He wanted sole custody at that time? Or physical
22 custody?

23 MRS. BREWINGTON: I believe, yes.

24 MR. NEGANGARD: And that was not granted at the provisional orders
25 hearing. Is that correct?

1 MRS. BREWINGTON: No it was not.

2 MR. NEGANAGARD: And did he fire his attorney after that?

3 MRS. BREWINGTON: Yes he did and he also picketed her office.

4 MR. BARRETT: To which we'll object Judge. It calls for answer and
5 she's narrating.

6 COURT: I'll sustain the objection. Disregard that answer. If
7 you could ask another question Mr. Negangard.

8 MR. NEGANAGARD: Thank you, your honor. Could you explain? Was
9 he difficult to work with when you were scheduling
10 this time for him with the kids?

11 MRS. BREWINGTON: In between the time that I filed and the time until we
12 got our provisional orders?

13 MR. NEGANAGARD: Yes.

14 MRS. BREWINGTON: Yes he was very difficult. Um, at that time, you
15 know, two (2) adults are supposed to come to an
16 agreement when you're supposed to switch over the
17 kids – that's expected. Um, when we would come
18 to an agreement, but Dan would not follow through
19 with what he said. So sometimes the girls weren't
20 returned to me at the specific time.

21 MR. NEGANAGARD: Um, after the provisional orders hearing, was
22 custody, or physical custody spelled out pretty
23 clear?

24 MRS. BREWINGTON: Yes. Judge Taul had stated that I should have sole
25 custody and control of Mary and Audrey until we

1 had our final hearing.

2 MR. NEGANGARD: And what was the visitation arrangement during that
3 period of time?

4 MRS. BREWINGTON: That Dan would have visitation with the girls on the
5 days that I worked.

6 MR. NEGANGARD: Now during the course of the divorce or dissolution
7 was it decided that there needed to be a custody
8 evaluation?

9 MRS. BREWINGTON: Yes.

10 MR. NEGANGARD: And who was his attorney at this time in the
11 dissolution?

12 MRS. BREWINGTON: Tom Blondell.

13 MR. NEGANGARD: And you still had Angela Loechel?

14 MRS. BREWINGTON: Yes.

15 MR. NEGANGARD: And was a person agreed upon to do the custody
16 evaluation?

17 MRS. BREWINGTON: Yes, it was Dr. Connor.

18 MR. NEGANGARD: And that was agreed upon by the parties. Is that
19 correct?

20 MRS. BREWINGTON: Yes.

21 MR. NEGANGARD: I'm showing you what's been admitted as State's
22 Exhibit 9. Is that the confidential custody
23 evaluation report that was issued by Dr. Connor?

24 MRS. BREWINGTON: Yes.

25 MR. NEGANGARD: And what were the findings of that report?

1 MRS. BREWINGTON: Um, Dr. Connor had stated that this is not a joint
2 custody situation, that given Dan's personality, he is
3 very difficult to work with and that I should have
4 sole custody and control of Mary and Audrey and
5 that Dan should have visitation with them on the
6 days that I worked.

7 MR. NEGANGARD: And when was that issued?

8 MRS. BREWINGTON: This was issued; I believe that it was in August of
9 2007.

10 MR. NEGANGARD: So just if I could recap the timeline – January of
11 2007, um, you filed for divorce. Correct?

12 MRS. BREWINGTON: Yes.

13 MR. NEGANGARD: And there's a provisional order in February of
14 2007?

15 MRS. BREWINGTON: February 9th.

16 MR. NEGANGARD: And the custody evaluation was conducted and a
17 report is issued on August of 2007.

18 MRS. BREWINGTON: Yes.

19 MR. NEGANGARD: And what was Dan's reaction um, to the custody
20 evaluation?

21 MRS. BREWINGTON: Very negative. Despite the order saying or that the
22 evaluation saying that he could have visitation with
23 them, he was highly upset and at that time started
24 targeting Dr. Connor.

25 MR. NEGANGARD: Now what happened with regard to his attorney

1 after the custody evaluation report was issued?

2 MRS. BREWINGTON: I believe it was in either February or March of '08,

3 that Tom Blondell put in a Motion to Withdraw.

4 MR. NEGANGARD: And at that point he represented himself?

5 MRS. BREWINGTON: Yes.

6 MR. NEGANGARD: Now um, did Dan Brewington spend a lot of time

7 on the internet?

8 MRS. BREWINGTON: Yes he did.

9 MR. NEGANGARD: Did he, um, would you consider him proficient with

10 the internet?

11 MRS. BREWINGTON: Very.

12 MR. NEGANGARD: Did he set up web-sites?

13 MRS. BREWINGTON: Yes.

14 MR. NEGANGARD: I'm showing you a box that's marked State's

15 Exhibit 210 and ask if you can open it up and

16 review the contents.

17 MRS. BREWINGTON: This is one of the web-sites that he created. It's

18 www.danhelpskids.com.

19 MR. NEGANGARD: That's one of the web-sites that he created?

20 MRS. BREWINGTON: Yes.

21 MR. NEGANGARD: And are those a number, if you could, take a

22 moment and review those documents.

23 MR. BARRETT: What number is that Judge, can I ask?

24 MR. NEGANGARD: It's 210.

25 MR. BARRETT: 210.

1 MR. NEGANGARD: Are uh, those documents represent postings on that
2 web-site from the time it was started until February
3 of 2010?

4 MRS. BREWINGTON: Um, I think was printed I think in December of '09.

5 MR. NEGANGARD: Okay, so it represents blog postings from what date
6 until what date then?

7 MRS. BREWINGTON: Um, I'm not quite sure when exactly this was
8 started – this particular one. Um, his other web-site
9 was started in February but this one, I'm not quite
10 sure when it was started but this goes through
11 January, or I'm sorry, December of 2009.

12 MR. NEGANGARD: Okay, thank you.

13 MRS. BREWINGTON: And this blog site is where he um...

14 MR. BARRETT: There's not a question before her. Judge I would
15 object.

16 COURT: Sustained.

17 MR. NEGANGARD: And he started up a web-site. Correct?

18 MRS. BREWINGTON: Yes.

19 MR. NEGANGARD: I'm showing you what's marked for identification as
20 State's Exhibit 211 and ask if you can identify that.

21 MRS. BREWINGTON: Um, this was his blog or his web-site that was
22 started and it's entitled
23 "dansadventuresintakingonthefamilycourts" and this
24 was from um, I believe February of '09 and then it
25 continues to run to present.

1 MR. NEGANGARD: Okay. With regard to that document, when does
2 um, as far as with regard to that exhibit, when do
3 the blog postings end and take all the time you need
4 to review it.

5 MRS. BREWINGTON: It started Thursday, February the twenty...oh, this
6 is...um, it starts on February 25, 2009 and the last
7 posting here is February 24, 2011.

8 MR. NEGANGARD: Now did he ever put um, excuse me let me back up
9 a second. I'm directing your attention to State's
10 Exhibit 9 and that's the confidential custody
11 evaluation. Correct?

12 MRS. BREWINGTON: Yes.

13 MR. NEGANGARD: And it was intended that that be a confidential
14 report between the parties. Is that correct?

15 MRS. BREWINGTON: Yes.

16 MR. NEGANGARD: And that's so people can feel free to speak freely to
17 their psychologist?

18 MRS. BREWINGTON: Yes.

19 MR. BARRETT: To which we'll object Judge. She's not qualified to
20 answer these questions.

21 MR. NEGANGARD: I think it's a lay opinion.

22 COURT: I'll sustain that. If the jury will disregard that
23 answer.

24 MR. NEGANGARD: And um, would you please, directing your attention
25 to the final paragraph of that evaluation report, is

1 there an indication by Dr. Connor as to releasing
2 information from that report?

3 **MRS. BREWINGTON:** It says, note, at no time should any parent reveal any
4 of the information contained in this document to
5 any of the children. This of course would be an act
6 of severe selfishness by the parents and is not in the
7 children's best interest. If these examiners or the
8 Court learn that either parent has done so, we will
9 recommend that the Court deal harshly with this
10 matter.

11 **MR. NEGANGARD:** So Dr. Connor's report admonishes the parties that
12 for the benefit of the children, it would be um, in
13 everyone's best interest to keep the information in
14 that report confidential?

15 **MRS. BREWINGTON:** Yes.

16 **MR. NEGANGARD:** And I'm showing you State's Exhibit 164 and ask if
17 you can identify that. Please look at that document
18 and they identify it.

19 **MRS. BREWINGTON:** This is from his um, a section of his web-site – the
20 www.danhelpskids.com where he has quotes from
21 our custodial evaluation all throughout including my
22 um, medical history.

23 **MR. NEGANGARD:** So on his blog site um, danhelpskids, State's
24 Exhibit 210, um, he posted information pertaining
25 to the child custody evaluation.

1 MRS. BREWINGTON: Yes, including my name and also the girls' names.

2 MR. NEGANGARD: And some of the medical history that was indicated

3 in the custodial evaluation.

4 MRS. BREWINGTON: Yes, referring to my OCD and depression.

5 MR. NEGANGARD: And despite being admonished, he posted that on

6 the internet for all the world to see.

7 MRS. BREWINGTON: Yes and our children.

8 MR. BARRETT: To which we'll object Judge. It's asked and

9 answered.

10 COURT: Sustained.

11 MR. NEGANGARD: I would move to admit State's Exhibit 164.

12 COURT: Any objection to 164?

13 MR. BARRETT: I'm sorry Judge. Could I see it?

14 COURT: Sure.

15 MR. BARRETT: Can we approach?

16 COURT: Yes.

17 MR. BARRETT: (inaudible).

18 MR. NEGANGARD: Your honor, I'll ask a few more foundation

19 questions but I do believe that there's been

20 significant testimony including testimony before the

21 Court to where Dan Brewington acknowledged all

22 the postings on the blog and took full responsibility

23 for.

24 COURT: Took full responsibility for and all that. Uh, yell,

25 I'm going to overrule the objection. I'm going to

1 show there's been sufficient evidence to establish
2 that he takes responsibility for the comments on
3 that, I think its dan helps kids and the adventures of
4 family court or whatever it's called.
5 MR. BARRETT: (inaudible).
6 MR. NEGANGARD: I think there was multiple evidence.
7 MR. BARRETT: (inaudible).
8 COURT: I believe so.
9 MR. BARRETT: Pleading that were either filed by my client or...
10 COURT: I think you're right, yes. It was in one of his
11 motions I think. Yell, well that and that's not the
12 only reason. She's also testified here today that she
13 was aware that he put up these, she has knowledge
14 that he did these sites and all that, so I mean I think
15 all that, the totality of that, I think there's sufficient
16 evidence to show that he's, this is his.
17 MR. BARRETT: Thank you Judge.
18 COURT: Okay. I'll show 164 offered and admitted.
19 MR. NEGAGNARD: Um, based upon the fact that he was putting
20 information pertaining to your divorce including the
21 information from a confidential custody evaluation,
22 did you routinely review um, the blog postings by
23 your husband on uh, the web-site,
24 dansadventuresintakingonfamilycourts and
25 danhelpskids?

1 MRS. BREWINGTON: Yes.

2 MR. NEGANGARD: And State's Exhibit 164 is a blog posting from
3 danhelpskids.com.

4 MRS. BREWINGTON: Yes.

5 MR. NEGANGARD: And during the course of the divorce proceedings,
6 um, Dan took full responsibility for the postings on
7 those web-sites.

8 MRS. BREWINGTON: Yes.

9 MR. NEGAGNARD: Okay. I'm directing your attention now to um,
10 when Dan um, had visitation with the kids, um, that
11 started during the course of the divorce, how did
12 things go during visitation?

13 MRS. BREWINGTON: Uh, it didn't appear that he was taking care of them
14 well physically. Sometimes they would be returned
15 with the same clothes they were wearing the day
16 before when he got the girls from me. Um, if they
17 were sick, there was no report given to me. In fact a
18 lot of times they would come back sicker. Um, as
19 far as the activities that were going on during their
20 visitation, um, Mary was four (4) when Dan was
21 introducing her to shooting guns. Um, I thought
22 that this was totally inappropriate.

23 MR. BARRETT: To which we'll object Judge. It's like the Motion in
24 Limine.

25 COURT: I'm going to sustain that objection. The jury will

1 disregard the last answer.

2 MR. NEGANGARD: Um, I'll just ask a more general question. Were you

3 concerned about the activities that were going on

4 with your children during the periods of time he had

5 visitation, during the periods of time they had

6 visitation with Dan Brewington?

7 MRS. BREWINGTON: Yes.

8 MR. NEGANGARD: Was there ever a period of time that um, strike that.

9 After he started representing himself, did things get

10 more difficult with regard to the divorce?

11 MRS. BREWINGTON: Yes.

12 MR. NEGANGARD: Explain.

13 MRS. BREWINGTON: Um, when he started representing himself, he would

14 file frivolous and repetitive motions...

15 MR. BARRETT: To which we'll object Judge. She's not qualified.

16 COURT: I'll sustain the characterization.

17 MR. NEGANGARD: Don't characterize...

18 MRS. BREWINGTON: Okay.

19 MR. NEGANGARD: ...what he did. Just explain specifically without

20 throwing any characterizations to what he did.

21 MRS. BREWINGTON: He filed several motions.

22 MR. NEGANGARD: After judges would rule on the motions, would he

23 then often file a motion that...

24 MRS. BREWINGTON: ...in response to that one...

25 MR. NEGANGARD: ...would address the same issue that was just ruled

1 upon?

2 MRS. BREWINGTON: Yes.

3 MR. NEGANGARD: He did that over and over?

4 MRS. BREWINGTON: I'm sorry, what?

5 MR. NEGANGARD: And he did that over and over?

6 MRS. BREWINGTON: Yes.

7 MR. NEGANGARD: Did this affect you – his filing of multiple motions?

8 MRS. BREWINGTON: Yes from a financial standpoint. Um, every time he

9 filed a motion, I would have to hire my lawyer to

10 answer to them. Um, also if we had to go to court

11 for these motions, I had to take off work.

12 MR. BARRETT: To which we'll object Judge. It's not relevant to

13 this proceeding.

14 MR. NEGANGARD: Your honor, I think it is if we could approach.

15 COURT: I'm going to overrule that objection. You can go

16 ahead.

17 MR. NEGANGARD: And during this period of time, was he employed?

18 MRS. BREWINGTON: No.

19 MR. NEGANGARD: Where did he get the money to support himself?

20 MR. BARRETT: To which we'll object. It calls for speculation your

21 honor.

22 MR. NEGANGARD: Did he, during the course, I'll withdraw the

23 question.

24 COURT: Thank you.

25 MR. NEGANGARD: During the course of the dissolution, did he indicate

1 where he was getting money to support himself?

2 MRS. BREWINGTON: Yes, his mother.

3 MR. NEGANGARD: Um, during the dissolution, did you ever attempt to

4 get counseling for the kids?

5 MRS. BREWINGTON: Yes, I did, from Dr. Malowski.

6 MR. NEGANGARD: Did Dan interfere with that?

7 MRS. BREWINGTON: Yes he did.

8 MR. NEGANGARD: Explain.

9 MRS. BREWINGTON: Mr. Malowski was a psychologist, um, Mary our

10 oldest daughter, I felt was showing some signs of,

11 because of the time they were being transferred back

12 and forth between Dan and I um, I just felt like she

13 needed a little bit of counseling to help her through

14 this. I went ahead and I contacted Dr. Malowski, set

15 up an appointment. He gave me paperwork.

16 MR. NEGANGARD: And how old was Mary at the time?

17 MRS. BREWINGTON: I believe she was about five (5).

18 MR. NEGANGARD: Okay.

19 MRS. BREWINGTON: About five (5) or six (6).

20 MR. NEGANGARD: Alright, go on and continue your answer. I'm sorry

21 to interrupt.

22 MR. BARRETT: Well Judge there's no question. We would object.

23 She's narrating again.

24 MR. NEGANGARD: I'll make it clear what the question was then your

25 honor.

1 COURT: Okay.

2 MR. NEGANGARD: Did Mr. Brewington attempt to interfere with the

3 counseling you were trying to get from Dr.

4 Malowski?

5 MRS. BREWINGTON: Yes he threatened him with a subpoena.

6 MR. BARRETT: To which we'll object as to relevance and again the

7 Motion in Limine your honor.

8 MR. NEGANGARD: Your honor may we approach?

9 COURT: Yell, if I can have counsel approach? I guess I'm

10 starting to give a little more weight to the objection.

11 I think we've established he's been difficult to deal

12 with. I mean we have several other witnesses and I

13 think you have a right to show that with this one. I

14 guess how much further are we going to go into the

15 dissolution?

16 MR. NEGANGARD: Well it's defenses position that it was the

17 Defendant's intent, his intent was just to express

18 himself politically and to protect his kids, um, I

19 mean, he goes, his whole reason, I'm doing this for

20 the kids, I'm fighting for the kids, all his blog sites,

21 Dr. Connor's a criminal because he took away my

22 kids. Judge Humphrey's an evil, vindictive man

23 because he took away my kids and this shows a

24 contrary intent. It shows that here's a doctor that

25 she's trying to get counseling for the kids and he's

1 interfering with that by sending a letter telling him
2 that he's going to be subpoenaed to show what the
3 offer of proof would be. If he's going to be
4 subpoenaed to appear to the point that Dr. Malowski
5 pulls out and says I can't.

6 COURT: Okay.

7 MR. BARRETT: (inaudible).

8 MR. NEGANGARD: There was a letter to that effect.

9 COURT: From him?

10 MR. NEGANGARD: Yes.

11 COURT: I still don't think that would be coming in though,
12 would it?

13 MR. BARRETT: (inaudible). I think we're getting (inaudible).

14 COURT: I hear you. I do, I think we're getting close. I'm
15 going to overrule the objection. This time she can
16 answer about the interference with this but I think if
17 you're telling me that there's going to be a letter
18 coming from the doctor, I think we've got to have
19 him here to say that, so I'll overrule.

20 MR. NEGANGARD: The Judge overruled the objection but I'm going to
21 ask a more specific question. Um, did um, Mr.
22 Brewington attempt to interfere with your attempt to
23 get counseling from Malowski?

24 MRS. BREWINGTON: Yes.

25 MR. NEGANGARD: And because of those efforts, did Dr. Malowski

1 refuse to treat your kids?

2 MRS. BREWINGTON: Yes.

3 MR. NEGANGARD: Were you able to get subsequent counseling through

4 another doctor?

5 MRS. BREWINGTON: I had tried.

6 MR. NEGANGARD: Did you get counseling through Dr. Dillon?

7 MRS. BREWINGTON: Yes.

8 MR. NEGANGARD: Were there attempts to interfere with that

9 counseling as well?

10 MRS. BREWINGTON: Yes.

11 MR. NEGANGARD: Is Dr. Dillon still treating your children?

12 MRS. BREWINGTON: I go to see him to help with the girls, yes.

13 MR. NEGANGARD: Okay, you go to see him.

14 MRS. BREWINGTON: Yes, for the girls, so that he can give me advice on

15 how to help them.

16 MR. NEGANGARD: Do you recall when this matter went to a final

17 hearing?

18 MRS. BREWINGTON: It was in late May, early June, 2009.

19 MR. NEGANGARD: And could you describe Dan Brewington's behavior

20 during the final hearing?

21 MRS. BREWINGTON: It was bizarre. He would yell out things. One time

22 he stood up and threw his papers and yelled, I

23 demand justice in this courtroom. Um, he was

24 laughing inappropriately.

25 MR. NEGANGARD: Okay, now um, did the Judge issue a final order in

1 that case?

2 MRS. BREWINGTON: Yes he did.

3 MR. NEGANGARD: I'm showing you a copy of what's been admitted as

4 State's Exhibit 140 and ask if you can identify that.

5 MRS. BREWINGTON: Yes.

6 MR. NEGANGARD: Is that the final order?

7 MRS. BREWINGTON: Yes.

8 MR. NEGANGARD: And was there, if I could have just a moment your

9 honor.

10 COURT: Yes.

11 MR. NEGANGARD: Um, I'm backing up just a second uh, based on Mr.

12 Brewington's behavior, was there extra security or

13 was there security provided during the provisional

14 orders hearing?

15 MRS. BREWINGTON: Yes, um, a Sheriff's deputy was, had to stand near

16 Dan the entire three (3) days.

17 MR. NEGANGARD: During the three (3) days of hearings, did Mr.

18 Brewington ever have to be threatened to be put,

19 threatened to be thrown in jail for contempt?

20 MRS. BREWINGTON: Yes.

21 MR. NEGANGARD: Now um, with regard to the care of the children, uh,

22 during the, there was testimony presented that

23 during the course of the marriage, there had been

24 seventy-four (74) pediatrician visits. Is that correct?

25 MRS. BREWINGTON: Yes.

1 MR. NEGANGARD: And how many of those had you attended?

2 MRS. BREWINGTON: I believe it was like seventy-one (71) or seventy-two
3 (72).

4 MR. NEGANGARD: Okay and how many had he been to?

5 MRS. BREWINGTON: I think that it was like eight (8), I believe.

6 MR. NEGANGARD: Eight (8) or nine (9)?

7 MRS. BREWINGTON: Yell, I really can't remember. Do you want me to
8 find that?

9 MR. NEGANGARD: If you need to refer to State's Exhibit 140 to refresh
10 your recollection. Mrs. Brewington, do you need to
11 refer to that exhibit to refresh your recollection?

12 MRS. BREWINGTON: Yes.

13 MR. NEGANGARD: Okay.

14 MRS. BREWINGTON: Um, I had been at seventy one (71) of seventy four
15 (74) pediatrician visits and Dan had been to nine
16 (9).

17 MR. NEGANGARD: Was he working? Was that the reason that he
18 couldn't be at those pediatrician visits?

19 MRS. BREWINGTON: Dan had...

20 MR. BARRETT: To which we'll object Judge. Again we're going
21 far-field, #1, and #2...

22 MR. NEGANGARD: I'll withdraw the question. How many uh, did one
23 of your daughters have to have specialist
24 appointment, appointments with specialists,
25 doctors?

1 MRS. BREWINGTON: Both of them did.

2 MR. NEGANGARD: Both of them. What sort of medical conditions did
3 they have that they needed treatment for?

4 MRS. BREWINGTON: Mary had chronic ear infections and strept throat.
5 She had to have two (2) sets of ear tubes placed.
6 She had to have her adenoids taken out and her
7 tonsils and then when Audry was born she had a hip
8 click. Her head was enlarged. She had jaundice.
9 She had a large anterior fontanel. She had itosis so
10 she was more involved.

11 MR. NEGANGARD: Okay. During the course of the marriage, how
12 many specialists' appointments were there?

13 MRS. BREWINGTON: Twenty-one (21).

14 MR. NEGANGARD: And how many did you attend?

15 MRS. BREWINGTON: Twenty (20).

16 MR. NEGANGARD: And how many did he attend?

17 MRS. BREWINGTON: Two (2).

18 MR. NEGANGARD: Did Audrey ever have to have ear surgery?

19 MRS. BREWINGTON: Yes. She had to have a set of ear tubes placed.

20 MR. NEGANGARD: Um, when was that?

21 MRS. BREWINGTON: That was in December of 2006.

22 MR. NEGANGARD: Was he employed at the time?

23 MRS. BREWINGTON: No.

24 MR. NEGANGARD: Did any of the daughters have to attend speech
25 therapy sessions?

1 MRS. BREWINGTON: Yes. Mary did. She was delayed.

2 MR. NEGANGARD: Did Mr. Brewington attend any of those?

3 MRS. BREWINGTON: No.

4 MR. NEGANGARD: Did you attend all of those?

5 MRS. BREWINGTON: Yes.

6 MR. NEGANGARD: I believe um, the Court made a finding that there

7 were one hundred and forty-five (145) extra

8 curricular activities attended by the children during

9 the course of the marriage. Is that correct?

10 MRS. BREWINGTON: Yes.

11 MR. NEGANGARD: What were those...?

12 MRS. BREWINGTON: It was a hundred and thirty-five (135).

13 MR. NEGAGNARD: What were those extra curricular activities?

14 MRS. BREWINGTON: There was dance. There was tumbling, swimming

15 lessons, those kinds of things.

16 MR. NEGANGARD: It was one thirty-five (135)?

17 MRS. BREWINGTON: Yes.

18 MR. NEGANGARD: And how many of those were, did you attend?

19 MRS. BREWINGTON: A hundred and thirty-three (133).

20 MR. NEGANGARD: And how many did your husband attend?

21 MRS. BREWINGTON: He attended three (3) dance recitals.

22 MR. NEGANGARD: Um, after the final hearing, um, a final order was

23 issued. You have been reviewing that document.

24 What was Dan's reaction to the final order?

25 MRS. BREWINGTON: He was not happy at all.

1 MR. NEGANGARD: Um, did he file multiple motions after that final
2 order?
3 MRS. BREWINGTON: Yes.
4 MR. NEGANGARD: Did he appeal?
5 MRS. BREWINGTON: Yes.
6 MR. NEGANGARD: And what was the result of the appeal?
7 MRS. BREWINGTON: He took the three (3) steps in the appeals process.
8 The first one was where he appealed four (4) things
9 from the divorce decree. All of that was denied.
10 Then he had motioned the Appeals Court for a re-
11 hearing and that was denied and then he motioned
12 for a transfer through the Appeals Court and that
13 was denied and then he also went to the Supreme
14 Court which that was denied as well.
15 MR. NEGANGARD: The Indiana Supreme Court or the U.S.?
16 MRS. BREWINGTON: Indiana.
17 MR. NEGANGARD: I'm showing you what's been admitted as State's
18 Exhibit 209. Do you recognize that document?
19 MRS. BREWINGTON: Yes.
20 MR. NEGANGARD: And what is that?
21 MRS. BREWINGTON: I'm sorry, what?
22 MR. NEGANGARD: And what document is that?
23 MRS. BREWINGTON: This is the Court of Appeals – the ruling.
24 MR. NEGANGARD: Okay. Now pursuant to the final order, was he
25 ordered um, to get um, counseling, or was he

1 ordered to get a mental health evaluation?

2 MRS. BREWINGTON: Yes, in our final orders he was.

3 MR. NEGANGARD: Has he done that yet?

4 MRS. BREWINGTON: No.

5 MR. NEGANGARD: To date, has he done that?

6 MRS. BREWINGTON: No.

7 MR. NEGANGARD: What else from what he was ordered to do by the

8 Court, um, from that final order, has he not done?

9 MRS. BREWINGTON: Um...

10 MR. BARRETT: To which we'll object Judge, as to relevance again.

11 MR. NEGANGARD: Well I'll ask more specifically then your honor.

12 COURT: Thank you.

13 MR. NEGANGARD: Um, was he ordered to return a 357 handgun?

14 MRS. BREWINGTON: Yes.

15 MR. NEGANGARD: Has he returned that 357 handgun to you?

16 MRS. BREWINGTON: No.

17 MR. NEGANGARD: Uh, when did he purchase that? Are you aware

18 when he purchased that 357 handgun?

19 MRS. BREWINGTON: It was right around the time or after I filed.

20 MR. NEGANGARD: Um, after the final order, did you ever let the girls

21 try to communicate with their father over the

22 phone?

23 MRS. BREWINGTON: I had tried.

24 MR. NEGANGARD: How did that work?

25 MRS. BREWINGTON: Um, it didn't work out very well at all. Um, when

1 they would talk to him, he was mentioning things
2 about um, mean people trying to take daddy's kids
3 away, um, and most of the conversation would
4 come back to me where he was yelling at me, telling
5 me that he was going to sue me, that I was
6 participating in a crime. Um, he had told me that
7 things were not going to end well.
8 MR. NEGANGARD: He said things are not going to end well?
9 MRS. BREWINGTON: Yes. Um, he had and then....
10 MR. NEGANGARD: No more. Thank you. I just don't want you to state
11 anything that's not responsive to a question.
12 MRS. BREWINGTON: Okay.
13 MR. NEGANGARD: Um, how are the children doing today?
14 MRS. BREWINGTON: Great.
15 MR. NEGANGARD: Since the phone communication didn't work, have
16 you tried other ways for the children to
17 communicate with their father?
18 MRS. BREWINGTON: Yell, about every month and a half (1 ½) or two (2)
19 months, we send a package to him which includes
20 some of their school work, um, pictures that I've
21 taken, some of their school pictures, things that
22 they've drawn or made for their dad or their
23 grandma.
24 MR. NEGANGARD: And does he ever attempt to send anything to them?
25 MRS. BREWINGTON: Yes.

1 MR. NEGANGARD: What sort of things does he send to them?

2 MRS. BREWINGTON: Usually between him and his mom, they'll go ahead
3 and they'll send a package. Um, sometimes it's got
4 stuffed animals and stuff like that in it but um, I find
5 that some of the letters that he writes to the girls are
6 inappropriate, talking about how people are making
7 movies about daddy's situation, that there's mean,
8 bad people who he's trying to communicate with
9 them but the mean, bad people won't let him –
10 those type of things – things that they don't need to
11 hear.

12 MR. NEGANGARD: What do you tell your children with regard to their
13 father?

14 MRS. BREWINGTON: Um, when they ask about him, I tell them that daddy
15 has some things that he needs to work on and when
16 he gets done working on those things, then you guys
17 can go ahead and start seeing him again.

18 MR. NEGANGARD: Can you identify the person that you have been
19 referring to during the course of these proceedings?

20 MRS. BREWINGTON: Yes.

21 MR. NEGANGARD: As Dan Brewington, can you identify him to the
22 Court and the jury?

23 MRS. BREWINGTON: He's sitting right over there.

24 MR. NEGANGARD: What is he wearing?

25 MRS. BREWINGTON: A black suit and a maroon tie, striped.

STATE'S WITNESS – MELISSA BREWINGTON - CROSS

1 MR. NEGANGARD: Let the Court reflect that the witness has identified
2 the Defendant, Mr. Brewington.
3 COURT: The record shall reflect.
4 MR. NEGANGARD: No further questions your honor.
5 COURT: Mr. Barrett?
6 MR. BARRETT: Thank you, your honor. Mrs. Brewington is it your
7 contention from your testimony that Mr.
8 Brewington never did anything around the house of
9 a constructive nature?
10 MRS. BREWINGTON: I would say probably only about ten percent (10%)
11 of the time.
12 MR. BARRETT: So the marriage was bad.
13 MRS. BREWINGTON: Yes.
14 MR. BARRETT: Was he a bad father?
15 MRS. BREWINGTON: Um, he, not all the time, no.
16 MR. BARRETT: Did he love his girls?
17 MRS. BREWINGTON: It's hard for me to say right now given the fact that
18 he was ordered to have a psychological evaluation
19 and didn't even ask for Court approval until seven
20 (7) months after our orders came out...
21 MR. BARRETT: I understand that...
22 MRS. BREWINGTON: ...and had done nothing to help the situation along
23 to see his kids. I'm very concerned about that. I
24 don't know.
25 MR. BARRETT: I understand that.

1 MRS. BREWINGTON: And I think it's a shame because our girls are great.

2 COURT: Hold on. Wait for a question.

3 MRS. BREWINGTON: Okay.

4 MR. BARRETT: Do you know who made the report in this case to

5 the law enforcement?

6 MRS. BREWINGTON: I'm sorry I can't hear.

7 MR. BARRETT: Do you know who reported this and asked that this

8 be investigated?

9 MRS. BREWINGTON: No, I do not. The only thing that I know is when

10 Sheriff Kreinhop came up to um, talk to me about

11 the situation through Dan's internet stuff, I believe

12 that he has revealed that Angela had brought it to

13 somebody's attention.

14 MR. BARRETT: And Angela is your attorney.

15 MRS. BREWINGTON: Yes.

16 MR. BARRETT: And there in I think its State's 140, in the divorce

17 decree there was substantial attorney's fees ordered.

18 MRS. BREWINGTON: Yes.

19 MR. BARRETT: To your attorney.

20 MRS. BREWINGTON: Yes.

21 MR. BARRETT: And those haven't been paid.

22 MRS. BREWINGTON: No, they have not.

23 MR. BARRETT: And Mr. Brewington was ordered to pay them.

24 MRS. BREWINGTON: Yes.

25 MR. BARRETT: And he hasn't paid them.

1 MRS. BREWINGTON: No, he has not.

2 MR. BARRETT: Um, did Dan ever construct anything around the
3 house?

4 MRS. BREWINGTON: Um...

5 MR. BARRETT: Patio?

6 MRS. BREWINGTON: It was a family effort. What Dan did a lot of the
7 times, he walked around. He didn't do very much.
8 He wasn't a big part of that.

9 MR. BARRETT: And how long were you married to him?

10 MRS. BREWINGTON: Um from August of '02 and then our divorce was
11 finalized in August of '09. So seven (7) years total
12 but two (2) of those years were the divorce process.

13 MR. BARRETT: So it's your testimony that none of that was, there
14 were no good times?

15 MRS. BREWINGTON: At the beginning, um, when I first met him it was
16 fun but as we gained responsibilities whether it was
17 with the house or our children or animals, he
18 couldn't...

19 MR. BARRETT: ...take responsibility...

20 MRS. BREWINGTON: ...either he couldn't function or he chose not to. I
21 still don't know what it is.

22 MR. BARRETT: Does it matter?

23 MRS. BREWINGTON: Um, I think that with the help of a mental health
24 evaluation, no it probably doesn't matter at this
25 point but I think that a mental health evaluation

1 would be able to identify if this is something of a
2 psychological disturbance or if this is like a defiant
3 disorder, it it's ADD, we're not, I don't know which
4 puts him at, I think, higher possibility to hurt me,
5 hurt himself, hurt our children, not knowing what
6 exactly is going on with him.

7 MR. BARRETT: Thank you. During the course of your marriage,
8 where did you live?

9 MRS. BREWINGTON: Um, we lived out in Milan, Indiana.

10 MR. BARRETT: In whose home?

11 MRS. BREWINGTON: It was Dan's family's farm.

12 MR. BARRETT: So there were no expenses.

13 MRS. BREWINGTON: Um...

14 MR. BARRETT: Did you pay rent or utilities?

15 MRS. BREWINGTON: There were, I mean, there were times that I paid for
16 things to help reconstruct the house. I worked a lot
17 on the house.

18 MR. BARRETT: Did you pay monthly rent?

19 MRS. BREWINGTON: No, we did not.

20 MR. BARRETT: Was there, did you pay utility bills?

21 MRS. BREWINGTON: No, but the work that I did on the house.

22 MR. BARRETT: I understand that you did work on the house.

23 MRS. BREWINGTON: Okay.

24 MR. BARRETT: During the course of the marriage, were you, I
25 understood you became a nurse during the course of

1 the marriage. Is that correct?

2 MRS. BREWINGTON: No, it was before I was married.

3 MR. BARRETT: Okay.

4 MRS. BREWINGTON: In 2001 I became a nurse.

5 MR. BARRETT: When did you generally work?

6 MRS. BREWINGTON: Um, I worked three (3), my schedule changed kind
7 of throughout the course of the marriage. At the
8 beginning I was working three (3) night shifts a
9 week, um, and then when we had children, it
10 became a, it was a sixty hour, it was two (2) days
11 one week, three (3) the next where I was working
12 11:00 a.m. to 11:00 p.m.

13 MR. BARRETT: And the children were in daycare then?

14 MRS. BREWINGTON: Um, yes.

15 MR. BARRETT: From 11:00 a.m. to 11:00 p.m.?

16 MRS. BREWINGTON: No, I would drop them off in the morning and Dan
17 would pick them up at the very latest time possible
18 from Little Red Schoolhouse.

19 MR. BARRETT: Always.

20 MRS. BREWINGTON: Which was about 5:00 on the days that I worked. I
21 mean I only worked two (2) days one week and
22 three (3) the next when I was working my 11 to 11
23 shift.

24 MR. BARRETT: But he would pick them up at 5:00, so that means he
25 would have them six (6) hours while you were at

1 work?

2 MRS. BREWINGTON: Because he had to pick them up.

3 MR. BARRETT: Then toward the end of your divorce, later on in

4 your divorce, I'm sorry, toward the end of your

5 marriage or later on in your marriage?

6 MRS. BREWINGTON: I'm sorry, I can't hear you.

7 MR. BARRETT: Later on in your marriage, what hours would you

8 work?

9 MRS. BREWINGTON: Um, let's see here, at that time, I'm trying to think,

10 um, I believe it was still 11 to 11.

11 MR. BARRETT: Okay. And what about the child care arrangements

12 toward the end of your, the time that you all were

13 living together?

14 MRS. BREWINGTON: Just because he picked them up didn't mean that he

15 really took care of them.

16 MR. BARRETT: Can we uh, can the Court direct the witness to

17 answer the question Judge?

18 COURT: Will you ask the question again?

19 MR. BARRETT: At the end of your marriage, toward the end of your

20 marriage, when you were living together...

21 MRS. BREWINGTON: ...okay so in December of 2006...

22 MR. BARRETT: ...did they go to daycare?

23 MRS. BREWINGTON: I was working 11:00 a.m. to 11:00 p.m.

24 MR. BARRETT: Okay and how long would the children be at

25 daycare? Would it be everyday?

1 MRS. BREWINGTON: No.

2 MR. BARRETT: That you were working?

3 MRS. BREWINGTON: The minimum amount of time was three (3) days
4 per week. So on my off days I would keep them
5 with me. On the days that I worked, I would drop
6 them off at daycare before I went into work at 11:00
7 and Dan would pick them up at the very latest time
8 possible.

9 MR. BARRETT: Which was?

10 MRS. BREWINGTON: About 5:00, 5:30.

11 MR. BARRETT: Okay so there as again, six (6) hours.

12 MRS. BREWINGTON: Yes.

13 MR. BARRETT: Thank you. If I could have just a moment Judge?
14 You sent Dan letters; I think you said that, right?
15 Telling him about the children or give him updates
16 on the kids.

17 MRS. BREWINGTON: Every single time we did switch over, I did that.

18 MR. BARRETT: But I mean even recently.

19 MRS. BREWINGTON: Yes.

20 MR. BARRETT: And um, the girls still ask about him. They care
21 about him.

22 MRS. BREWINGTON: Yes they do.

23 MR. BARRETT: Um, and there's no crime alleged against you in this
24 case, is there?

25 MRS. BREWINGTON: Um, not at this point, no.

STATE'S WITNESS – MELISSA BREWINGTON - REDIRECT

1 MR. BARRETT: Nothing further Judge.

2 COURT: Mr. Negangard?

3 MR. NEGANGARD: Just one question, your honor. Where do you reside

4 at this point?

5 MRS. BREWINGTON: Up in Cincinnati, Ohio.

6 MR. NEGANGARD: Nothing further.

7 COURT: Mr. Barrett?

8 MR. BARRETT: Can I ask an omitted question, Judge?

9 COURT: You may.

10 MR. BARRETT: Once the divorce was filed and you separated...

11 MRS. BREWINGTON: Did you say filed or final? I'm sorry I'm having a

12 hard time hearing you.

13 MR. BARRETT: Once the divorce was filed...

14 MRS. BREWINGTON: Okay.

15 MR. BARRETT: ...and you were separated...

16 MRS. BREWINGTON: Yes.

17 MR. BARRETT: Who cared for the children?

18 MRS. BREWINGTON: Who?

19 MR. BARRETT: Who cared for the children when you were at work?

20 MRS. BREWINGTON: Um, well up until our provisional hearing they went

21 to daycare just as they had before I filed.

22 MR. BARRETT: And after the provisional hearing?

23 MRS. BREWINGTON: After the provisional hearing, that is when Dan

24 changed his story and said that he was going to be a

25 stay at home dad and that he wanted to go ahead and

1 exercise his parenting time at that time.

2 MR. BARRETT: So he had them?

3 MRS. BREWINGTON: Yes.

4 MR. BARRETT: Was the answer. Then the final hearing was in May
5 or late May, as I understand the testimony, was a
6 couple three (3) days....

7 MRS. BREWINGTON: Yes.

8 MR. BARRETT: ...long. But it was in May, late May or June, early
9 June of 2009?

10 MRS. BREWINGTON: Yes.

11 MR. BARRETT: And from that period until the divorce was final, I
12 believe the final order was issued August the 17th,
13 2009, so two (2), two and a half (2 ½) months,
14 period of time, who cared for the children while you
15 were at work?

16 MRS. BREWINGTON: The order had stated that he should take care of the
17 girls while I was at work so he was taking care of
18 them every Wednesday, every Friday, every third
19 Monday and equal weekend time.

20 MR. BARRETT: So until the divorce decree was final, that two and a
21 half (2 ½) months or whatever he was caring for the
22 children while you were at work?

23 COURT: You're saying two and a half months (2 1/2). I
24 think it's more like two (2) years?

25 MR. BARRETT: No, no Judge, I'm sorry. I'm talking about the

1 period of time, the period of time from your final
2 hearing until the Judge issued his order.

3 COURT: Oh, I'm sorry. I didn't mean to interrupt.

4 MRS. BREWINGTON: Oh, okay, yes. He cared for the girls on the days
5 that I worked which I had a set schedule.

6 MR. BARRETT: And were the children injured in any way, hurt?

7 MRS. BREWINGTON: Well Mary was, let me back up. Mary was at Little
8 Red Schoolhouse during that time?

9 MR. BARRETT: In school?

10 MRS. BREWINGTON: Yes.

11 MR. BARRETT: Part of the time?

12 MRS. BREWINGTON: Yes.

13 MR. BARRETT: And what, if you recall, what grade, what level of
14 school?

15 MRS. BREWINGTON: It was like I think preschool.

16 MR. BARRETT: Preschool?

17 MRS. BREWINGTON: Mm hmm.

18 MR. BARRETT: So half a day, a couple of hours, what?

19 MRS. BREWINGTON: Uh, yell, I think it was just half a day, like until
20 noon, I think it was 8:00 to noon or something like
21 that.

22 MR. BARRETT: Okay.

23 MRS. BREWINGTON: If I'm right.

24 MR. BARRETT: And any problems as far as injuries or untreated
25 conditions with the girls while he was watching

1 them in that period of time when Dan was watching
2 them during that period of time?
3 MRS. BREWINGTON: No injuries but definitely concern about what was
4 being done during that time.
5 MR. BARRETT: Okay, but they weren't harmed. Physically at least
6 as far as you know?
7 MRS. BREWINGTON: No, not physically harmed but very well could have
8 been.
9 MR. BARRETT: Well they could be anytime, couldn't they?
10 MRS. BREWINGTON: Well when you're letting a four (4) year old shoot
11 guns and um, yes, absolutely.
12 MR. BARRETT: They could be hurt anytime, couldn't they?
13 MRS. BREWINGTON: He put them more at risk than should have been.
14 MR. BARRETT: You have a great deal of animosity towards your ex-
15 husband, don't you?
16 MRS. BREWINGTON: I wouldn't say animosity - concern.
17 MR. BARRETT: Nothing further, your honor.
18 COURT: Mr. Negangard?
19 MR. NEGANGARD: Your honor, may we approach?
20 COURT: Okay.
21 MR. NEGANGARD: On direct (inaudible) on the line of questioning
22 (inaudible) the gun had been subjective as a result
23 of the Motion in Limine. I believe defense opened
24 the door by implying that everything was working
25 our well during the visitation so I think that's why I

STATE'S WITNESS – SHERIFF KREINHOP - DIRECT

1 would be permitted to inquire into that a little more.

2 MR. BARRETT: Her answer was not responsive to his questions and

3 my questions (inaudible).

4 COURT: I think it's a little too prejudicial at this point. I

5 don't think we need to go there. I'm going to

6 sustain any objection to those questions.

7 MR. NEGANGARD: That's why (inaudible) the Motion in Limine.

8 COURT: I understand. I appreciate you doing that.

9 MR. BARRETT: Thank you.

10 COURT: Are there any other questions Mr. Negangard?

11 MR. NEGANGARD: No your honor.

12 COURT: Does the jury have any questions of this witness?

13 Thank you. You may step down.

14 MRS. BREWINGTON: Okay.

15 MR. NEGANGARD: Your honor, the State would call Mike Kreinhop.

16 COURT: Do you swear or affirm under the penalties of

17 perjury that the testimony you are about to give is

18 the truth, the whole truth and nothing but the truth?

19 SHERIFF: I do.

20 COURT: Have a seat.

21 MR. NEGANGARD: If I can have just a moment your honor to get my

22 documents in order?

23 COURT: You may.

24 MR. NEGANGARD: Sheriff Kreinhop, would you please state your name

25 for the record please?