

1 Plaintiffs' exhibit 12, 13, 14, and 15 will now be entered
2 into evidence without objection. Thank you.

3 (Whereupon, a letter dated April 7, 2010, from Mr.
4 Godwin to the Department of the Interior, having been
5 previously marked, was admitted into evidence as
6 Plaintiffs' exhibit number 12, a letter dated May 11, 2010,
7 from Mr. Godwin to the Department of the Interior, having
8 been previously marked, was admitted into evidence as
9 Plaintiffs' exhibit number 13, notice of intervention,
10 having been previously marked, was admitted into evidence
11 as Plaintiffs' exhibit number 14, and a letter dated
12 November 6, 2009, to Mr. Godwin from DSS, having been
13 previously marked was admitted into evidence as Plaintiffs'
14 exhibit number 15.)

15 Ms. Jones, are you ready to call your witness?

16 MS. JONES: I am, Your Honor.

17 I call my client, Dusten Brown.

18 DUSTEN BROWN,

19 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

20 THE HONORABLE MALPHRUS: Have a seat.

21 DIRECT EXAMINATION BY MS. JONES:

22 Q. Mr. Brown, can you spell your name for the record,
23 please?

24 A. My name is spelled D-U-S-T-E-N.

25 Q. And your -- what's your date of birth?

1 A. October 7th, 1981.

2 Q. You're 29 years old?

3 A. Yes, ma'am.

4 Q. How far did you go in school?

5 A. I graduated high school, 12th grade.

6 Q. And you're obviously in the military. What branch of
7 the armed services are you in?

8 A. I'm in the United States Army, currently right now
9 National Guard.

10 Q. And what is your rank?

11 A. An E-4, which is a specialist.

12 Q. When did you originally enlist?

13 A. I enlisted February 14th 2008.

14 Q. And what missions have you completed?

15 A. I have went to Iraq and I did a radar mission out
16 there. The whole time that I was out there was eleven-and-
17 a-half months. In that eleven-and-a-half months I did
18 Operation Iraqi Freedom and Oper -- excuse me, Operation
19 New Dawn.

20 Q. And I believe you have a bronze star on your lapel ---

21 A. Yes, ma'am, I do.

22 Q. --- for your part in those missions.

23 Prior to being deployed to Iraq, you were stationed in
24 Fort Sill, Oklahoma; is that correct?

25 A. That's correct.

1 Q. And how far away is Fort Sill from Barters --
2 Bartlesville, Oklahoma?

3 A. It's approximately four hours.

4 Q. How long have you known the birth mother, Christinna,
5 in this action?

6 A. Since the age of 16 is whenever I met her.

7 Q. And y'all were in high school together?

8 A. That's correct.

9 Q. And did you date then?

10 A. We dated then.

11 Q. And at some point did you become engaged?

12 A. Later on. Throughout our lives we did -- we got
13 engaged.

14 Q. Can you tell me when you became engaged?

15 A. It was in December of 2008.

16 Q. And you -- you proposed.

17 A. Yes, ma'am, I did.

18 Q. Can you tell me about that?

19 A. It was -- I was home on Christmas leave and I was over
20 visiting her. I decided that I was going to get engaged
21 with her because, you know, she was the love of my life at
22 that point in time and I was for certain that this was the
23 person I wanted to spend the rest of my life with.

24 I went and bought the ring, came back. Her best
25 friend was there at the time. And I told her best friend

1 about it, that I was going to do it. We both went in the
2 room and I got on one knee and proposed to her.

3 Q. And did she accept your proposal?

4 A. Yes, ma'am, she did.

5 Q. And she wore your ring?

6 A. Yes, ma'am.

7 Q. And prior to the engagement when you were dating and
8 during the engagement did she ever attend any family
9 holidays at your parents' house or with your family?

10 A. Easter and Thanksgiving. Thanksgiving of 2008 and if
11 I'm correct Easter of 2009.

12 Q. Did she come to your graduation from basic training?

13 A. Yes, ma'am, she did.

14 Q. Did she go out to eat with you and your parents
15 afterward?

16 A. Yes, ma'am, we did.

17 Q. Did she spend time with you and your other daughter,
18 Kelsey?

19 A. Yes, ma'am, she did.

20 Q. Did you spend time with her and her children?

21 A. Yes, ma'am, I did.

22 Q. Can you explain to me -- explain to the Court, the
23 time you were engaged -- well tell me this. When did you
24 find out she was pregnant?

25 A. It was in January 2009. She called me up and told me

1 that -- that we were expecting a child.

2 Q. What was your reaction?

3 A. I was very happy.

4 Q. Why?

5 A. This is the person that I loved. I was wanting to
6 unite my family, my daughter with her kids, and, you know,
7 start this family. This is the person I want to spend my
8 life with.

9 Q. Did you at any time talk about getting -- well did you
10 have a date set when you were engaged? Did y'all talk
11 about a date of marriage?

12 A. We talked about it. I believe we talked about like
13 springtime or something like that, you know, would be good
14 weather for the families to be there.

15 Q. Did y'all talk about location of the wedding?

16 A. I'm not for certain the location wise. I think we
17 mentioned Woolaroc, which is located in Bartlesville,
18 Oklahoma, as just an idea.

19 Q. And at any point when you found out she was pregnant
20 did you discuss getting married earlier than you originally
21 planned?

22 A. Yes, ma'am .

23 Q. Can you tell me about that?

24 A. I wanted to get married before the child was born that
25 way the child was not born out of wedlock.

1 Q. Did you want the child to have your last name?

2 A. Yes, ma'am, I did.

3 Q. And what was Christinna's reaction to that?

4 A. Really nothing. You know, we just discussed it, you
5 know, to get married earlier.

6 Q. Did she seem agreeable to that?

7 A. I'm not really sure. I want to say, yes, but I kind
8 of want to say something different.

9 Q. Well did you get married sooner than later?

10 A. No, ma'am, we didn't.

11 Q. In fact at some point did she break off your
12 engagement?

13 A. Yes, ma'am.

14 Q. So you're in Fort Sill, which is a four-hour drive one
15 way from Bartlesville where Christinna was living; is that
16 correct?

17 A. Yes, ma'am.

18 Q. And can you tell me often that you and Christy -- this
19 was a situation during your dating life and your engaged
20 life; is that right?

21 A. That's correct.

22 Q. And how -- how often would you see one another?

23 A. As much as I can come home. During the holidays, like
24 Christmas holiday we get a 14-day pass. And -- which comes
25 out of our leave earnings that we acquired. I would come

1 home during Christmas, spend my 14 days and head back.

2 Being four hours away I was able to come home on the
3 weekends, but I didn't make the right amount of money, you
4 know, to be sufficient enough for me to come home, you
5 know, whenever I wanted to.

6 Q. Because how much -- how much -- I don't know how much
7 that gas money would cost, but I assume was a fair amount,
8 a fair distance.

9 A. It was a good distance, a fair amount.

10 Q. Would she sometimes try to see you on base?

11 A. No, ma'am.

12 Q. Did you talk very often with one another?

13 A. We talked on the phone, text messaged, Facebooked.

14 Q. Did you speak daily?

15 A. Pretty much daily we was on the phone with each other.

16 Q. Was there a point in time when the communication
17 between the two of you began to decrease?

18 A. It decreased after a while. I want to say around
19 April it started to go down.

20 Q. Are you talking about April of 2009 before you child
21 was born?

22 A. Yes, ma'am.

23 Q. Do you know -- can you -- can you explain to me the
24 circumstances if you know why that communication started to
25 decrease?

1 A. I really never got a straight answer on why the phones
2 had gone off, you know. At that point in time we did get
3 our mission down for Iraq so training was a must. And
4 whenever I got off work I was pretty tired and went home
5 and pretty much went straight to bed.

6 I tried text messaging her and stuff, you know, seeing
7 how her day went.

8 Q. Did you get a reply?

9 A. Sometimes.

10 Q. But you were saying in March -- or April, April of
11 2009 I think you said, that it began to decrease. Did you
12 call her and did she answer your phone calls?

13 A. Sometimes she answered. At some point it stopped
14 where I didn't get no answer from either text or phone
15 call.

16 Q. Did you become suspicious that she may be seeing
17 somebody else?

18 A. I did. And in the military that's very common.

19 Q. And as a result of your suspicion what did you do?

20 A. Well first I called my friends up to, you know, let's
21 go by and check, you know, see if there's any suspicious
22 cars, you know, if any of them seen her out, you know, how
23 things were going if they did see her.

24 Q. And what -- what were you told? What did you find
25 out?

1 A. It turned out most of them really never seen her out.
2 They didn't see her out and about. One of my friends did
3 state that he drove by and said that everything looked
4 normal.

5 Q. Okay. And then what did you do?

6 A. I was able to actually make my way home. I want to
7 say it was some time in May. I was able to come home and I
8 get in pretty late. It was probably about 9:00 in the
9 evening. And I went over to my friend's house because I
10 figured she'd probably be at work. I did send her a
11 message stating that I was home for the weekend. We had a
12 four-day pass and I wanted to see her. And I never got no
13 reply back on that. If I'm correct it was around like 2:00
14 in the morning. I was still at my friend's house. I get a
15 text message stating that she'd worked a 14-, 16-hour day
16 and she did not want to see anybody.

17 So I respected that. I was like, okay, you know.

18 Q. You were her fiance?

19 A. Correct.

20 Q. And it didn't -- how long had it been, if you recall,
21 since you saw her last?

22 A. It'd been a little bit. I want to say about a month,
23 month and a half, possibly ---

24 Q. Did you find out the ---

25 A. --- two months.

1 Q. I'm sorry. Go ahead.

2 A. Possibly two months.

3 Q. How did that make you feel?

4 A. I was pretty hurt about it, you know. That, you know,
5 I figured, you know, you hadn't seen me in so long that she
6 would want to see me, you know. I'd be one of the first
7 persons that she would want to see, you know, if I was in
8 town, you know.

9 Q. And so that was that evening. What happened the rest
10 of the weekend that you were at home on leave?

11 A. I left and I stayed over at my friends house that
12 night. Waited until the next morning. I guess about noon
13 time I called. No answer. Sent a text message stating see
14 what she was doing, if she was all right. I didn't get no
15 reply back. The rest of the weekend went by with no -- no
16 communication.

17 So I, you know, I went by. She wasn't there. So I --
18 I respected it her. After that I was like, well, I'll let
19 her contact me, you know. Maybe something happened, unless
20 she just didn't want to, you know, having any communication
21 or having any, you know, company So I -- I, you know,
22 respected her on that.

23 Somebody happened to come around. I was headed back
24 to Fort Sill because I always head back a day early that
25 way if there's anything I need to get done at Fort Sill

1 before the next court -- work day I was ready to go.

2 I get half-way home to Fort Sill and I get a phone
3 call or a text message stating that I needed to find
4 someone in Lawton, Oklahoma, to be with instead of being
5 with her.

6 Q. And that was from Christinna?

7 A. Yes, ma'am.

8 Q. Did you text back?

9 A. I text back wanting to know what was going on and what
10 happened. Was there anything that I did wrong, you know,
11 trying to get some sort of answer. And the only answer
12 that I got was that I needed to find somebody else to be
13 with.

14 Q. To this day do you have any idea why she suddenly grew
15 distant from you and broke off this engagement?

16 A. No, ma'am, I don't.

17 Q. Did you continue to try to call her, try to contact
18 her?

19 A. I did. I had tried text messaging her several days
20 after that. Tried calling a couple of times and I
21 continued to get nothing.

22 Q. And then the next time that you all spoke, do you
23 recall when that would have been?

24 A. I'd say around the first week of June, second week of
25 June, somewhere around there, wanting to know if I wanted

1 to be paying child support or give my rights away.

2 Q. Did you receive a phone call or a text message?

3 A. It was a text message.

4 Q. From Christinna?

5 A. Yes, ma'am.

6 Q. And did you respond back to that?

7 A. I responded back to it stating that I really didn't
8 know what to do. I didn't want to sign my rights away. It
9 was something that, you know, any parent wouldn't want to
10 do. It's a hard decision.

11 Q. Well let me ask you, did you have any problem paying
12 support for this child at that point in time?

13 A. At that point in time I have not paid anything.

14 Q. No, I said did you have a problem with paying if she'd
15 have -- if she'd needed money could you have -- would that
16 have been something that you would have denied her and not
17 wanted to pay?

18 A. Money was tight at that point in time but I had no
19 problem, you know. I lived in the barracks. I had a meal
20 card to, you know, eat at the Defac there on base. So, you
21 know, everything was there that I needed for anything and I
22 had no problem, you know, if -- if needed to be to pay
23 child support or anything.

24 Q. Mm-hmm.

25 A. Anything that she needed.

1 Q. Okay. In fact you said you wanted to get married
2 quicker so that ---

3 A. Yes, ma'am.

4 Q. If y'all had gotten married are you aware of what
5 benefits she would have been entitled to and your child
6 would have been entitled to by virtue of your service?

7 A. Yes, ma'am. If we would have gotten married my pay
8 would have got increased. She would have been able to come
9 live down there on post with me, though it would have been
10 some time before we would have been able to get a house on
11 post because it takes roughly about a year or more. She
12 would have been able to have the child there, have the
13 hospital. She would have been able to be seen by the
14 doctors there at the hospital for anything that she needed
15 too.

16 Q. And since she -- she would have been required to move,
17 I assume, would she have been working or would you have
18 been the only person working?

19 A. I'd have been the only person working until she
20 decided if she wanted to work or, you know, that's
21 something that we wanted to agree on.

22 Q. Okay. You said that she had asked you if you wanted
23 to sign your rights away?

24 A. Yes, ma'am.

25 Q. Why did you think she was asking you to do that?

1 A. Honestly I ---

2 Q. If you know.

3 A. Honestly I don't know. It was a big surprise to me
4 because, you know, the whole split, breakup, was a shock,
5 you know. We had a really good relationship.

6 Q. And at some point in this June text conversation did
7 you -- did you tell her that you would agree ---

8 A. I want to say ---

9 Q. --- to sign?

10 A. --- it was a couple of days later that, you know, I
11 believe she sent me another text message back. I'm not for
12 certain, but I replied back in a text message to her
13 stating that I would sign my rights to her.

14 Q. Why did you do that?

15 A. In my mind I thought that if I would do that I'd be
16 able to give her time to think about this and possibly
17 maybe we would get back together and continue what we had
18 started.

19 Q. Did you have any idea that she was asking you that
20 because she intended to give this child up -- your child up
21 for adoption?

22 A. I had no idea that giving the child up for adoption.
23 I had nothing in the back of my mind thinking that even.

24 Q. If you had known something that you would have agreed
25 with?

1 A. If I knew that that's -- the adoption was going on, I
2 would have said no, I wanted to keep my rights. And I
3 would have fought then. I would have started right then
4 and there. I would have went to military JAG and got a
5 military lawyer and got started in the process of what I
6 needed to do.

7 Q. What did you think -- well what did you think the
8 situation of your child was as far as who was going to be
9 caring for the child under this scenario?

10 A. I -- I figured that she would be the one that would
11 have the child and the child would be with her and she
12 would be the one to be taking care of her.

13 Q. And what was your ultimate hope as far as an outcome?
14 Did you want -- you wanted to get back together?

15 A. I wanted to get back together very badly.

16 Q. And -- can you describe Christinna's personality just
17 a little?

18 A. She's very -- she was very independent, very loving
19 person, excellent mother, great friend. She was my perfect
20 idea of the person I wanted to spend the rest of my life
21 with.

22 Q. Then after your child was born -- you knew your
23 child's approximate date of birth; is that right?

24 A. When we were still engaged she told me that the child
25 would be born the first week of September. So I -- I knew

1 that the child would be born either the first week or
2 second week of December [sic].

3 Q. And where were you physically during that time period?
4 What were you doing?

5 A. Physically I was in Fort Sill, Oklahoma. At that
6 point in time we were training for the mission for Iraq to
7 go down there. We had to make sure that we knew exactly
8 what we were doing on this piece of equipment because it
9 was the sole purpose of being out in Iraq. Radar is very
10 important. We need to know where our soldiers are at,
11 where the enemy's firing from. And it's very important
12 that we got this training.

13 Q. Were you -- you -- in the middle of this training were
14 you allowed to leave the base?

15 A. No, I wasn't.

16 Q. Oh, I'm sorry. I didn't catch this earlier. You said
17 the first or second -- you said December or did you say
18 September?

19 A. September.

20 Q. Okay. After your child was born did you make any
21 attempts to try to visit with Christinna or visit your
22 child?

23 A. No, I didn't. I contacted friends and family to see
24 if maybe they'd seen her around or about because I had made
25 phone calls and text messages that never got replied from

1 or back to me. I didn't know if maybe she had possibly
2 changed her number or moved away. I did not know at all.

3 Q. I'm not talking about this time period that the child
4 was born, but after the birth did you ever go to
5 Christinna's house? Did you ever come back from Fort Sill
6 and go to her house?

7 A. I came back at one point in time, went by the house
8 and I knocked at the door. I heard voices inside, but no
9 answer was made.

10 Q. And -- and -- can you tell me approximately what time
11 frame we're in now?

12 A. I want to say around August, first week of August
13 possibly.

14 Q. Okay. Now I asked you about after the child was born
15 though. The child was born in September.

16 A. Oh, after. I want to say that I did, but I'm not too
17 sure on that. I did make my way home. At that point in
18 time I had quite a bit of things going on in my mind at
19 that time.

20 Q. But -- okay. So my question to you, you don't know
21 whether -- you don't remember whether you went by her house
22 after September ---

23 A. No, ma'am, I don't.

24 Q. Between September and December you don't have any
25 recollection of whether or not you went by the house?

1 A. No, ma'am.

2 Q. When you and Christinna were speaking a little bit
3 more, I know that it gradually decreased, she had alleged
4 that you were going out in bars with your fellow, I guess,
5 military and did -- tell me about that. Did you ever not
6 answer one of her phone calls?

7 A. There's a possibility that I might not have answered
8 it, but whenever I got a hold of my phone to see if I
9 missed any calls, I did contact back or through a text
10 message back to her.

11 Being in the military we have to bond with each other
12 because we don't know where we're going to get deployed to
13 and we want to know who this person is, where they come
14 from, how they react to things. This is the person that's
15 going to be watching your back overseas, so it's -- it's
16 very important that we do create a bond.

17 And the way we bond is going out and hanging out.
18 There were occasions that I would be out -- out at the bar,
19 drinking with my buddies, joking and having a good time,
20 possibly sitting in a barracks room, laughing it up, you
21 know, having a couple of beers, and just enjoying each
22 other, you know, talking.

23 Q. Well my question was, was there ever times that
24 Christinna called you that you didn't return her call that
25 night or -- that -- well that -- you may not remember, but

1 I mean, can you tell me what your regular practice was
2 then?

3 A. If she called, I answered. If I -- if I didn't answer
4 the phone I called her back or sent her a text message. So
5 I tried not to ignore her as much as I could.

6 Q. You were eventually served with some pleadings in this
7 action; is that correct?

8 A. Yes, ma'am.

9 Q. And you got a phone call, somebody told you to meet
10 them somewhere at somebody's office?

11 A. I got -- I got a phone call. It was -- I'm not
12 exactly sure on the date. It was between January 6th
13 through January 10th that I got a phone call from Washington
14 County Sheriff's Department stating that I needed to come
15 down and sign some papers signing my rights over to
16 Christinna.

17 Q. And did you follow those instructions?

18 A. I told the person on the phone that I could not come
19 in -- into town to do that because I was fenced in. We
20 were getting ready to deploy within six days. So I -- I
21 could not leave at all. It was very important that I
22 stayed there on base.

23 Q. And so how did you come to accept service of the
24 pleadings?

25 A. They stated that they would have somebody in the town

1 of Lawton, which is very -- it's right next to Fort Sill.
2 As soon as you go outside Fort Sill's gates you're in
3 Lawton. They said that they would have somebody there
4 close by the mall for me to sign my rights -- sign the
5 papers for.

6 Q. Let me show you what's been marked Defendant's 11.
7 You recognize this as an acceptance of service? It's
8 entitled an Acceptance of Service and Answer of the
9 Defendant and has attached to it a proof of service. Do
10 you recognize that as what you signed as a result of that?

11 A. Yes, ma'am.

12 Q. And this document, ---

13 MS. JONES: Your Honor, I'd move, it's my
14 understanding this is by consent, to admit Defendant's 11.

15 THE HONORABLE MALPHRUS: Defendant's 11 is
16 admitted without objection; is that correct?

17 MR. GODWIN: No objection.

18 MR. LOWNDES: No objection.

19 MS. NIMMO: No objection.

20 (Whereupon, an Acceptance of Service and Answer by
21 Defendant, having been previously marked, was admitted into
22 evidence as Defendant's exhibit number 11.)

23 Q. And according to that Acceptance of Service -- well
24 first of all, you were served the summons and complaint
25 that day?

1 A. Yes, ma'am.

2 Q. And then this is the instrument that purports to
3 consent to terminating your parental rights?

4 A. Yes, ma'am.

5 Q. And to the adoption? Is that right? Is that your
6 understanding?

7 A. To my understanding, yes. After I signed the paper is
8 when I found out it was an adoption. And I'm not ---

9 Q. Okay. Tell me about that. Tell the Court about that.

10 A. I looked over the papers and I don't practice law so I
11 don't know exactly for sure. What I should have done is
12 had a military lawyer with me whenever I went to sign it.
13 Didn't think that I needed it because I figured it was me
14 signing my rights over.

15 So I went, signed the paper, handed it back to the
16 gentleman. He was going to hand me the copy, my copy, and
17 once he got the papers he stated that she had signed her
18 rights over for adoption to someone else.

19 I then tried to grab the paper up. He told me that I
20 could not grab that because it could be where I would be
21 going to jail if I was to do any harm to the paper.

22 Q. Okay. He took it?

23 A. He took it.

24 Q. What did you do as a result of that?

25 A. I left there, went with my parents, because I was with

1 them at the time, discussed with them exactly what we
2 needed to do and what was going on because I had six days
3 to deploy for Iraq. My mind was already spent on that.
4 Now I've got more stress coming on me about this.

5 The guy at the place told me that what I needed to do
6 was to get in contact with a lawyer. Therefore, the next
7 day I went with military lawyers, got in contact with them,
8 find out what I needed to do. They told me that I needed
9 to get in contact with a lawyer in Bartlesville.

10 Therefore, my parents contacted Remona Colson, got her
11 involved in the case. And we got the paperwork stopped to
12 my understanding.

13 Q. And when you -- Remona Cole?

14 A. Colson.

15 Q. Col -- Colson. And that was your attorney in Oklahoma
16 that you hired?

17 A. Yes, ma'am.

18 Q. And do you recall how much you had to pay to retain
19 her?

20 A. I'm not exactly sure. But I do know that it was 11 or
21 \$10,778, what I do have in receipts of how much -- what I
22 paid her.

23 Q. To retain her to fight for custody of your child?

24 A. Yes, ma'am.

25 Q. I'm going to show you some receipts and ask you if

1 those are the receipts that you kept from that attorney in
2 Oklahoma and the payments you made to her?

3 A. Yes, ma'am.

4 Q. And are there some other payments outside of these
5 receipts that you recall making?

6 A. Yes, ma'am.

7 Q. But you can't remember -- or don't have those
8 receipts?

9 A. I don't have those receipts.

10 MS. JONES: And it's my understanding this is
11 also without objection. I'd move to admit these as
12 Defendant's 14.

13 THE HONORABLE MALPHRUS: Defendant's 14 entered
14 without objection.

15 MR. GODWIN: Without objection.

16 MR. LOWNDES: Without objection.

17 MS. NIMMO: No objection.

18 (Whereupon, receipts for legal fees, having been
19 previously marked, were admitted into evidence as
20 Defendant's exhibit number 14.)

21 Q. Back to the acceptance of service, just briefly, when
22 you signed this, I'm referring to Defendant's 11, other
23 than the process server that was there to serve you, there
24 was no other witness to your signature, was there?

25 A. My father was with me ---

- 1 Q. Your father was a witness?
- 2 A. --- whenever I was inside signing the papers.
- 3 Q. Was he in the same room?
- 4 A. He was in the same room.
- 5 Q. Okay. But he didn't witness this piece of paper?
- 6 A. He was at the door whenever I was signing.
- 7 Q. Okay. And was there a notary?
- 8 A. As far as I know there was a notary there.
- 9 Q. There was a notary there?
- 10 A. As far as I know. I could be wrong.
- 11 Q. Well do you have any idea -- was there another
- 12 individual in the room with you other than you said your
- 13 dad was ---
- 14 A. No, it was just -- it was just my dad and the man that
- 15 was there. There was another office on the other side of
- 16 -- of his office I do believe from where his office was.
- 17 There was ---
- 18 Q. Nobody else -- I'm sorry. Go ahead.
- 19 A. That there was another lady in there.
- 20 Q. Nobody else witnessed your signature? There's no
- 21 witnesses on this?
- 22 A. No, no, ma'am.
- 23 Q. And you said you hired the Oklahoma attorney, how many
- 24 days after this?
- 25 A. It was within two or three days after that because I

1 was going to contact the military lawyers.

2 Q. Then you -- you initiated this action in Oklahoma.

3 What was the ultimate disposition -- how long did you fight

4 this action in Oklahoma; do you recall? I know you were

5 deployed to Iraq I guess within days?

6 A. Yes, ma'am. After I signed the paper I deployed for

7 Iraq six days later and while I was deployed my father was

8 power of attorney over me so whatever decisions needed to

9 be in the best interest -- the best interest for me, my

10 father made for me.

11 Q. And if you had somehow won custody of your daughter

12 through that action were you requesting that your parents

13 take the child?

14 A. Yes, ma'am, I was.

15 Q. At that time did you and your parents prepare a room

16 for this child?

17 A. Yes, ma'am, I did -- or they did.

18 Q. Let me show you what's already been premarked

19 Defendant's 9. Are these pictures of the bedroom for Baby

20 Girl?

21 A. Yes, ma'am.

22 MS. JONES: Your Honor, I'd move to admit these

23 as Defendant's 9.

24 MR. GODWIN: Without objection.

25 THE HONORABLE MALPHRUS: Defendant's 9 without

1 objection.

2 (Whereupon, pictures of the bedroom, having been
3 previously marked, were admitted into evidence as
4 Defendant's exhibit number 9.)

5 Q. Did y'all -- was there -- the furniture in that room,
6 what did you purchase for that room?

7 A. We had purchased a crib, a changing table, a shelf.
8 There were clothes bought for Baby Girl. Everything that a
9 child would need at that age at that time was bought and
10 even planned for, you know, later age.

11 Q. Did y'all buy those specifically for Baby Girl or were
12 those left over from Kelsey or other daughters?

13 A. Those were bought for Baby Girl.

14 Q. The bedding, was that purchased new?

15 A. Yes, ma'am.

16 Q. I'm going to show you Defendant's 8 and ask you, are
17 those photographs of your home that you share with your
18 parents?

19 A. Yes, ma'am.

20 MS. JONES: Your Honor, I would move to admit
21 these as Defendant's 8 and I believe it's without
22 objection.

23 MR. GODWIN: Without objection.

24 THE HONORABLE MALPHRUS: Defendant's 8 without
25 objection.

1 (Whereupon, photographs of the Defendant's home,
2 having been previously marked, were admitted into evidence
3 as Defendant's exhibit number 8.)

4 Q. Do you believe that you are capable of providing this
5 child with love and happiness?

6 A. Yes, ma'am, I do.

7 Q. Do you believe that you are capable of providing care
8 to her and parenting her?

9 A. Yes, ma'am, I do.

10 Q. You already have a daughter?

11 A. Yes, ma'am, I do.

12 Q. Tell me about that relationship.

13 A. Me and Kelsey have a very good relation. She is
14 eight-years old. She's in third grade. She adores
15 everything about me. She thinks that I am a police officer
16 of the world because I defend my Nation and my Country.

17 We do things together. I involve her in her heritage
18 of Cherokee. Right now both of us are going to learn how
19 to speak the native language. That way, you know, it helps
20 -- helps her out to know where she's from.

21 (Microphone feedback sounded in courtroom.)

22 MS. JONES: It does that every now and then in
23 here.

24 Q. I'm going to show you Defendant's 10. And I believe
25 these are photographs of you and Kelsey when you returned

1 home from Iraq; is that correct?

2 A. That is correct. These are pictures of when we came
3 back after eleven-and-a-half months of being in Iraq.
4 These are guys that I served with out there. My daughter's
5 by my side. This is a picture of me and my mom and dad.
6 The last picture is a picture of my eight-year-old
7 daughter, my two nieces, and my nephew.

8 Q. Thank you.

9 MS. JONES: Move to enter these as Defendant's
10 10.

11 THE HONORABLE MALPHRUS: Defendant's 10 without
12 objection?

13 MR. GODWIN: No objection.

14 MR. LOWNDES: No objection.

15 (Whereupon, photographs taken after Defendant's return
16 from Iraq, having been previously marked, were admitted
17 into evidence as Defendant's exhibit number 10.)

18 Q. You visit with Kelsey.

19 A. Yes, ma'am, I do.

20 Q. You have cus -- what's your custodial arrangement with
21 your ex-wife?

22 A. She has full custody of my child. I get every-other
23 weekend with my child. Even though it's on documents
24 stating that I have her every-other weekend, my ex-wife has
25 told me whenever I want Kelsey to come by and I can take

1 her to go shopping, out. She can stay the night whenever
2 she wants to. That was whenever I was able to come home.

3 Now, that I'm in National Guard I have more time to
4 actually spend with my daughter and reunite. You know,
5 three-and-a-half years being active duty it was very hard
6 to come home.

7 Communication with me and my daughter, we definitely
8 communicate a lot. If she's having a hard day she calls me
9 and we work it out. Usually it's her calling and she's
10 bawling and crying on the phone, but by the end of that
11 phone conversation it's all smiles.

12 Q. Did y'all speak whenever you were in Iraq?

13 A. Very much. As much as I was able to get in contact
14 with her. Being over in Iraq, say it's around 2:00 in the
15 afternoon in the United States, over there it's morning
16 time; it's very late, dark. So I -- whenever I got off,
17 which I got off at midnight over there, I came home, got
18 something to eat, took a shower, and went over and got on
19 the phone whenever our phone was actually properly working.
20 We talked on the phone for an hour, hour-and-a-half,
21 sometimes maybe 45 minutes at the minimum.

22 If she was in trouble her mother would let me know
23 that she got in trouble. And I would ground her. Being on
24 the other side of the world I would still ground my
25 daughter and continue discipline with her.

1 But we had -- we had conversations quite a bit when I
2 was over there.

3 Q. And was there a time while you were in the service
4 that you arranged for -- I think you were at -- did you
5 ever come home and surprise Kelsey?

6 A. I came home on my mid-tour. It was some time in
7 August I do believe. It might have been late July. But I
8 came home the Saturday. I got in contact with my ex-wife,
9 told her that I was home, that I wanted to surprise Kelsey
10 at school, which was very hard because I wanted to see her
11 that day. Sunday it was very hard not, you know, coming
12 over.

13 So, I waited until Monday. It was after her lunch
14 period that I went in. I gave my video camera to my ex-
15 wife to videotape because I wanted this. This was
16 something that I've seen a lot of fathers in the military
17 do. A lot of mothers do too. And it's something that I
18 wanted, you know, to see over and over again, even whenever
19 I went back to Iraq, you know.

20 I hid out in the bathroom across from her school -- or
21 her classroom. Her mother went in the classroom. The kids
22 went in. The teacher said who -- asked who that was in the
23 back. My daughter replied that's my mother. The teacher
24 began talking with the students about Kelsey and her mother
25 and stuff. And Kelsey was looking out the doorway and she

1 was suspicious about something. They asked who was outside
2 and she said, That's my stepdaddy Billy out there. And my
3 ex-wife was like, Are you sure? Do you want to go see?
4 Why don't you go open the door?

5 She got up, went around the corner where the -- where
6 the students' desks were at. And as soon as she got close
7 by the door I opened the door up and walked in.

8 Automatically she had the biggest grin I've ever seen on
9 her face, come up to me, jumped in my arms. And she was
10 wearing her Army Brat shirt, which she's very, very happy
11 and proud about. When it's get laundered she's very upset.
12 But I surprised her whenever I came home on my mid-tour.

13 Q. You keep pictures of Baby Girl -- you carry those with
14 you?

15 A. I carry pictures in my phone of Kelsey. I don't have
16 in my phone of Baby Girl, though I do carry a picture of
17 Baby Girl in my wallet.

18 Q. And you don't have pictures on your phone because
19 you've never seen her?

20 A. Precisely.

21 Q. You've never seen Baby Girl ever in person?

22 A. Not in person.

23 Q. And the picture that you have in your wallet, where
24 did you get that picture from?

25 A. I got that from my attorney.

1 Q. Me?

2 A. Yes, ma'am.

3 Q. Let's talk about attorney fees. You've already
4 testified about what you paid your attorney in Oklahoma.

5 A. Yes, ma'am.

6 Q. And ultimately the Oklahoma action was dismissed on
7 jurisdictional grounds. Is that your understanding?

8 A. My lawyer in Bartlesville, she contacted my family and
9 said since this case is over in South Carolina it needs to
10 be moved over with lawyers over here. At that point in
11 time, I'm not exactly sure the precise date, but they had
12 Lesley Ann Sasser be appointed as my representative's
13 lawyer over in South Carolina.

14 And Ms. Colson stated that she wanted to drop the case
15 in Bartlesville because where she was at she couldn't go
16 any further because it was out of her, I want to say,
17 limits. So...

18 Q. And you understood that you lost the action in
19 Oklahoma and it was dismissed? Maybe you didn't completely
20 understand that. You understood that for some reason you
21 had to hire a South Carolina lawyer obviously.

22 A. Yes, ma'am.

23 Q. Okay. And Ms. Colson put you in touch with Ms.
24 Sasser?

25 A. My -- my mother and father were in contact with her

1 because I was deported at that time.

2 Q. And Ms. Sasser was retained. Do you remember what you
3 originally paid her to retain her?

4 A. Not originally. As of the status right now I ---

5 MR. GODWIN: Your Honor, I'm sorry for
6 interrupting the witness. But I stipulated to introducing
7 the affidavit and fees at the end of litigation. I'm not
8 sure where we're going with this.

9 MS. JONES: I think it's important and this is
10 why. And I don't want to take a long time. I definitely
11 don't want to ---

12 THE HONORABLE MALPHRUS: Well you admitted it and
13 I've looked at the receipts.

14 MS. JONES: Okay. The point that I'd like to
15 raise is how much he's paid because I think that it
16 demonstrates a commitment.

17 THE HONORABLE MALPHRUS: I think he testified
18 about what he's paid.

19 MS. JONES: Okay.

20 THE HONORABLE MALPHRUS: I think he testified he
21 paid ten-thousand and something and I've looked at the
22 receipts. Right?

23 THE WITNESS: That was for Remona Colson, Your
24 Honor.

25 MS. JONES: That was for Colson.

1 THE HONORABLE MALPHRUS: Okay. Well there was a
2 stack of receipts in there.

3 MS. JONES: Oh, okay.

4 We also -- well Ms. Sasser doesn't have her attorney
5 fee affidavit. And of course we agreed to let Mr. Godwin
6 produce his late so if she could submit hers late as well.
7 I have ---

8 MR. GODWIN: I'm not introducing mine late.
9 We've agreed -- I have mine ---

10 MS. JONES: Not late. Well ---

11 THE HONORABLE MALPHRUS: Well let's just get that
12 cleared up right now.

13 If you would like to submit an attorney fee affidavit
14 at the end of the case, that's fine. If you want to have
15 him testify about it right now, that's fine. Just let's do
16 it and move on.

17 MS. JONES: Okay. And I'm happy to just submit
18 it if it is without objection and I don't have to ask him
19 any more questions unless the Court believes I need to ask
20 him about whether he believes my fees have been fair and
21 reasonable and anything about that.

22 THE HONORABLE MALPHRUS: You can submit your
23 affidavit.

24 MS. JONES: Okay. Thank you, Your Honor.

25 I would move to admit my affidavit of attorney's fees

1 as Defendant's 13.

2 THE HONORABLE MALPHRUS: Defendant's 13 is
3 admitted without objection?

4 MR. GODWIN: Without objection.

5 MS. JONES: I'm sorry, Your Honor. I think I
6 handed you four copies. I thought that was awful thick. I
7 apologize.

8 (Whereupon, Ms. Jones' attorney fee affidavit, having
9 been previously marked, was admitted into evidence as
10 Defendant's exhibit number 13.)

11 BY MS. JONES:

12 Q. Can I have it clarified, Mr. Brown, that there's a
13 total, and I'll show it to you, there's a total on this
14 affidavit of attorney fees and you've reviewed it right?

15 A. Yes, ma'am.

16 Q. You've not paid me that total sum, have you?

17 A. No, ma'am, I haven't.

18 Q. If I told you that you've paid me \$11,000, does that
19 sound about right?

20 A. That sounds about right.

21 Q. And the rest of that balance would be due and owing,
22 minus what's on this attorney fee affidavit?

23 A. Yes, ma'am.

24 Q. I'm just going to show you an order of dismissal from
25 the Oklahoma action that you filed where Ms. Colson

1 represented you where it shows that action was dismissed on
2 jurisdictional grounds. Does that maybe refresh your
3 memory that you've actually -- you've seen that before
4 perhaps?

5 A. I can't say if I have or not. Like I say I was
6 deployed in Iraq.

7 Q. Any reason to doubt that this is the official document
8 which dismissed that action?

9 A. No, I guarantee that's the official document.

10 MS. JONES: And if this is without [sic] consent,
11 I would move to admit this.

12 THE HONORABLE MALPHRUS: You mean this is with --

13 MS. JONES: With consent.

14 THE HONORABLE MALPHRUS: With -- without
15 objection?

16 MS. JONES: Without objection. Thank you.

17 I'm not sure what number we're on.

18 COURT REPORTER: Defendant's 16.

19 THE HONORABLE MALPHRUS: That would be
20 Defendant's 16.

21 Defendant's 16 without objection; is that correct?

22 MR. GODWIN: Yes.

23 (Whereupon, an Order of Dismissal in the Oklahoma case
24 was marked and admitted into evidence as Defendant's
25 exhibit number 16.)

1 Q. You have made some payments to Mr. Godwin that you
2 intended to be for the benefit of Baby Girl; is that
3 correct?

4 A. That is correct.

5 Q. And Defendant's 12 is a list of the checks that sent
6 him for -- Mr. Godwin?

7 A. That is correct.

8 MS. JONES: Your Honor, I'd move to admit these
9 as Defendant's 12.

10 THE HONORABLE MALPHRUS: Defendant's 12 without
11 objection?

12 MR. GODWIN: Without objection.

13 MR. LOWNDES: No objection.

14 (Whereupon, copies of checks, having been previously
15 marked, were admitted into evidence as Defendant's exhibit
16 number 12.)

17 Q. Anybody ever accused you of harming Kelsey or any
18 other child or Baby Girl? You've never met Baby Girl. But
19 has anybody ever accused you of harming any child?

20 A. No, ma'am.

21 Q. Anybody ever accused you of being an unfit parent?

22 A. No, ma'am.

23 Q. Has anybody, including specifically the Adoptive
24 Couple, made any efforts at all to prevent the breakup of
25 your family, Baby Girl from your family, from you as a

1 parent?

2 A. No. To my knowledge, no.

3 Q. Well we already went over the notice that you received
4 when you were actually served in person, correct?

5 A. Yes, ma'am.

6 Q. Did you ever receive anything by certified mail ---

7 A. Not exac -- I'm sorry.

8 Q. --- from the -- I'm sorry. Let me finish this. All
9 right. --- from the Adoptive Couple?

10 A. No, ma'am, not to my knowledge.

11 Q. The Guardian ad Litem visited your house?

12 A. Yes, ma'am.

13 Q. Did a home visit, our Guardian ad Litem, Ms. Prowell,
14 in this case?

15 A. Yes, ma'am.

16 Q. And her visit was in July?

17 A. Yes, ma'am.

18 Q. July of this year?

19 A. Yes, ma'am.

20 Q. And can you tell me -- tell the Court about that
21 visit?

22 A. She came. She was there for two days. She -- I want
23 to say she showed up around noon, 1:30, between that time.
24 Not for sure on the date. She came, had a sit-down with me
25 and my -- my parents. We talked. I thought everything was

1 good on that first day. My mother though she was upset
2 about it. She -- Ms. Prowell stated that the family was
3 very wealthy, that they could put the child in any private
4 school that they chose to, when she was older that they
5 could put her in any college to go to.

6 She told us that we needed to seriously think about
7 what we were doing and that we needed to get down and pray
8 about what we were doing and if this is what we needed to
9 do to, you know, go about doing and taking this child from
10 the only family that she's ever known.

11 To me I was -- it upset me for someone to say
12 something like that with not even knowing anything about
13 us.

14 She stated that she was in contact with the family,
15 that knew them, knew of them, that the adoptive mother was
16 known throughout the Charleston area, and if I'm correct,
17 world wide of her studies as a child psychologist.

18 You know, getting told that and they were very wealthy
19 and stuff, it made me feel that me and my family were
20 getting told that we were a bunch of redneck hillbillies
21 that couldn't afford anything for this child, you know.
22 That's the way I took it. I don't know if Ms. Prowell was
23 actually going at that or not. But that's how I took it
24 and it upset me and my family. It upset my mother a lot.

25 The second day my father actually stated, you know,

1 you take us a bunch of, you know, rednecks that can't
2 offend -- afford anything, that we're not able to provide
3 this child with proper education, schooling, knowledge of
4 her background, you know. Pretty much that we weren't fit
5 to love this child and raise her. That's how we took it.

6 Q. You pay child support for Kelsey, don't you?

7 A. Yes, ma'am, I do.

8 Q. Do you believe that's your responsibility?

9 A. That is my responsibility as a father to take care of
10 paying my child support which is what is throughout my
11 child custody battle or what I was supposed to be doing for
12 child support whenever me and my ex-wife got divorced.
13 That was what I was supposed to do. That was my right.

14 And not only do I pay child support on my daughter, I
15 also buy her school supplies for school, shoes, clothing.
16 Whatever she needs me and her mother get together and we
17 discuss what needs to be taken care of.

18 There are times that I've bought my daughter stuff
19 without discussing with my ex-wife, which is fine with my
20 ex-wife that I do so because that is my right as a father
21 to do.

22 Q. Do you believe you have a financial responsibility to
23 Baby Girl?

24 A. Yes, ma'am, I do.

25 Q. Do you want to be financially responsible for her?

1 A. Yes, ma'am, I do.

2 Q. Did you try to bring some gifts to Baby Girl last time
3 that you were here in Charleston -- the only time you've
4 been I guess in Charleston?

5 A. Yes, ma'am.

6 Q. And you offered those to the Adoptive Couple?

7 A. Yes, ma'am.

8 Q. Did they accept those gifts?

9 A. They said their attorney -- or their attorney told me
10 that we couldn't do it. We couldn't -- they didn't want to
11 accept them. I'm not sure if that was from their side or a
12 legal side, you know. I didn't question it. They told me
13 no. Therefore, I respected it.

14 Q. Did you ask to visit with your daughter ---

15 A. Yes, I did.

16 Q. --- at that time as well?

17 A. Yes, ma'am, I did.

18 Q. And that was in July of this year?

19 A. Yes, ma'am.

20 Q. And what was the response?

21 A. They told me I could not.

22 THE WITNESS: Is there any way I could get a cup
23 of water?

24 MS. JONES: I'll get you one.

25 THE WITNESS: Thank you.

1 Q. The only other question I have at this time is the
2 Guardian's visit, did she tour your house?

3 A. She did do a tour of my house.

4 Q. Did she look at your daughter, Baby Girl's bedroom?

5 A. She did look at my -- Baby Girl's room. When she
6 started doing an examination of the house I guess that's
7 what she does, you know. That's what I was told was going
8 to happen. She was going to sit down with us and look at
9 the house.

10 She started off with the front room we -- we're in
11 mostly. Looked in my parents' room. I do believe she
12 looked at my parents' bathroom. You know, it's connected
13 to the bathroom or the bedroom. The kitchen. She
14 continued going down the hallway. I was in front of her.
15 I told her that this was the bedroom. As far as she got
16 was the corner of the hall -- the bedroom where it meets
17 the hallway and looked in.

18 That's as far as she got. She did not go inside the
19 bedroom. She did not go in and look at -- look inside the
20 closet, see the clothing that we had bought her and had
21 hung up in there. As far as I could see, she was just
22 having a visual look at the toys. She didn't, you know, go
23 in and physically touch them.

24 When she was done with Baby Girl's bedroom, I was then
25 saying, Well, this is my bedroom, and right then and there

1 she said, That's as far as I need to go. I don't need to
2 see that.

3 MS. JONES: I don't have anything further, Your
4 Honor.

5 Thank you.

6 THE WITNESS: Thank you.

7 MR. GODWIN: Is it possible to take a five-minute
8 break, Judge?

9 THE HONORABLE MALPHRUS: Yeah, why don't we take
10 about a five-minute break.

11 Sir, if you would just remember that you're still
12 under oath.

13 THE WITNESS: Yes, Your Honor.

14 THE HONORABLE MALPHRUS: It would not be proper
15 for you to discuss your testimony with anybody at this
16 time.

17 THE WITNESS: Yes, Your Honor.

18 (Whereupon, court recessed for a five-minute break and
19 Plaintiffs' exhibits number 16, 17, 18, 19, and 20 were
20 premarked for identification; after which, all parties were
21 present when the following proceedings were had:)

22 MR. GODWIN: May I proceed?

23 THE HONORABLE MALPHRUS: Proceed. Thank you,
24 sir.

25 MR. GODWIN: Thank you, Judge.

1 CROSS EXAMINATION BY MR. GODWIN:

2 Q. Mr. Brown, you obviously know I'm Ray Godwin
3 representing the Adoptive Couple. And I want to get these
4 exhibits out of the way. I just want to show you exhibit,
5 Plaintiff's 16. This is your tax return for 2009. How
6 much did you make in that year, sir?

7 A. Right here?

8 Q. Yes.

9 A. \$20,227.

10 Q. Okay. This is Plaintiff's 17. That's your W2 form
11 for 2010. What was your yearly salary for 2010?

12 A. \$23,697.

13 Q. Thank you. And my understanding is that when you were
14 serving in Iraq this pay was tax free; is that correct?

15 A. That is correct.

16 Q. Okay. Is it also fair to say that you had your base
17 and food paid for, would not have been covered by those
18 figures?

19 A. That is correct.

20 Q. Okay. So you had no expenses as to really anything
21 other than what you wanted to spend extra and above
22 maintenance for yourself, food, housing, that type of
23 thing?

24 A. That's correct.

25 Q. And when you filled out for the Army, they ask you if

1 you have any dependents; isn't that correct?

2 A. That's correct.

3 Q. And you put Kelsey down on the paperwork?

4 A. I put her down.

5 Q. And they aut -- they automatically wage-withhold your
6 child support.

7 A. That is correct.

8 Q. You don't really have a choice after you disclose you
9 have a kid?

10 A. No.

11 Q. And is it accurate to say that recently the mother of
12 Kelsey asked you to pay through the Court because you were
13 not keeping up current with your child support?

14 A. No, we ended recently the custody -- or the child
15 support case. That way I could pay her directly.

16 Q. So there was a child support case?

17 A. Yes, there was.

18 Q. And she alleged that you were in arrears?

19 A. Say what?

20 Q. You were in arrears. You weren't paying on time.

21 A. I always paid.

22 Q. You were paying her on time?

23 A. My child support was taken out of my paycheck.

24 Q. Okay. Then why was there a child support case?

25 A. Because I had back child support. In the state of

1 Oklahoma when you get a divorce they go through a child --
2 child custody battle and then you have child support that
3 you have to pay. Therefore, part of that's what happened
4 with me.

5 Q. Okay. You had back child support you had to catch up
6 on?

7 A. Yes, sir.

8 Q. And how much was that?

9 A. I'm not correct as to the amount of money on that.

10 Q. Was it over a thousand dollars?

11 A. I want to say whenever I joined it was around 11,000,
12 around that period at that point.

13 Q. Okay. That you owed in back child support?

14 A. Yes, sir.

15 Q. Okay. And was there some discussion -- Is Tommy the
16 stepparent of Kelsey?

17 A. Tommy is her grandfather.

18 Q. Okay. Is your ex-wife married to somebody else?

19 A. No, sir, she's not.

20 Q. Okay. Was there ever -- Strike that.

21 I'm going to refer to Defendant's exhibit 11 and the
22 last paragraph here, would you read that for me, please?
23 That last sentence, the Defendant.

24 A. The Defendant, Dusten Brown, states that he is the
25 birth father of the minor child, Baby Girl Maldonado, and

1 that he is not contesting the adoption, that -- and that
2 further he waives the 30 days waiting period and notice of
3 the hearing in above-captioned case.

4 Q. Okay. And your counselor asked like five questions
5 about your signature. That is your signature, right?

6 A. Yes, sir, that is.

7 Q. And you know what an adoption is?

8 A. Yes, sir.

9 Q. Okay. And, in fact, in June you text messaged Ms.
10 Maldonado that you wanted to sign your rights away; is that
11 correct?

12 A. That is correct, sir.

13 Q. And that text message went to her phone, right? She
14 received ---

15 A. That is correct.

16 Q. --- your text.

17 I'm going to show you a document that purports to be a
18 copy of that. Can you identify that for the Court?

19 A. That is my phone number.

20 Q. Okay. And is that your text message?

21 A. That is my text message.

22 Q. Okay. And you want to read it -- read it into the
23 court record.

24 A. The first one states, I'm still trying to ge -- I
25 state that's probably get. The second one's, get some

1 papers. The third one is, well it sounds like -- I have no
2 idea after that.

3 Q. Okay. You want to turn the page. Can you read the
4 rest of that?

5 MS. JONES: I'm sorry. Are you asking to submit
6 -- or are you asking him to read that into evidence and
7 have something admitted?

8 MR. GODWIN: I'm asking him to read into evidence
9 his text message.

10 MS. JONES: No. I absolutely object to that,
11 Your Honor. And I already objected to that and it was
12 ruled it wasn't admissible.

13 MR. GODWIN: He has identified it as his text
14 message that went to the birth mother's phone.

15 THE HONORABLE MALPHRUS: He identified his phone
16 number I thought is what he identified.

17 MR. GODWIN: No, I asked him if that was his text
18 message and he said yes.

19 MS. JONES: And my problem continues to be what
20 it was yesterday. This was requested in discovery. I was
21 told that there was a phone that had it on there. I was
22 told yesterday by Mr. Godwin the phone exists and it was in
23 Mr. Lowndes' office. And it's an incomplete conversation.
24 It's my client's half and it doesn't have what the birth
25 mother was saying in return. And I -- I feel like I'm

1 entitled to that and my client's entitled to that in all
2 fairness because unless he can remember exactly what that
3 conversation was back in 2009 before this child was born I
4 think that ---

5 MR. GODWIN: I -- I'll withdraw it. I'll
6 withdraw asking him to read it.

7 I am incredibly frustrated by counsel's
8 misrepresentations of my actions. It is a constant thing
9 in this litigation. She just misrepresented to the Court
10 that I didn't turn it over in discovery. I indicated that
11 within the 20 days after the July hearing, I did. So I
12 hate to be nit-picky like I'm in seventh grade to point
13 this out, but I ask for the Court's indulgence on that.

14 BY MR. GODWIN:

15 Q. Mr. Brown, you remember this text message, right. I
16 asked you that.

17 A. I vaguely remember it.

18 Q. And you remember that you indicated that you were
19 going to sign your rights away?

20 A. Correct.

21 Q. And that was in June -- June 8th of 2009?

22 A. Correct.

23 Q. Okay. And you also indicated under oath that you had
24 several conversations with your NCOs ---

25 A. That's correct.

1 Q. --- about signing your rights away.

2 A. That's correct.

3 Q. And that you went, not just on one occasion I believe,
4 but at least on two or three other occasions around this
5 time period to talk to an NCO about signing your rights
6 away to this unborn child?

7 A. That's correct. It's there policy to keep up with
8 their soldiers to find out what's going on. If they hear
9 any some -- anything like this situation then it's a must
10 that they find out what's going on. And to this day my old
11 Commander still keeps in contact with me about what's going
12 on.

13 Q. Yes, sir.

14 Is it accurate to say that you did not pay any medical
15 bills connected with Baby Girl's birth?

16 A. No, sir, I didn't.

17 Q. And prior to the birth on September 15th of 2009 you
18 did not pay for any living expenses or pregnancy-related
19 expenses connected to Baby Girl's birth?

20 A. No, sir, I didn't.

21 Q. Is it also accurate to say that your first child
22 support payment was February of 2011, approximately 16
23 months after her birth?

24 A. That is correct.

25 Q. Is it also accurate to say that you were home on leave

1 on Thanksgiving or during Thanksgiving of 2009?

2 A. 2009, yes.

3 Q. Is it also accurate that during that time period you
4 did not reach out to confirm the status of Baby Girl who
5 was already born?

6 A. That is correct.

7 Q. Is it accurate to indicate that you never prior to
8 birth asked about any information or after birth about the
9 baby's health in terms of contacting Ms. Maldonado?

10 A. That is correct.

11 Q. Would it be accurate to say that since this child was
12 born you've not attempted to send any cards or any letters
13 seeking a progress report either to Ms. Maldonado or to the
14 Guardian or to the attorney for the Adoptive Couple?

15 A. No, I haven't, because I didn't know if I was going
16 against any legal rights or anything like that. I didn't
17 want to break the law.

18 Q. Is it accurate to say that you and your buddies on a
19 weekly basis would spend about 20 to \$25 on cigarettes and
20 you already testified you went out -- went out a great deal
21 with the buddies in your unit?

22 A. That is correct.

23 Q. Is it accurate to say you did not live with the birth
24 mother six continuous months prior to the birth of this
25 child?

1 A. That's correct.

2 Q. Is it accurate to say that you got your ring back from
3 Ms. Maldonado?

4 A. That is correct.

5 Q. And you did that in person?

6 A. No, sir.

7 Q. Who did that for you?

8 A. My father, Tommy Brown.

9 Q. When he picked up the ring he did not offer any
10 support or give her any support for pregnancy-related
11 expenses; is that correct?

12 A. To my knowledge, what I've been told, she was not
13 there whenever he went and picked up the stuff.

14 Q. But neither one of you mailed her any support or left
15 anything in the mailbox; is that correct?

16 A. No, sir.

17 Q. Do you remember when I took your deposition, Mr.
18 Brown, and I asked you what -- what do good family values
19 represent to you?

20 A. Vaguely I do at that time, yes.

21 Q. Okay. And do you remember what your answer was?

22 A. I'm not sure on what I stated, what my answer was.

23 Q. If I told you that you said, Just being raised by
24 parents represents your good family values, would that be
25 something accurate or refresh your recollection?

1 A. I'd have to see something stating that I said that.

2 Q. Okay.

3 MR. LOWNDES: Your Honor, we need to approach the
4 bench one minute.

5 (Whereupon, an off-the-record bench conference was
6 held between The Honorable Malphrus, The Honorable Vinson,
7 and counsel.)

8 MR. GODWIN: Court's indulgence, Your Honor,
9 while we get a copy of Mr. Brown's. I know counsel has a
10 copy and I believe I just saw the original in court.

11 Q. Mr. Brown, I'm going to refer you to page 56, line 9
12 on here. Can you read the answer and read -- read the
13 question and your answer if you don't mind.

14 A. Read the question?

15 Q. Yes, sir.

16 A. What do you think that good family values represent
17 for an infant child?

18 Q. And your answer.

19 A. Answer, Just being raised by her parent.

20 Q. Did you have discussions with the Guardian ad Litem
21 about your raising this child?

22 A. It was brought up, yes.

23 Q. Okay. And do you believe you communicated to her your
24 feelings on what type of parent you would be to this child?

25 A. I believe I did.

1 Q. And in the pictures that counsel has presented to the
2 Court, I want to make sure I give you a chance to look at
3 these, do you recall counsel introducing these as
4 Defendant's 8? Can you look through and tell me which
5 pictures there are of you involved in any tribal affairs,
6 any tribal events or any pictures of you and Kelsey at any
7 tribal events or at your language school?

8 Well let me rephrase the question. There aren't any
9 pictures in here of you involved in any tribal events or
10 festivals or activities; is that correct?

11 A. That's correct.

12 Q. Okay. And this is the second group of pictures. And
13 I'd ask you to also answer the same question. In that
14 second group of pictures is there any picture from your
15 childhood or any current picture showing you involved in
16 any tribal festivals or any tribal event?

17 A. No, sir.

18 Q. Okay. And the third group of pictures, they may all
19 be marked as exhibits 10 and 8. Are there any pictures
20 there showing you involved in any tribal events or affairs
21 or festivals?

22 A. No, sir.

23 Q. Okay. And in my question to you about good family
24 values, is it accurate to say, sir, that you never
25 indicated any discussion of the Cherokee Indian Tribe or

1 cultural events. The answer that you just read.

2 A. No, sir, I didn't say that.

3 Q. And in the conversations with the Guardian is it
4 accurate to say that you never emphasized how important the
5 Cherokee Indian Tribe is to your life?

6 A. Not that I can remember.

7 MR. GODWIN: Beg the Court's indulgence. I'm
8 going to mark a complaint from Oklahoma that's been
9 stipulated it to. I did not show Mr. Lowndes.

10 (Whereupon, Mr. Godwin showed the document to Mr.
11 Lowndes.)

12 THE HONORABLE MALPHRUS: Plaintiff's 20?

13 Q. Mr. Brown, I'm going to show you Plaintiffs' exhibit
14 19 and is that your signature, sir?

15 A. That is my signature.

16 Q. Okay. And can you read the title of this document to
17 the Court?

18 A. Complaint to establish paternity, child custody, and
19 support.

20 Q. Thank you. Are you familiar with this document being
21 filed by your attorney in Oklahoma?

22 A. Vaguely.

23 Q. Okay.

24 A. It depends on what the date -- the date on it is.

25 Q. Well you remember signing that, right?

1 A. If I signed it I was present.

2 Q. Read -- and when you signed this it's assumed you read
3 this document; is that correct?

4 A. That is correct.

5 Q. Okay. Would you read paragraph 12 into the record.

6 A. Paragraph 12. Neither parent, nor the children, have
7 Native American blood. Therefore, the Federal Indian Child
8 Welfare Act, 25 USC 1601 [sic] et. seq and the Oklahoma and
9 Indian Child Welfare Act 10 OS 40 et. seq, do not apply.

10 Q. Thank you. And this was filed -- the date on this I
11 believe -- the clocked in date is what?

12 A. January 14th.

13 Q. Which year?

14 A. 2010.

15 Q. Okay. Thank you, sir.

16 A. No problem.

17 Q. At the time you filed this the Indian Tribe really
18 wasn't that important in your life; is that correct?

19 A. No, the Indians always are in my -- important in my
20 life. But at that point in time I was trying to get things
21 taken care of as fast as possible. Like I said, I had --
22 on that date I had three days to deploy. So therefore, I
23 was trying to get things taken care of as fast as could
24 while I was stateside.

25 Q. Well that complaint was amended and here's Plaintiff's

1 20. And the date on this amendment is what?

2 A. April 19th 2010.

3 Q. And there is another paragraph 12 and can you read
4 that into the -- for the Court?

5 A. Paragraph 12. Both the father and the child have
6 Native American blood. Therefore, the Federal Indian Child
7 Welfare Act, 25 US CA 1601 [sic] ---

8 Q. I'm sorry. You don't have to read the rest.

9 A. Okay.

10 Q. That's fine.

11 The date of that was after the Indian Tribe was served
12 notice by the Adoptive Couple on the 18th of January -- or
13 April; isn't that correct?

14 A. That's correct.

15 MR. GODWIN: Beg the Court's indulgence.

16 Q. Is it accurate to say that you don't have a checking
17 or savings account in the name of Baby Girl, Mr. Brown?

18 A. No, sir.

19 Q. And there was never any doubt in January of 2009 that
20 you were the father of this child; isn't that correct?

21 A. No doubt in my mind. I knew I was the father.

22 Q. So you never notified the Tribe yourself in terms of
23 this Baby Girl's birth and between September and January
24 you never contacted the Tribe, did you?

25 A. No, sir, I didn't.

1 Q. And in fact between September and January you didn't
2 take any steps to assert your parental rights; is that
3 correct?

4 A. Right.

5 MR. GODWIN: Thank you, Mr. Brown. That's all
6 the questions I have. Please answer any of the Court or
7 other counsel.

8 CROSS EXAMINATION BY NIMMO:

9 Q. I know we've talked about a lot of dates today. But I
10 just need to ask you a couple more. When did you first
11 leave for Iraq?

12 A. The departure date was January 13th 2010.

13 Q. Okay. When -- you talked about coming home at some
14 point when you surprised your daughter at school. Was the
15 first time that you came back from Iraq?

16 A. That is correct.

17 Q. And what ---

18 A. That was my mid tour.

19 Q. What approximately was that date?

20 A. I want to say it was late July, early August.

21 Q. Okay. And then did you go back to Iraq?

22 A. Yes, ma'am, I did.

23 Q. And when -- you were home for how long?

24 A. I was home for approximately 13 -- 12 to 13 days.

25 Q. So -- but you went back in August of 2010.

1 A. Yes, ma'am.

2 Q. And when did you come home for the final time?

3 A. December 26th 2010 we came back.

4 Q. Okay. And that's -- and you have not been back since
5 then, correct? Or you have? That's -- that's the last
6 time you came home?

7 A. Are you talking about going back to Iraq?

8 Q. Right.

9 A. No, ma'am, that was the last time.

10 Q. So when you came home in December of 2010 you were
11 stateside from that point on?

12 A. That's correct.

13 Q. Did you go back to Fort Sill?

14 A. Yes.

15 Q. And -- as soon as you came back from Iraq or ---

16 A. As soon as we came back we landed in Lawton, Oklahoma.
17 Well we landed in a couple of states, but ---

18 Q. I'm trying to ---

19 A. --- our final departure was ---

20 Q. Let me try to simplify that. I think we -- even
21 though you landed -- How long were you back at Fort Sill
22 once you returned to Iraq?

23 A. I want to say we were back for about six days. It's
24 part of our process when we come back from another country
25 we have to go through -- it's pretty much like an in-

1 processing routine all over again for the military.

2 Q. And ---

3 A. You go through medical shots and all sorts of other
4 things. But it's required that we're back between seven
5 and ten days.

6 Q. So when you left Fort Sill immediately after returning
7 from Iraq, was that the end of your active duty military
8 status?

9 A. No, ma'am, it wasn't.

10 Q. When were you -- I want to make sure I'm using the
11 right language and I'm not sure in military terms. Have
12 you been discharged from active duty military?

13 A. I got honorably discharged from active duty in the
14 military, the Army, June 19th 2011. Thirty days after that
15 is whenever I reported to my unit in Owasso, Oklahoma,
16 which is my National Guard unit.

17 Q. Okay. So you've been National Guard since July of
18 this year, correct?

19 A. That's correct.

20 Q. Okay. I just wanted to get those straight.

21 And you said you were -- when you found out the birth
22 mother was pregnant you were in Fort Sill at that point,
23 correct?

24 A. That is correct.

25 Q. Were you there -- I know that you were allowed leave

1 on -- on the weekends and some occasional 14-day leave, but
2 from the time that you found out that she was pregnant
3 until the time you left to go to Iraq, was your primary --
4 I don't want to say residence -- the place that you were at
5 the most was at Fort Sill, correct?

6 A. Fort Sill, correct.

7 Q. Mr. Godwin ask -- asked you about a text message that
8 you sent and you did read the text message into the record,
9 but you indicated that you did indeed give -- give some
10 indication to the birth mother that you were willing to
11 sign away your rights?

12 A. That's correct.

13 Q. All right. I just want to make sure because earlier
14 you said, I believe when Ms. Jones was questioning you, you
15 wanted to sign your rights to her. And Mr. Godwin asked
16 you if you wanted to sign away your rights. So will you
17 tell the Court what -- what your understanding was of what
18 the birth mother wanted you to do regarding the child?

19 A. My involvement of the whole thing was that I was
20 signing my rights to her ---

21 Q. The birth mother?

22 A. --- signing my rights away. Still thought that I was
23 signing them over to her.

24 Q. That she would basically have full custody ---

25 A. Correct.

1 Q. --- of this child similar to the arrangement that your
2 ex-wife has with Kelsey, correct?

3 A. Correct, but without me there.

4 Q. When you were served the paperwork in January in
5 Lawton, Oklahoma, was that the first time that you ever
6 heard or saw or read the word adoption?

7 A. That is correct.

8 Q. So at no time from the time the birth mother told you
9 she was pregnant -- it was approximately a year later when
10 you were served from when you learned she was pregnant,
11 correct?

12 A. That's correct.

13 Q. She had never indicated to you that she was placing
14 this child for adoption?

15 A. That's correct. I was never informed of the adoption.

16 Q. And when you did sign a piece of paper, you thought
17 you were signing for the birth mother to have full custody
18 of this child; is that correct?

19 A. That is correct.

20 Q. And the first time you heard of the adoption you said
21 was approximately January 6th?

22 A. It was between January 6th and January 10th to my
23 understanding.

24 Q. And within a week of being served that paper and
25 hearing that your child was being placed for adoption you

1 were deployed to Iraq, correct?

2 A. Shortly after that. That's correct.

3 Q. You were here when the birth mother testified in this
4 hearing, correct?

5 A. I was.

6 Q. She stated that sometime -- I believe she said the
7 date was June, right before her first doctor's appointment,
8 that she contacted you and asked you for money. Do you
9 recollect her contacting you?

10 A. I remember her contacting me, letting me know about
11 the doctor's visit. But money-wise I don't remember.

12 Q. Did you ever tell her that you would not give her
13 financial assistance?

14 A. I never once told her that I would not.

15 Q. Was there any time, any other time that you can think
16 of, that the birth mother ever asked you for financial
17 assistance?

18 A. She never asked for financial assistance. She was
19 always very ind -- when we were engaged and I first found
20 out about our child and I was going back to Fort -- or I
21 was in Fort Sill, I offered her that if she needed anything
22 let me know.

23 Because at that point in time was whenever I was home
24 on Christmas leave that I found out -- that she let me know
25 that she was behind with bills and stuff. And I told her

1 there if she needed any -- anything that I would let her
2 have some money to take care of, you know. I might not
3 have made much, but I would have helped her out as best I
4 could.

5 Q. Is it still your -- your testimony that up until the
6 birth mother broke off the engagement it was your plan to
7 marry her, to have your child, her other two children, and
8 the expected child integrated as a family unit, correct?

9 A. That is correct.

10 Q. Did the -- has the state of Oklahoma ever instituted
11 any type of child support proceeding against you for Baby
12 Girl like -- similar to something that would have been done
13 in Kelsey's case?

14 A. I've never gotten anything from the state of Oklahoma
15 for child support.

16 Q. Has the state of South Carolina ever initiated any
17 child support proceeding against you?

18 A. I've never gotten anything in the mail from South
19 Carolina stating anything like that, besides what is going
20 on right now with Mr. Godwin.

21 Q. Has anyone -- and there was some testimony that your
22 -- your attorney had given you a picture of Baby Girl.
23 Other than that has anyone involved in any way in this case
24 ever offered you photographs of the child?

25 A. No one has offered me any pictures. Before I went to

1 Iraq me and the birth mother were still -- we had Facebook
2 at that point in time and she had pictures of the child.
3 And my sister-in-law was able to pull pictures up for me to
4 have. She thought it was something that I would need.

5 Q. But no one, birth mother, adoptive parents, their
6 attorneys, the Guardian, none of those people ever gave you
7 any picture of the child, correct?

8 A. No, ma'am.

9 Q. Did anyone ever offer to allow you to visit the baby?

10 A. No, ma'am.

11 Q. Did anyone -- Let me rephrase that. We talked about
12 -- I heard several different numbers talked about as to
13 attorneys' fees. My addition, just kind of from the
14 numbers I was hearing, was somewhere around \$25,000 that
15 had been paid to date. Would that be correct? Do you
16 know? A total for everybody, everything in this case from
17 the attorney who -- in Oklahoma to Ms. Sasser, to Ms.
18 Jones.

19 A. That sounds about right.

20 Q. Did your parents assist in paying those fees?

21 A. Yes, ma'am, they did.

22 Q. Did anyone other than your family ever offer to
23 provide you an attorney?

24 A. No, ma'am.

25 Q. Has anyone, the birth mother, the state of Oklahoma,

1 the state of South Carolina, the adoptive parents, have any
2 of those parties ever offered to pay your legal expenses?

3 A. No, ma'am, they haven't.

4 Q. Has the birth mother, adoptive parents, State of
5 Oklahoma, or South Carolina ever offered any type of
6 counseling, parenting, any type of education classes that
7 you think might be helpful in this situation?

8 A. No, ma'am. Though with the United States Army I went
9 to the behavioral health and talked to them about it.

10 Q. The document that Mr. Godwin showed you that was filed
11 in Oklahoma that said you and the child did not have Indian
12 blood, that was something that was filed right before you
13 left for Iraq; is that correct?

14 A. That's correct.

15 Q. And is it fair to say that anything filed for a period
16 of time after that, that your father took care of it
17 because he had power of attorney in your name?

18 A. Yeah.

19 Q. Were there -- were there ever any documents sent to
20 you in Iraq for you to sign and send back so they could be
21 filed in Court?

22 A. No, there wasn't.

23 Q. When you received the paperwork in January, as you
24 testified the first time you ever heard about the adoption,
25 did you know where the child was located at that time?

1 A. At that point in time, no. I figured that she was
2 still in Bartlesville. I didn't know if Christinna was
3 even living at the same place or not.

4 Q. When did you find out that the baby was in South
5 Carolina?

6 A. I'm not ---

7 Q. If you know.

8 A. I'm not really sure.

9 Q. Is it fair to say that from the time you were served
10 notice of the adoption, to the extent allowed by your
11 military service, that you have been involved in these
12 proceedings and have fought to gain custody of your child?

13 A. Can you say that again?

14 Q. From the time that you received the -- the service and
15 the -- the notice of the adoption in January of 2010 -- is
16 that right, yeah 2010 -- other than when you were
17 unavailable because you were in Iraq in the military, you
18 have been actively involved in proceedings in both Oklahoma
19 and South Carolina regarding this child, correct?

20 A. That's correct.

21 Q. And you have since January of 2010 fought to have
22 custody of this child placed with you, correct?

23 A. That is correct.

24 MS. NIMMO: I don't have any other questions for
25 this witness. Thank you.