

1. The Parties were married to one another in the United States on [REDACTED] and moved to Australia in [REDACTED] Mother was pregnant at the time. (Transcript [REDACTED] pgs. 162-163).²

2. The minor Children born to the Parties are [REDACTED] year old (female) [REDACTED] (herein ‘[REDACTED] individually) born in [REDACTED] in [REDACTED] Australia, and [REDACTED] year old (male) [REDACTED] (herein ‘[REDACTED] individually), born in [REDACTED], in [REDACTED] Australia (herein “the Children”, collectively). (Petitioner’s Exhibit “11”, birth certificates).

3. Children, with Mother, spent significant time traveling to and from the United States after the move to Australia to maintain family contact, and friendships as necessary, consistent with the family plan for relocation back to the United States; on or about [REDACTED] they moved back to Indiana, where they currently reside with Maternal Grandparents (and presumably have contact with aunts, uncles and cousins, attend school, interact with friends) and engage with the community at large. (Respondent’s Exhibits “K”, “L”, and “M”, passport stamps reflecting trips to and from the United States and Australia; Petitioner’s Exhibit “12”, showing the contact and residence page of the Children’s passports; Petitioner’s Exhibit “26”, covering Children’s citizenship eligibility).

4. Petitioner currently resides in [REDACTED] Australia. (Transcript [REDACTED] pg. 162).

5. Petitioner filed his Hague Convention Application for the Return of the Children with the Central Authorities in Australia on or about [REDACTED] contrary to the Parties’ prior agreement to a specific move date with the family plan to do so and which, in fact, began in [REDACTED] with [REDACTED] and the Children’s relocation. (Transcript [REDACTED] pg. 222).

² These transcripts were prepared by [REDACTED], a Certified Indiana Court Reporter, and will be provided to the Court upon request.

6. Petitioner then filed his Verified Petition for the Return of the Minor Children with this Court on or about [REDACTED] (C.C.S.).

7. Respondent accepted service of process through her prior counsel, [REDACTED], who withdrew in [REDACTED] successor counsel being Ciyou & Dixon, P.C. (C.C.S.).

8. The Convention on the Civil Aspects of International Child Abduction (the “Hague Convention”) authorizes a state or federal district court to determine the merits of a claim for the wrongful removal or retention of a child under the age of sixteen (16) from their Habitual Residence and the defenses to a Return Order (the Children are under this Hague cut-off age for the jurisdiction to consider the Father’s application). (See Conclusions of Law, *infra*).

9. The Hague Convention went into effect in the United States of America on [REDACTED] and has been ratified between other Contracting States, including Australia. (See Conclusions of Law, *infra*).

10. This Court thus has jurisdiction over this case pursuant to 22 U.S.C. Section 9003(a): “The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.”

11. Respondent requested Special Findings in this Hague Case pursuant to Indiana Rule of Trial Procedure 52(A) (C.C.S.).

Evidence Relevant to Hague Defenses

Early Relationship: Dating, Pregnancy, Agreement to Family Plan, and First Domestic Violence Against [REDACTED] in Accordance with [REDACTED] Pre-Existing Pattern of Domestic Abuse

12. [REDACTED] and [REDACTED] met in [REDACTED] at a restaurant in [REDACTED] while [REDACTED] was in the United States attending a trade show for his business, exchanged phone numbers, and then began dating. (Transcript [REDACTED] pg. 199).

13. At a subsequent meeting with ██████ in ██████ ██████ first observed an angry side of ██████ that would ultimately be telling for this Hague Convention litigation; while in ██████ ██████ received a telephone call from an old boyfriend who wanted to resume a relationship and was continually calling her, which enraged ██████

Q. What were your concerns prior?

A. There was a lot of jealousy and volatility and just some dangerous acts going on. For instance, one time I was driving when he came to see me in that first visit, and I had a problem with a previous relationship that I had gotten a restraining order against the man, and he was still harassing me, and my phone was ringing, and ██████ wanted me to answer it and tell him to fuck off, that I was involved, and I said, "No, I can't do that. I can't talk to him, either," and then he was adamant about it and wanted me to do that, and I kept refusing, so he said, "I'll do it." And I said, "No, you won't," and then we were on, I think, ██████. It was very busy like ██████ traffic is, and he got so angry he got out of my car and said, "Fuck you. I don't need this head fucking. I'm going to go back to the hotel and change my plane ticket and get the fuck out of here."

Q. And this was before you went to Australia?

A. Before I ever went to Australia. This was his first visit to see me.

(Transcript ██████ pgs. 202-203).

14. ██████ visited Indiana before and after the Parties were married and stayed at ██████ parents' home and the estate property that is sited on that straddles the ██████ and ██████ County line (herein "Home" or "Estate"), which was set up in a family trust for ██████ and her brother³ to inherit upon the passing of their parents. (Transcript ██████ pg. 7).

15. Well before she and ██████ met, ██████ her brother, and their parents had a long-term family plan in accordance with the family trust that each had agreed—as well as, subsequently, ██████ as the newest member of the family—whereby ██████ and ██████ would take care of their parents (Mr. and Mrs. ██████ in this estate home when they became aged and needed care, instead of using out-of-home placement or keep them near each other if out-of-home

³ Dr. ██████ ██████ lives in ██████ with his children.

care became necessary. (Transcript [REDACTED] pgs. 13-16, 95 [REDACTED] testimony); Transcript [REDACTED] pg. 46 [Mr. [REDACTED] testimony]; Transcript [REDACTED] pg. 294 [REDACTED] testimony)).

16. In fact, [REDACTED] admitted to this long-existing family plan at trial:

Q. Is it true you had a family plan to move to the United States?

A. We had discussed that we would, yes.

(Transcript [REDACTED] pg. 29).

17. Along with [REDACTED] the credible witnesses in the United States were all familiar with the Parties testified that [REDACTED] and [REDACTED] were aware of and agreeable the family plan to live in Australia until [REDACTED] parents needed elder care, at which time they would move back to the United States to provide this care and remain on the family estate; some also knew of the domestic violence:

- [REDACTED]: [REDACTED] is [REDACTED] sorority sister from [REDACTED], who testified as

follows:

Q. Okay do you have any personal knowledge regarding [REDACTED] and [REDACTED] moving from Australia to the United States?

A. There were several times when I was with [REDACTED] when she mentioned that they intended to move to the States because she was in line to inherit her family's farm property or rural property.

(Transcript [REDACTED] pg. 136).

- [REDACTED]: [REDACTED] is a retired attorney and friend of [REDACTED] who also knew of the family plan to move back to the United States and marital abuse of [REDACTED] and knew of [REDACTED] abuse of the Children and [REDACTED] who testified as follows:

Q. Okay. Do you have personal knowledge about [REDACTED] and [REDACTED] planning to move to the United States?

A. Yes.

(Transcript [REDACTED] pg. 78).

A. So, finally, she called me from [REDACTED] where she had kind of been hiding and said there had been abuse, and she was afraid for the children and she left.

Q. Okay. So she did tell you she was afraid for the children?

A. Yes.

(Transcript [REDACTED] pgs. 82-83).

- [REDACTED]: [REDACTED] is [REDACTED] long-time friend and a custom home builder and interior designer who lives in the [REDACTED] area and knew of the family plan and [REDACTED] agreement to relocate to the United States and also of the marital violence:

Q. Okay. Do you have any personal knowledge regarding [REDACTED] and [REDACTED] moving planning to move from Australia to the United States?

A. They talked about it. They said that was their arrangement. That was their deal. She would move there for the first whatever, seven or ten years, and then they would move here. That's what they always said.

(Transcript [REDACTED] pgs. 110-111).

Q. You mentioned the things he said to her. Do you recall some of those specific things he said?

A. Just very, it's hard to say, you know. They're crude, you know, pretty heinous things, whore, bitch, I mean, really bad yucky –

Q. So name calling? And I know you don't, sometimes we don't feel appropriate saying these things, but if you could tell the Court, it would be helpful. So he called her names?

A. Yes, very foul language, condescending, a bitch.

(Transcript [REDACTED] pg. 116).

- [REDACTED]: [REDACTED] is [REDACTED] friend who she has known since seventh grade who also generally knew of the family plan, but who was not as frequently in contact with [REDACTED] at least in person, because she lived in [REDACTED] and testified as follows:

Q. [REDACTED], do you have any personal knowledge of a plan for [REDACTED] and [REDACTED] to move to the United States?

A. I would say yes. In conversations, what I believe that was the plan for a long time. I can't, specifically, say at what point I heard that, but it has been in my mind that at some point in their lives that was the plan.

(Transcript [REDACTED] pgs. 130-131).

- [REDACTED] father, a party to making the family plan, made the intent

of same clear in his trial testimony:

Q. Okay. And, sir, if you know, is the plan that when [REDACTED] and [REDACTED] married that, ultimately, they would come back and move into this home and take care of you when you were older?

A. That was the understanding.

(Transcript [REDACTED] pg. 46).

18. [REDACTED] visited [REDACTED] in Australia for the first⁴ time in [REDACTED] before marriage where she was again physically and psychologically assaulted by [REDACTED] in an incident in the bedroom of [REDACTED] home:

Q. Okay. So that's the same dynamic you experienced in [REDACTED]

A. Yes, and with that particular incident, I was - - I don't remember how it happened, but I was pushed out of the bed, somehow. I got up.

Q. You mean he physically pushed you out of the bed?

A. Physically pushed out of the bed.

Q. By who?

A. By [REDACTED]. He was frightening the heck out of me. He was - - there was like a big window between the bedroom, and then just a small piece of property and the neighbor's house, and I remember thinking, at the time, the neighbors are going to hear, and then the second thought that ran through my mind was maybe that's not so bad because maybe they'll call the police, and then he started throwing some of my items that were in the room at me, and telling me to get the fuck out of his house. He didn't want anything to do with someone like me, and that if I knew what was good for me, I'd just get out right now, and I tried to reason with him that it was late night and I had nowhere to go, and I got to the point where I was so frightened that I took my stuff and went to a back bedroom where I had been keeping my suitcase, and I closed the door, and put furniture, moved the bed over in front of the door because it didn't lock, sufficiently, and I started packing my bags.

Q. And then what happened the next day?

A. The next morning, I stayed in the bedroom. I did not come out at all even to use the bathroom, and I really needed to use the bathroom, and I could hear him in the morning getting ready to go to work, and that night prior, even, he would stand outside the door and hurl insults and berate me, and then - -

Q. What kind of insults, and how did he berate you?

⁴ Clearly other psychological abuse occurred during this and other contacts between [REDACTED] and [REDACTED] such as in this first trip where [REDACTED] also told her to get out of the car and made her walk home in an area she was unfamiliar with. (Transcript [REDACTED] pgs. 219-220).

- A. What a horrible slut and tramp I was, and he couldn't believe that he had given me his heart, and how dare I come over here, and didn't I understand that his heart was broken, and it took a lot for him to even love me because of what he had been through, and he just established a level of trust with me, and now he found out that I was just a complete slut, and he didn't want that in his life, and that I wasn't worthy of him.

(Transcript ██████ pgs. 216-218).

19. During the second visit with ██████ in Australia on ██████ in ██████ while driving home, an argument ensued and ██████ put ██████ out of the car and made her walk home, described by ██████ on Direct as follows:

- A. Okay. It resulted in a - - it was a name calling incident that resulted in him swerving on the road and being distracted, and so I reached over to grab the steering wheel, and he felt I was going to come at him for some reason, and he threw his arm across me and pinned me back in the seat, and then pulled over to the side of the road and asked me to get out of the car.
- Q. And did you get out of the car?
- A. No, I didn't. I held onto the hand brake in the center, and he continued to yell at me. I asked him to please get his arm off of me. It was hurting my neck, and he would not, and I pulled my arm over to try to knock his arm off of me, and then he accused me of hitting him in the chest.
- Q. So his arm was across your neck, and who started, and what was the nature of the name calling incident?
- A. He did. And it was just the nature that I was a slut, a tramp, and a whore.

(Transcript ██████ pgs. 52-53).

20. Dr. ██████ explained why ██████ would continue in her relationship with ██████ after these first few domestic violence episodes during his trial testimony⁵, explaining:

- A. To continue on what I was saying, she [████████████████████] felt that ██████ was somewhat histrionic, meaning very sensitive, emotionally. We then discussed something called Accommodation Syndrome. Accommodation Syndrome is phenomenon, psychologically, wherein a victim of abuse, it could be physical, it could be psychological, it could be a combination of both, over time, it starts to believe to some degree the statements of their abuser, starts to believe in some ways they're deserving of that, and actually to go the extent of protecting their

⁵ Dr. ██████ also explained, relevant hereto, that the abuse ██████ suffered as a child makes her more likely to normalize or be dulled to the experience of domestic violence in terms of psychological or physical abuse. (Transcript ██████ pgs. 118-120).

abuser. Sometimes covering up for that, failing to make reports of that, lying, for example. I have a number, quite a number of cases where women have gone to emergency room with physical damage from physical abuse, and lied about how that occurred, "I fell," whatever. Things like that. So, the accommodation is the process of how people, psychologically, adjust and adapt to an on-going abusive situation, and both ██████████ working with the children, and I in discussing that, felt there were clear suggestions that ██████ had some aspects of Accommodation Syndrome that would help explain why that she did not share what was going on with many people at all.

(Transcript ██████████ pgs. 101-02).

21. During this extended visit with ██████ in Australia in ██████ where ██████ continued with his assaultive behavior, ██████ also noticed and was concerned that ██████ home was missing basic household items, which appeared to reflect his recent divorce; however, ██████ was not forthcoming and seemingly evasive about discussing his ex-wife, the status of his divorce, or any other material details of his previous marriage. (Transcript ██████████ pg. 202).

22. What was unknown to, and hidden from ██████ was ██████ that was a narcissist and a domestic batterer; ██████ ex-wife, ██████ ██████ (herein "██████" or "Ms. ██████" who was with him for several years (but did not have children with him) divorced ██████ after she learned ██████ and ██████ started dating; during the marriage to ██████ ██████ inflicted numerous serious verbal and physical assaults on her, including—most significantly—pushing her head into a piece of furniture during a phone call because ██████ did not like the way ██████ was scripting the message she was leaving (about selling a used car) and then left the home with her unconscious, crumpled on the floor:

A. We were selling a car, and ██████ wanted the ad to (inaudible) a bit more favorable to buy a car from a female. So I was trying to put the message, and I was getting tongue-tied and he really wanted to go and play tennis, and I was holding him up because he was standing next to me period. It was just getting worse for me, and *he grabbed me and pushed me into the filing cabinet, and I must have passed out, but I fell to the ground, and then when I got up and I went to the door, the door was still open, and he had left.*

(Transcript ██████ pgs. 46-47). (emphasis added).

23. Before this event, ██████ previously had been hit in the face by ██████ another time, which was discovered by her co-workers while she was at work:

A. So there was one other time that he'd hit me, and I had a fat lip, which I covered with lipstick, and I was at work, and there was a work mate, obviously, the situation is the day I hadn't kept on top of reapplying lipstick, and somebody saw it, and they asked me about it, and I broke down in tears because I had thought that somebody had found out with the fact that could have happened. So they asked me to go see the doctor about it.

(Transcript ██████ pgs. 39-40).

24. Ms. ██████ obtained medical treatment for this aforementioned injury and went to her parents for help, but stayed with ██████ because he had generally alienated ██████ from her family and her friends; due to this, ██████ ultimately returned to ██████ because she was raised by her parents in Australian culture to "stick it out":

A. I reluctantly went to my parents and sat them down and told them this is what happens in my relationship from time to time, and that—and I my dad, I remember, said to me, "well then come home, and you can separate and it's okay. We don't to be (inaudible) to you," and I said, "no, dad, I cannot do that." And the reason that I didn't want to do it was because I didn't want to put shame on my family that they had a daughter that was separated. I also—I didn't really want to move back in with my mom and dad. My dad was very dominate. He's very old fashioned, and I thought that I didn't want to move back in to (inaudible), and I certainly didn't have the finances to be out and manage on my own either, and to my emotional (inaudible) and fragile to stay on my own. I never—you know, ██████ was my first boyfriend and he was my husband, and the way that I was raised you just stuck it out.

(Transcript ██████ pgs. 41-42).

25. ██████ was also psychologically assaulted by ██████ as reflected by many examples in her direct testimony⁶:

Q. And, ma'am, were you verbally discounted by Mr. ██████ And, if so, or disparage, if so, can you please give me some examples?

⁶ ██████ testified that ██████ physically squeezed her arms in acts of physical abuse frequently when he was angry or in a "bad mood" leaving bruises. (Transcript ██████ pg. 67).

A. Well, he used to blame me for the fact that we couldn't have children. He used to say to me that I was an anchor (inaudible) holding him back from everything that he wanted to achieve. He was very driven to succeed, financially, and he felt like I was an anchor holding him back. So he used to call me that. He also used to say to me that when I get pregnant and have babies that I'm going to blow up like every other Greek girl. So that didn't make me feel too good.

(Transcript ██████ pgs. 48-49).

26. In fact, it was not until after ██████ and the Children fled Australia in ██████ that ██████ was able to obtain contact information for ██████ she initially refused to communicate with ██████ and Dr. ██████ in this case about her marriage to ██████ Dr. ██████ attributed ██████ words to him as credible that, even twenty (20) years later: "she was very fearful that sharing information with me would result in potential threat to her." (Transcript ██████ pg. 120-25).

27. By the time of the trial, ██████ who lived incommunicado and hid her whereabouts from ██████ out of fear of him—and telling of the veracity of ██████ testimony (and significantly bolstering and corroborating the pattern of family violence ██████ displayed toward ██████ and the Children) about ██████ violent propensities and control as a domestic batter and ██████ desire to conceal this—is that ██████ who had not had contact with ██████ for twenty (20) years, was contacted by him, as soon as her name was disclosed on a motion to allow her testify by phone, on Facebook and had a distant person contact ██████ on a remote ██████ island as well, which was clearly to dissuade against or frighten her from testifying about what crimes ██████ inflicted upon her as well as other abuses; ██████ reluctantly admitted this attempt at contact after extensive cross-examination:

Q. Yes or no, you tried to reach out to her and contact after 20 years?

A. I didn't, but –

Q. You called somebody to do that.

A. Well, I was already here.

Q. You called—

A. The answer is yes.

(Transcript [REDACTED] pgs. 311-12).

28. Moving again to [REDACTED] and [REDACTED] dating relationship, with this knowledge unknown, [REDACTED] discovered she was pregnant, at which time [REDACTED] and [REDACTED] embraced the terms of the family plan, whereby they would live in Australia but return to care for [REDACTED] parents at some indeterminate future point.

(Transcript [REDACTED] pgs. 201-02)

29. [REDACTED] and [REDACTED] then married at the family estate in [REDACTED] and moved to Australia where their first child, [REDACTED] was soon born; this is confirmed by [REDACTED] testimony:

Q. And what was the date of your marriage?

A. The [REDACTED]

Q. And did you relocate or did she relocate with you to Australia?

A. Yes, she did.

Q. And when did that occur?

A. In [REDACTED] of the same year.

(Transcript [REDACTED] pgs. 162-163).

Marriage in [REDACTED]: Continued Agreement to Family Plan, Continued Domestic Violence of [REDACTED] and Children, [REDACTED] Business Failure, and Agreement to Act on Family Plan

30. Continuing into the marriage, [REDACTED] was verbally abusive and controlling of [REDACTED] and then the Children, as with [REDACTED] but went to extreme and intentional steps to hide this dark side from their close friends and church community; and as reflected in [REDACTED] trial testimony, with such narcissism symptoms and domestic violence propensities, did not even acknowledge or remember such; as explained regarding the clinical reason for distorted or lack of memory of [REDACTED] violence by Dr. [REDACTED]

Q. Okay. And, Dr. [REDACTED] I believe you indicated that [REDACTED] might have a diagnosis of PTSD. Did you make any diagnosis for Mr. [REDACTED]

A. No, I'm not making – I'm not offering a formal diagnosis. Instead, I am speaking, descriptively. Let me clarify the differences here. If you go to the diagnostic and statistical manual of mental disorders, each of the diagnoses has a symptom list, and what's typically stated is that X number of five or nine, as an

example, symptoms must be present to make a formal diagnosis. I don't have enough time in terms of my history with Mr. [REDACTED] to feel comfortable offering a formal diagnosis. What I am very comfortable in saying is that the pattern of behavior, as reported by Mother, the impact on Mother, psychologically, and the psychological testing on Mr. [REDACTED] are all consistent with a number of symptoms or (sic) narcissistic personality disorder, but I'm saying that descriptively, not diagnostically. I want that to be very clear.

(Transcript [REDACTED] pg. 98).

Q. Dr. [REDACTED] with domestic batterers, is their rage or outbursts, at times, such that they, actually, don't remember it or they just choose how their memory is framed of it?

A. Both, usually, exist. It's not at all uncommon that rage, particularly, in a narcissist can be so out of hand and so exaggerated that when they calm down later, it kind of disappears to them.

(See Transcript [REDACTED] pg. 158)

31. [REDACTED] was free to continue to act out his assaultive behavior unabated against [REDACTED] and the Children in Australia because domestic violence is not recognized as a serious social, legal, and cultural problem in this male-oriented society, and while there are laws on the books to prosecute domestic batterers, the police discourage reporting because domestic violence is an accepted societal norm.

(Exhibit "S", Royal Commission into Family Violence, issued March, [REDACTED])

32. In fact, [REDACTED] own "expert" witness, [REDACTED] on domestic violence who works with the aboriginal population—not at all reflective of the developed population of the rest of Australia—admitted he had *no training in identification* of domestic violence in the non-indigenous Australians:

Q. Do you, yourself, have specific training in identification of domestic violence in non-indigenous Australians?

A. I'm going to say, error on the side of caution, I will say no.

(Transcript [REDACTED] pg. 224).

33. The Court finds quite credible the testimony of [REDACTED] [REDACTED] friend and a former Australian domestic violence victim, who set forth cultural acceptance of domestic violence and pressure on victims to avoid seeking help, speaking directly to the ability for [REDACTED] and the Children to have been abused by [REDACTED] over the years, inability to obtain help, and why this was “unnoticed” and/or not acted upon by family, friends or other observers:

- Q. Sorry, [REDACTED] based on Mr. Uskert’s questions, you testified that you have been a victim of domestic violence, and that you have this knowledge of these resources. Do domestic violence victims always seek out help?
- A. No.
- Q. Are they sometimes reluctant to seek help?
- A. Absolutely.
- Q. And –
- A. Almost always.

(Transcript [REDACTED] pg. 200).

34. The Court finds credible [REDACTED] testimony regarding [REDACTED] continuing pattern of physical and psychological abuse of [REDACTED] and the Children throughout the marriage (albeit incomplete according to Dr. [REDACTED] because she is unable to recount same fully at this time as she suffers from Post-Traumatic Stress Disorder resulting from [REDACTED] assaults over the years), reflected in the following survey of events from [REDACTED] trial testimony:

- [REDACTED] - [REDACTED] beating [REDACTED] (at age two or three when he was in diapers) for accidentally dropping a rock on [REDACTED]’s head:

- Q. And we would move to another event or another potential event in [REDACTED] Did something occur with [REDACTED] and being injured?
- A. Yes.
- Q. Please explain.
- A. The children were playing the driveway, and [REDACTED] was outside, and [REDACTED] was about two or three, and he was wearing diapers still. He picked up a rock and dropped it on his sister, who was bent over playing in the rocks, and it caused her to have a little seizure or just knocked her down. I was not there for that, but I was there for what happened afterwards.
- Q. And what was that?
- A. I was in the kitchen. [REDACTED] immediately, became enraged at [REDACTED] chased after him, screaming at him, hitting him. [REDACTED] was screaming and running to me for

help, and [REDACTED] was grabbing him by his arms and legs and pulling him back to him and continuing to beat him. It was not discipline.

Q. What do you mean by beating him versus discipline?

A. Discipline is when you might spank a child a couple of times on the bottom that's age appropriate. This was beating.

Q. How?

A. And I pulled [REDACTED] -- how he was hitting him, hitting him, hitting him, and he had a hold of one of his arms, and he was holding them up and hitting him because [REDACTED] was trying to get away from him.

Q. So hitting somewhere other than across the buttocks?

A. Yeah, he was hitting him anywhere he could land his hand on him because [REDACTED] was fighting to get away.

(Transcript [REDACTED] pgs. 53-55).

- [REDACTED] or 2008 - The Niki incident, "It's either me or her!":

Q. And was there another incident in [REDACTED]

A. He was enraged and not in control of himself during that time.

Q. Ma'am, was there another incident in [REDACTED] that involved a child by the name of Niki and, if so, please explain?

A. Yes, there was an incident where I was driving [REDACTED] home after some dental work, and he became very aggressive and demanded that I ask Niki, who was our foster daughter that he had invited into our home, to leave because he was - - he had a very poor opinion of her and, in my presence, always called her names and had no tolerance for her, and told me, at that point, that he was screaming at me, that it's either me or her. You have to make a choice.

Q. Meaning Niki or you staying in the household?

A. Niki or him staying with me.

Q. Okay. And how did the - - what kind of names did he call Niki?

A. Fucking slut, a tramp, a stupid idiot, a bogan, which is the Australian word for hillbilly, a derogatory term. That she was so dumb that she didn't even know she was dumb. There's a Greek word, I don't know it, exactly. I think it's something that like hazos, which means sneaky stupid. It was an appalling way to speak about anybody much less a child, who was already at risk and needing our love, and then he demanded I get rid of her, and I said I could not because it's not like you could take a dog back to the pound.

Q. So what happened with Niki?

A. Well, I walked on egg shells. I, actually, during that time, I pulled the car over to the side of the road and got out because it's a small car, and it was a very frightening situation for me, and even though I was driving, I didn't think that it was safe for me to continue to drive. So, I pulled over, I got out at the side of the road and stood in front of the car holding the car keys, and I told him if he wanted to go home, he had to settle down. He got out of the car and threatened me to get back in and, eventually, I don't know what happened or how he cooled off. It was a pretty stressful situation, and I got back in the car and drove home. He told me

that I needed to get rid of her as soon as she got home. I refused to do so, and then it was very, very difficult for the next couple of weeks when it came to her, yet he was loving and kind of the life of the party when it came to interacting with her.

(Transcript ██████ pgs. 55-57).

- ██████ - Living room tirade:

Q. Ma'am, as it related to the last event in ██████ that you remembered, was there an incident that occurred in the living room in the ██████ home, and who was present?

A. There was. It was myself and ██████ and the children. It was shortly after that incident. The children were upstairs, which is very much a tunnel volume, tunnel straight upstairs.

Q. What happened?

A. It was ██████ started in berating me and listing my inadequacies and calling me names, and I vividly remember him, repeatedly, calling me a fat fucking lazy cow. I was stupid, incompetent, worthless, he deserved better. I think there were a lot of sexual references as to my ability to satisfy him, and I feared for my life. He had made some threats to me that whilst not I am going to kill you, were very indicative of I better watch out.

Q. Ma'am, I want to move forward now to - -

A. I reported this on a video tape because I feared for my life, and I did not - - I feared for the fact that my children might be left with this man, and I recorded it, and I went to the bedroom. I hid it, and I called my brother.

(Transcript ██████ pgs. 58-59).

- ██████ – Easter incident:

Q. Ma'am, let's move forward to ██████ Easter of ██████ Is there any particular issue or matter that occurred on that day? And, if so, please explain...

A. Easter ██████ there was an incident with - - in Greek culture, there's red Easter eggs, and there's like a ritual with cracking of eggs. It's kind of game, and ██████ and the children were doing this, and for some reason there was a discrepancy or argument. He felt ██████ was trying to take advantage of him in this, and it had ended up with him slamming the egg down on the kitchen table and mashing it, and calling her names, and then screaming at the children that they had to clean the mess up that he had just made.

Q. And the children were present for this?

A. Yes.

(Transcript ██████ pgs 61-63).

- ██████ - ██████ throws Nintendo DS XL at ██████'s head:

- Q. Okay. And, ma'am, I want to direct your attention, I guess, to the end of [REDACTED] now. What was the incident you had just briefly mentioned yesterday about a Nintendo and an issue with [REDACTED]
- A. Yes, [REDACTED] had been helping [REDACTED] clean up, and [REDACTED] as well, and she did not, I think, she suggested that he help as well, and he did not think that he needed to, and he picked up the closest thing he could find, which was [REDACTED]'s Nintendo DS XL, and hurled it at her head, and it bounced off of what was behind her, leaving a mark on that, and breaking the case off the Nintendo, and she said that she could feel it pass her ear, it was that close.

(Transcript [REDACTED] pg. 63)

- [REDACTED] - [REDACTED] incident:

- Q. Ma'am, I want to move down to the last, basically, the period of time that you came to the U.S. to take care of your mom. In [REDACTED] was there an incident that occurred at [REDACTED] and, if so, explain?
- A. Yeah, we had another young woman, who stayed with us and not, officially, foster child, but we had met her through Niki, and her name was Fiona and, in the beginning, [REDACTED] really admired Fiona because she was very intelligent, and she was good for discussions, and it started out with her just coming over to our house, but then it ended up with her needing a place to live, and she moved in with us. So, she was a part of our family. The kids loved her. [REDACTED] did not feel the same way after she moved in, and then on [REDACTED] Day, she did something when we were standing in the kitchen that upset him, greatly, and he said that he had had it with her fucking attitudes, and that he wanted her to get the fuck out of his house, and the children and I were standing there in the kitchen. We were all cooking, and we had no idea what had just happened. It was just a massive explosion, and she was - - we were petrified, and then we were told that we weren't allowed to help her get her stuff, and that she just needed to get out immediately, and there was no discussion. The kids weren't allowed to ever talk to her again nor was I. We were forbidden to have any contact with her.

(Transcript [REDACTED] pgs. 60-61).

- Fall, [REDACTED] - [REDACTED] throws bike at [REDACTED]

- Q. Ma'am, there's been some brief testimony. Was there an issue with [REDACTED] and a bicycle in [REDACTED]
- A. Yes.
- Q. And what was that about?
- A. [REDACTED] had left his bicycle under the veranda out by the back door, and he had been riding the bike off and on that morning, and [REDACTED] came out, said that he tripped over the bicycle, demanded [REDACTED] come from what he was doing, where he was playing, and come pick it up and move it, and then it started into berating

█████ for his shortcomings, and then █████ was afraid to go over to him because █████ kept demanding he come get the bike, and so █████ wouldn't, and █████ was holding the bike, and so █████ threw the bike at █████ █████ ran, screaming, trying to get away from █████ pursued him trying to discipline him, █████ climbed up a tree that was his little safe hiding spot outside, and he said he climbed so high so that Daddy couldn't get up there because the branches would break if he got too high.

(Transcript █████ pgs. 64-65).

- █████ - Lego incident:

Q. Ma'am, I want to just hit a couple of more incidents in █████ and we'll leave it for this part of the direct testimony. Ma'am, was there an incident at Lego Land?

A. No, it was on the way to a Lego exhibition. █████ was not with us. She was at a friend's house for an overnight the night before, and we were driving, and the whole morning started with █████ not wanting to go, but we had all planned for months to go to it. It was a special event, and so I encouraged him to go ahead and go anyway. He said he had too much stuff to do. So by the time he got to the car where █████ and I were waiting, he was not happy, and then was driving down the road rather erratically because he was trying to make a phone call at the same time. Prior to getting in the car, █████ and I had discussed that we would stop at the 7/11 on the way and have a Slurpee, and █████ started asking about the Slurpee, and █████ was not interested in listening to it or accommodating that because he wanted to go somewhere else on the way, and █████ continued to ask why we can't get a Slurpee, and then all of a sudden █████ said something about, "Shut up. Stop talking. Don't ask again," and then █████ said, "Why? We already talked about it," and then █████ said, "Shut up, you stupid little shit," and started swinging with his arm in the backseat trying to hit █████ while he was driving the car, and where it was rather a busy road, and I know not to interfere in these situations, but I just simply asked if he could please, if he would like to pull over so that I could drive, and then he could make his phone calls, etcetera, and, eventually, he did pull over. He got out. First, he leaned into the backseat and berated █████ He leaned over at me and assaulted me, verbally, and then got out of the car and slammed the door without even looking, and I remember at the time thinking I hope he doesn't get hit by a car, an oncoming car, and then he was so angry, was not really making good choices, and then he went around, walked around the car, banging on the hood, and screaming profanities at me, and told me to get out of the fucking car, and in the backseat, █████ was yelling at me to, "Please, Mommy, lock the doors. Lock the doors. He's going to hurt us," and I said, I was in slow motion, and I said, "█████ I'm afraid we'll have hell to pay if I lock the doors and lock him out." And █████ said, "I don't care." And I just slow motioned, reached up, and it was like I was watching myself do it, and just locked my "Lock all the doors, Mommy. Lock all the doors, please," and I said, "I'm afraid, █████ and he said, "I don't care, Mommy. I'll do it," and so then I reached over and told him to get back, and I locked the master lock. And then he

was down in the backseat on the floor in front of his seat in a fetal position crying and telling me to just get in the driver's seat and drive, drive, and I said, "We don't want to do that because we don't want to make Daddy even more angry." The whole time he's beating on the window. I was really shocked that he kicked the car several times. He went around and tried to open every door. He was not even aware that there were a lot of people watching. He was screaming profanities at me. One I recall was, "You're a stupid fucking cunt," threatening me I'd have hell to pay. I just was almost frozen in my seat. Eventually, he walked off. I just stared straight ahead the whole time. I didn't even want to make eye contact with him. I moved into the driver's seat and moved the car forward a little bit because we were at a bus stop, and I knew it was only a matter of time before a bus showed up, but I knew I had no business driving because I was so shaken. And we watched him disappear in the rearview mirrors, and then after I collected myself, I told [REDACTED] that we needed to drive around because Daddy didn't have his wallet, and it was a long walk home, and he said, "Let's just go get [REDACTED] and go to the Lego," and I said, "Let's go, at least, if we find him, we can roll down the window and toss his wallet out to him." And so, we drove around, and we couldn't find him anywhere, and then I said, "Well, we better drive back to the road to our house to make sure that - - I don't know why, that he's okay. We didn't see him on the road to the house. We pulled in our driveway.

(Transcript [REDACTED] pgs. 65-69).

- [REDACTED] - [REDACTED] beach house weekend incident:

- Q. Ma'am, [REDACTED] this is the last incident I'll bring out. Was there an incident related to the beach house on the way to or from?
- A. Port (inaudible)
- Q. Whatever you said, that's the word.
- A. Yes.
- Q. Explain that. Again, explain it, briefly, who was present.
- A. Okay. The children had gone with their grandparents to - - they have a beach house is [REDACTED]. It's about an hour and a half outside of Melbourne. [REDACTED] and I had stayed behind to work on the house because we had a lot of projects to finish before we could move forward, and we were driving down. The subject of him and his business and him informing his business partner of when we were going to be leaving, et cetera, came up. He told me it was none of my fucking business, that he was sick of me interfering with his business. I was too fucking stupid to know anything about it, to have any say in it. It was his business. It had nothing to do with me. I should know my place. A frequent statement by him is, "Know your place." I hear that often.
- Q. That's reflective of what happened?
- A. And so he was telling me that same thing, and I knew that once he gets in those moods that there's really no hope of having a conversation. I just shut up and was staring straight ahead until, you know, he kept saying, you know, the things to me

that were derogatory, and I said, "I'm just not going to put up with this anymore," and then he said, "Well, if you don't like it, you should get the fuck out of the car." He pulled the car over on the side of the road, reached over, opened my car door, and said, "Get out of the car," and I refused to get out of the car. I didn't want to be left on the side of the highway, and this is a regular theme, and I refused to get out, and he tried to get me out of the car, and then when we continued - -

Q. Wrap it up and tell us just what, in a couple of sentences the rest of the weekend.

A. So, yeah, yeah, that, eventually, got back on the road somehow, got down to the beach house. It was, once we were in the beach house with the kids and his parents, it was just the same thing except for he was really verbally aggressive to his parents. He told his dad he was fucking stupid. We went down, particularly, for [REDACTED] to help his dad fix an antenna.

Q. Were the kids in the car on the way down?

A. No, it was [REDACTED] and I. When we got there, though, the kids were at the beach house, and they ran out to say hello, and then they realized that something was drastically wrong, and they went straight back in, and then went into the bedroom with me, and then there was a big fight between he and his dad, and started out in English, and then I heard him swearing at his dad and calling him names, and then he did so to his mother as well.

(Transcript [REDACTED] pgs. 70-72).

35. The credibility of [REDACTED] and of her testimony is given significant weight by the recorded altercation in the kitchen whereby [REDACTED] reluctantly admitted at trial that he was verbally abuse of [REDACTED] (and by clear inference the Children), characterizing such until cross as just a "bad habit" of swearing:

Q. I thought your testimony was you went [to counseling] for anger and profanity.

A. No, I said that I had a habit of swearing a lot.

Q. What did you go for 10 weeks of counseling for?

A. Initially, it was just to meet this guy and, you know, to help us with what was happening, and then the question was, you know, why is this happening, and I said because I got upset and, yeah, I swear at her.

(Transcript [REDACTED] pgs. 313-14).

36. In reality, it is clear to the Court from a taped conversation that [REDACTED] admitted was accurate that [REDACTED] is physically and verbally abusive to [REDACTED] and the Children but, again, views this as nothing more than a "bad habit" of swearing; notwithstanding, when faced with this

actual recording, his final admission on cross-examination was that his enraged statements were indeed verbal abuse:

- Q. Okay. You said that you have a bad habit of swear; is that accurate?
A. Yes.
Q. Do you remember calling your wife a dickhead?
A. Yes.
Q. You remember telling her to fuck off?
A. What's in that is correct. You can read it all you like. It's correct.
Q. Yeah. I fighting bitch nag?
A. Yes.
Q. A fucking nag?
* * * *
Mr. ██████████ We get the picture, yes. It's all true.
Q. It's all true in there, yeah. So, you said a lot of nasty things to your wife.
A. Yes.
Q. You'd agree with that, but you say that's just a bad habit of swearing?
A. It's not a good thing to do.
Q. Is it verbal abuse?
A. It's verbal. It's, definitely, verbal.
Q. Is it verbal abuse? Yes or no, is it verbal abuse? You've testified you don't beat it. There's no physical abuse. Would you call that verbal abuse?
A. You may.
Q. ***Do you call it, verbal abuse?***
A. ***Look, yes, I do.***
Q. Okay.

(Transcript ██████████ pgs. 320-21) (emphasis added). (Respondent's Exhibit "R", transcript of recording).

37. ██████████ only witness that actually had any testimony that there was no domestic violence was ██████████ a family friend since about ██████████ However, the Court assigns no weight to this testimony as she was clearly biased in favor of ██████████ indicated by her testimony on cross-examination:

- Q. Do you have somebody in the room helping you with your testimony where you are at right now?
A. Well I am sitting in my home. It's half past 10:00, no it's not, it's half past 11:00 at night. I have got my dog on the couch and he is not really talking to me. ***And I have got my husband holding my hand because quite honestly Bryan you frightened the living daylights out of me.***

- Q. I did - - did my office by calling you and wanting to talk to you, that frightened you?*
- A. Yes it did actually because I thought this isn't professional. This would not happen in the U.K. and I didn't expect it.*
- Q. Okay so in your view then it is okay for you to share information with [REDACTED] and his attorney but not share it with [REDACTED] and her attorney? I want to make sure I am understanding you.*
- A. Well I don't know enough about the - -*
- Q. That is a yes or no question ma'am.*
- A. No don't put words into my mouth.*
- Q. I am asking you a yes or no question, no. Answer that yes or no.*
- A. Okay ask me the question again Bryan.*
- Q. You freely shared information with Mr. [REDACTED] and his attorney and yet you were upset and found it threatening or frightening that somebody called for [REDACTED] [REDACTED] her attorney, and wanted to talk to you is that correct?*
- A. Of course.*

(Transcript [REDACTED] pgs. 41-42). (emphasis added).

38. The Court finds the Children were exposed to this physical and psychological abuse of [REDACTED] (as well as the abuse inflicted upon them by [REDACTED] captured through neutral interviews of the Children by Dr. [REDACTED] (who [REDACTED] also joined as an expert to evaluate the family), as succinctly set out in his direct examination:

- Q. And how is that if it's not directly aimed at the child?*
- A. The vast majority of children, certainly, love and care at some level for both of their parents. Certainly, in this evaluation, as I spent time with Mother and [REDACTED] and [REDACTED] it's very apparent that there is a very powerful pattern of bonding and attachment between [REDACTED] and her children. What her children report to me is fearfulness and apprehension not just for themselves, but for their mother in observing their father's behavior towards her. The children also reported to me some physical threats. Shoving into walls, grabbing wrists, holding, pushing, shoving, throwing things at, things of that nature, and that was frightening to them to observe. [REDACTED] in fact, told me that he had a shelf high in his closet that he would go into and climb up to hide when it really got bad because he was so frightened.*

(Transcript [REDACTED] pgs. 107-108).

39. In the family's final years in Australia together, [REDACTED] company became insolvent; [REDACTED] and [REDACTED] mortgaged the marital home to pay off some of [REDACTED] business debt;

█████ was unemployed for a period of time, but obtained a new job where, if he goes bankrupt, the contractual provisions of his employment contract will operate to terminate his employment:

- Q. Sir, isn't it true that if you're forced into bankruptcy, you will lose that position because the contractual provision of your employment prohibits you from filing bankruptcy?
A. Possibly.
Q. It's a yes or no question.
A. Well, no, it's not.
Q. Does the contract say that?
A. It does, but it's discretion.

(Transcript ██████ pg. 324).

40. The probability of having the home foreclosed on for debt,⁷ ██████ losing his job, and the family being homeless given ██████ debt appears to be only a matter of time, as ██████ effectively admitted at trial:

- Q. Mr. ██████ you've had a history of financial problems; have you not?
A. From a business perspective, yes.
Q. Okay. And those continue?
A. I don't have a business, anymore.
Q. Yeah, but you have a debt. I believe you provided us - -
A. Yes.
Q. - - with documentation that's almost \$800,000.00; is that correct?
A. That's what they claim, yes.
Q. That's what they claim.
A. Correct.
Q. Okay. Have you done anything to pay that debt down?
A. No.
Q. Done anything to resolve that debt?
A. Yes.
Q. What have you done?

⁷ While there is conflicting testimony as to whether the marital home was listed to placate creditors or to sell it to move, the reality is this evidence speaks to the fact the Parties will wind up homeless at some point in the future when it is foreclosed on leaving \$800,000 in unpaid debt, these facts support the "intolerable situation" on return or "grave risk of harm" as ██████ will be unemployed when this occurs. On the other hand, if the home was listed for relocation to effectuate the family plan, this directly supports the family plan and the consent and/or acquiescence defense. (Petitioner's Exhibit "2", deed to property; Petitioner's Exhibit "14", ██████ Certificate of Title of marital home; Petitioner's Exhibit "15", photos of the home). (Respondent's Exhibits "O" and "P", listing agreement and listing sign of real estate agent).

A. There was, before I started on this.
Q. Uh-huh.
A. I saw a lawyer, who contacted the liquidator and, basically, what the situation is, is that, okay.
Q. I'm just asking what you've done.
A. Yeah, okay.
Q. Have you made any payments?
A. It's not, no, I've actually been given some grace to sort this out, first.
Q. What kind of grace? Have they given you --
A. I just told you.
Q. How much time?
A. To sort - -
Q. Just indefinite amount of time, whenever you want to pay, you pay it?
A. All right. Can I tell you - -
Q. No, I just want to know what you've done.
A. Okay.
Q. Have you made any payments?
A. No.
Q. No. Okay. How much do you owe on your house and your mortgage?
A. How much do we owe?
Q. Uh-huh.
A. About \$800,000.00.
Q. ***\$800,000.00. So, we've got \$800,000.00 for the business liability, and \$800,000.00 for the house.***
A. Uh-huh.
Q. ***Okay. But the house is not going to go into foreclosure?***
A. Is that what you're telling me or are you asking?
Q. I'm asking you. You don't see that as a reasonable thing that's going to happen.
A. Okay.
Q. Yes or no, do you see that as a reasonable thing that's going to happen?
A. It may happen.
Q. With \$1.6 million in debt?
A. No.
Q. ***Is that a reasonable thing that's going to happen?***
A. ***Not necessarily going to happen, no.***
Q. ***Is it a reasonable thing that is going to happen?***
A. ***It can happen.***
Q. ***It can happen.***
A. ***Yeah.***

(Transcript [REDACTED] pgs. 316-319). (emphasis added).

41. Given his business setbacks and the family plan, ██████ saw the move back to the United States as a “new start” of sorts when he discussed it operationally with ██████ in April

██████

A. Well, our plan was, eventually, to move to the United States as a family. We wound up the business, and also, as you know, as you’ve already heard, her parents were not well, *so I kind of saw it as a new start for myself, and that was, basically, it. Yes, it was something that we had discussed, and especially when ██████ got back in April, the discussions became very intense, but it was something that we were planning on doing as a family, definitely, yes.*

(Transcript ██████ pg. 192). (emphasis added).

42. Indeed, ██████ took steps toward his job search in the United States in order to secure employment, if possible, with implementation of the family plan; this included connecting with ██████ friends who could help him obtain a job, including ██████ ██████ who had extensive knowledge of this family plan to return to the United States and met with ██████ to help him obtain a job:

Q. Yeah. Okay. Do you know ██████ ██████

A. Yes, during that time period, I met ██████ and they discussed plans about his moving to the States because he was engaged in a lot of controversial business problems with his partner and wanted to begin another life in this country.

Q. Okay.

A. And he asked me for help on finding him a job.

(Transcript ██████ pgs. 151-152).

Q. Did you have any other communications through emails or –

A. Yes, there was several different – he would email me and/or, you know, I finally decided he was more of a risk than a compliment to my clients, and so I attempted to ignore him, but he attempted several times to be in touch with me through LinkedIn, I think it is.

(Transcript ██████ pg. 154).

Q. Okay. In that message, does it talk about ██████ and ██████ moving to the United States?

A. *It does. It says, let’s see, “██████ and I have formally decided to relocate in the U.S. I am sure she will fill you in on the gory details next time you see her.”*

(Transcript ██████ pg. 161). (Respondent's Exhibit "J", message to ██████ ██████ from ██████ regarding formal agreement to relocate to United States, dated ██████ (emphasis added).

Relocation Planning in ██████ Decline of ██████ Mother, Execution of Family Plan, Continued Domestic Violence of ██████ and Children

43. This decision to move based upon the ██████ formal agreement to do so actually occurred while ██████ and ██████ were in the United States in late ██████ and the first few months of ██████ to check on her parents, at which time ██████ observed the rapid decline of her mother, although the travel to the United States was with the terrible choice ██████ had to make to leave ██████ with her father, a domestic batterer:

Q. So you came to prepare the way in terms of the move itself, and to take care of your parents.

A. Correct.

Q. And, ma'am, the last time you came here, why would you choose to leave ██████ with Mr. ██████ and take ██████ What's – do you have or is there any reason or thought process behind that?

A. Yes.

Q. What is that?

A. With the more frequent travel and ██████ entire stress levels with having lost his business for the second time and being unemployed, I felt that I had to bring ██████ with me because I knew that he could not adequately meet ██████'s needs. ██████ has a lot of extra needs, and ██████ depends on me to get through his day.

Q. What do you mean by that?

A. And I knew that ██████ would not have time to do that. I knew that ██████ was wanting to - - we discussed it, and what the plan would be, and she wanted to finish out her eighth grade year at the school she had started, and with the timing of it, it seemed to work better for me to take ██████ with me and not have ██████ stressed out about that, and he agreed that that would be better since he was starting a new job.

(Transcript ██████ pgs. 83-84).

44. Given the rapidly declining state of ██████ Mother, ██████ and ██████ agreed to act on the family plan and ██████ then began to make arrangements with ██████ in Australia to repair the home. (Transcript ██████ pg. 257).

45. While still in Indiana, ██████ began implementing a plan to store items in the home for ultimate shipment to the United States and assisted ██████ in beginning to make the necessary repairs to the home so same could be sold for this move, and so he could get a job as noted *supra*, as she testified in her direct exam:

Q. Okay. And, ma'am, weren't you actively doing things to help your husband like helping him with his green card?

A. Yes.

Q. You were sending him to ██████ to get a job?

A. Yes.

Q. Skyping back and forth how to get the house repaired by a punch list?

A. Yes.

Q. Moving back to pack the home?

A. Yes.

Q. ██████ had already started packing in a storage unit?

A. Yes.

Q. And, in fact, wasn't the whole point, on the record in this court, of going to mediation is to figure out how to actually make that move happen that you guys had agreed to?

A. It was.

(Transcript ██████ pg. 257). (Respondent's Exhibits "O" and "P").

46. While ██████ men's bible study group may have helped make house repairs in the past for reasons related to increasing its value for obtaining a mortgage, the Court does not find it credible they did work around the time of the move that rebuts or puts into question ██████ agreement to execute the family plan, move to United States, and live at ██████ parent's estate, as this is rebutted by ██████ testimony and clearly memorialized in his letter to ██████ ██████ sent ██████ (Respondent's Exhibit "I", ██████ message to ██████ ██████

47. Specifically, when [REDACTED] and [REDACTED] returned to Australia to complete the move, [REDACTED] inexplicably delayed obtaining the shipping container; but, it is clear [REDACTED] was packing the family for the move before [REDACTED] returned, and this continued when [REDACTED] and [REDACTED] returned, as [REDACTED] testified and congruous with [REDACTED] agreement to move reflected in his confirmations to individuals like [REDACTED] [REDACTED] and [REDACTED] [REDACTED] as well as his testimony about his “new start” in the United States:

- Q. So it's physically you going back and purchase - - you and Mr. [REDACTED] purchased a shipping container that's placed on your property?
- A. We had not - - I had not gotten to the point where we could purchase it because I could not get the money from [REDACTED]
- Q. Okay.
- A. Nor did I get the money for the shipping container to be brought so that I could put our belongings in it that go to the U.S.
- Q. So what were you doing with the things you're packing? What was the plan?
- A. Well, I was using the time to sort things out and put into consolidating, getting rid of stuff, and also using that time to - - because throughout that period of time, we had actually managed to refinance the house to pay off a sizeable chunk of money that he had owed to a creditor, and that allowed us to hold onto the house and possibly lease it as opposed to sell it, and that would have been an ideal, and the reason we wanted to leave the other shipping container on the property was so that we could put stuff there so in the future if we wanted to come back and visit, we would be able to do it. *The rest of the stuff, before I got back, [REDACTED] had actually packed quite a lot of stuff between him and his men's group to clear the house out so that it looked better for sale as well, and I had helped him come up with some ideas and just find out costs of different local storage units for him to put the stuff in, and in my absence because I was in the U.S. He organized to have people help him do that.*
- Q. *So that actually occurred.*
- A. *Yeah.*
- Q. *Items were getting moved out of the house either to be consolidated, given away, sold, or transported to the U.S.*
- A. *Yeah.*

(Transcript [REDACTED] pgs. 100-101). (emphasis added).

48. [REDACTED] [REDACTED] [REDACTED] friend who she has known for thirty (30) years, a structural forensic engineer, testified as to his efforts to help [REDACTED] land a good job in the United States in [REDACTED] corresponding with the planned moved:

- Q. And that was, again, I'm sorry. I think you got cut off a little bit. That was for what purpose?
- A. I was introducing him [Mr. ██████████] to a headhunter I knew that finds engineering jobs for people. He's an engineering headhunter.
- Q. Okay. And that was for a job in the United States?
- A. Yes, he's investigating jobs here in the United States...
- Q. Okay. Okay. Do you have any knowledge about ██████████ and ██████████ moving from Australia to the United States?
- A. Yes, that's what, I guess, their plans were.

(Transcript ██████████ pgs. 96-97).

49. In ██████████ LinkedIn message to ██████████ ██████████ on ██████████ ██████████ specifically acknowledged the execution of the family plan to relocate: ***"The plan is that ██████████ and ██████████ head back to the US in a month or so and ██████████ and I join them a few months later when everything is settled here."*** (Respondent's Exhibit "I"). (emphasis added).

50. The Court finds telling of this concrete consent to and/or acquiescence of the plan to return to the United States in May ██████████ that after multiple days of trial during an attorney conference, namely on ██████████ the Court returned to find ██████████ requesting to delay the trial on his return request of the children, all to go to mediation to determine how he would effectuate the planned move, as captured and placed on the Record, without objection, by ██████████ counsel, Darlene Seymour:

"Judge, Your Honor, Darlene Seymour and for ██████████ ██████████ The parties have agreed to mediation on ██████████ and ██████████. There are certain stipulations for the mediation. The first being that the first issue as to the issues that will be discussed at mediation. The first being when Mr. ██████████ will be moving to the United States from Australia. The second being until he's able to do that, what will the parenting time be with the Children with Mr. ██████████ The third issue would be where he will live when he gets to the United States, and then the fourth issue would be what the parenting time will be once he gets here and is living here. The fifth issue will be counseling for both the Parties and the Children."

(Transcript ██████████ pg. 228).

51. The rapid decline of Mrs. [REDACTED] was well-known, as was [REDACTED] agreement to move to the United States beginning May, [REDACTED] as also noted by [REDACTED] [REDACTED] trial testimony and contingency plan and the case of delay in [REDACTED] and [REDACTED] move to the family estate:

Q. And over the last few years, in fact, have your parents become, for lack of a better word, elderly and in need of care?

A. Yes, they have. My mother, in particular, has deteriorated greatly to the point where she's not even in an assisted living. It's a skilled care unit, and my father is not – he's barely holding it together. If she wasn't there, I would have to take drastic steps. In fact, before she moved back, I put money down, basically, to hold a space on a place in [REDACTED] that specializes in Alzheimer's care. They have like \$2,500.00 of my money in the event that if [REDACTED] got to Australia and got stuck and something happened, I could just move Mom to [REDACTED] put her in Grandview, and that's in the event that something happened to Dad because I knew there was no way he could – she couldn't begin to take care of herself, and that was even – that was over – that was way over a year ago.

(See Transcript [REDACTED] pgs. 14-15)

52. When [REDACTED] and [REDACTED] returned in April [REDACTED] [REDACTED] had or began to delay and stalled on the agreed upon move and the packing in progress, creating a pressure cooker situation in the home that caused [REDACTED] and the Children to have to leave out of concern for their safety and stay with acquaintances, ultimately seeking police help for protection from [REDACTED]

(Transcript [REDACTED] pgs. 98-99, 105-106, 169-172).

53. The flash-point occurred on Mother's Day, [REDACTED] where, among other things, [REDACTED] told [REDACTED] to leave the country and take her "bitch daughter" with her and leave Australia, as reflected in [REDACTED] testimony:

Q. What time of day is this?

A. That's brunch time. It was probably like noonish, 12:00 o'clock, because I remember I needed to take [REDACTED] over to [REDACTED] his friend's house at 1:00-ish. So we endured the meal, which was awful, not the cooking, the company, the tension. You could just hardly swallow. It was that hard to be in the same room, and then the kids got themselves ready. I told [REDACTED] I would like for her to come and do some things with me, and she said no she'd rather go to a friend's house

because she just wanted to escape, and I said, "Well, I have to take [REDACTED] anyway. I'm going to take - - I decided it wasn't a good idea to leave [REDACTED] or her in the house because I felt that he was unstable, and so I said, "[REDACTED] you can come with us, and I'll drop you off to play basketball at the park and, [REDACTED] I'd like you to come and maybe we can do some Mother's Day things together." And she still wanted to see her girlfriends, and I said, "Well, then maybe we can do that, too. Maybe, I don't know, but let's just, you know, come with me now." And I was in my crappy gardening clothes, you know. I was not planning on going anywhere, and so I just got everybody out to the car. Well, they came downstairs and then as they were there going out to the car, [REDACTED] *came in and wondered where we were going, and I told the just to go on out and wait for me, and then I told him that I was taking [REDACTED] to [REDACTED] [REDACTED] to basketball, and [REDACTED] was coming with me, and he was fine with that. And then he said, "We need to talk about this. We need to finalize this," and I was saying, "Finalize what?" And he said, "Us. It's over. I don't want anything to do with you. I'm tired of walking on egg shells. It's over between us." I mean, it wasn't said that nicely, and then he said that I needed to leave the country, "Get out of the country and take that bitch daughter of yours with you. What I saw broke my heart. You two conspiring against me." And I told him he wasn't thinking clearly, and that I wasn't going to leave the country, and I wasn't going to divorce him, and even if he begged me, I wouldn't give him a divorce because you just don't say things like that when you're angry.* When we got married, I actually, he and I talked about it, and I said, "We will never, in the context of our marriage, use that as a threat against each other when we're angry. The only time you say that, you better mean it." And I told him, I said, "You're just - - you're angry. You're really upset. You're not thinking clearly. You should not say things like that that you don't mean," and I don't know if he meant it or not. I'm pretty sure he did, and because every time he'd get angry with me like in the last, say, five years, he would tell me he wanted a divorce, and he was out of there or I should leave, and I just never acknowledged it and responded to it because I just, well, I didn't - - I felt that I was just be trapped there further and never be able to ever move on with my life because I was so, totally, dependent on him.

(Transcript [REDACTED] pgs. 140-143). (emphasis added).

54. After [REDACTED] demanded they leave the marital residence on Mother's Day, [REDACTED] [REDACTED] spent a few days at the [REDACTED] residence with the Children and [REDACTED] [REDACTED] encouraged her to seek services to reconcile the marriage, as she testified on direct:

- Q. What did you view as your role in assisting [REDACTED]
A. We were very clear about the role. We told her that we loved her and we loved [REDACTED] equally. And as we were having her in our home equally we would be having [REDACTED] in our home. And we also said we didn't want to get involved in the

argument and we didn't want to be involved in the he said/she said. And also we were, while she stayed with us we wanted to try and get her some services in place specifically counseling services *to help them reconcile and come back together to resolve the issue and start talking about it. That was our role.* We were providing them with food, home, love and trying to access them some services. This was late on Saturday afternoon so the services I normally would have accessed were through the G.P. or schools weren't available on that day.

(See Transcript [REDACTED] pgs. 49-50).⁸ (emphasis added).

55. Against the backdrop of the family plan, and [REDACTED] agreement to move to the United States, lack of ability to reconcile without services (at least in Australia), the looming loss of the house, and knowing the limits of the Australian system, [REDACTED] nevertheless tried again to seek help in Australia.

(Transcript [REDACTED] pg. 127).

56. Specifically, [REDACTED] again sought help from the police, who previously discouraged her and basically instructed [REDACTED] she would regret filing a police report on her Husband for domestic violence:

Q. What happened when you went to the police before in the past? Did you get help?

A. No.

Q. Why not?

A. No, because, I mean, those just aren't valid concerns.

Q. Domestic violence?

A. Right. Right. Well, you know, arguments, threats, things like that. They can't help you.

(Transcript [REDACTED] pg. 127).

⁸ [REDACTED] [REDACTED] who works in a large hospital not servicing [REDACTED] area, testified as a rebuttal witness as to new services being offered subsequent to the March, [REDACTED] Report, as well as presented flyers for domestic violence victims for new services to begin to address rampant domestic violence in Australia, which, by applying common sense, as this Court is allowed to do, will take years to take root and provide integrated effective services. (Transcript [REDACTED] pgs. 266-268). (Petitioner's Exhibit "27", "28", and 29"). See, e.g., *Cleary v. Manning*. 884 N.E.2d 335, 340 (Ind.Ct.App.2008).

57. However, hope against hope, in this factual dynamic, in which everyone she knew did not see [REDACTED] for a batterer and the systems to address domestic violence were ineffective and impotent, as she knew from Mrs. [REDACTED] as well as her own request of the police in the past, [REDACTED] had [REDACTED] [REDACTED] take her to the police station for a second chance at police help, which failed, as she testified to at trial:

- [REDACTED] testimony of the request to police for assistance:

Q. What was your perception from Officer [REDACTED]

A. [REDACTED]

Q. What was your perception? What happened to move forward?

A. He advised I go home and let it get to such an extreme that I had a physical injury that could be documented in an emergency room or I called them before it got to that point so that they could attend the house.

(Transcript [REDACTED] pg. 176).

- [REDACTED] [REDACTED]'s testimony about taking [REDACTED] to the police station:

Q. Okay. How did you help [REDACTED] that day?

A. On the 22nd, [REDACTED] expressed that she was unable to - - she did not feel comfortable in driving a motor vehicle, and I offered to drive her wherever she needed to go, she needed to go (inaudible) situation. We, first, stopped, she requested that day was to the police station in Warrandyte where I had to drive her to the police station. She was seeking what is in Australia is known as an AVO, and Australia Violence Order, against [REDACTED] and she was seeking to have that executed by the police.

Q. And was that - -

A. The police - -

Q. Did the police give her that order?

A. No, we were at the police station, and we spoke, at that time, to the district sergeant of police, who was responsible for domestic violence, and he - -...

Q. [REDACTED] you were talking about the visit to the police station, and you had said they did not give her the AVO. Can you tell me what happened at the police station?

A. Yes, I can. The procedure here in Australia is the courts do not issue the AVO. They follow that process, actually, procure that order through the courts. The police officer, the sergeant of police, who spoke with [REDACTED] said to her that the AVO would be a - -...

Q. [REDACTED] *I'm sorry. I'm sorry. You can't say what the police officer said. I was just asking if she was able to receive assistance at the police station.*

A. *No, she was not.*

(Transcript [REDACTED] pgs. 26-29). (emphasis added).

58. As with [REDACTED] and consistent with Dr. [REDACTED] testimony about the extreme steps domestic batterers take to shield themselves from being discovered, [REDACTED] also made it known to [REDACTED] [REDACTED] ([REDACTED] husband) that he had better not testify against him as [REDACTED] wife did in a prior day of trial testimony:

Q. Okay. Have you seen [REDACTED] lately in the last couple months?

A. The last time I've seen [REDACTED] was the 2nd of July [REDACTED]

Q. Where did you see him at?

A. I was in a café in [REDACTED] with my children and (inaudible).

Q. Did you speak to him?

A. I did not speak to [REDACTED] [REDACTED] came across the table (inaudible). It struck me (inaudible) and words to the effect that, "I hope you're happy of what you've done." He used some profanity and (inaudible)

Q. So he used some swear words; is that what you're saying?

A. I (inaudible) He stood over me, and intimidated by his words and actions.

(Transcript [REDACTED] pg. 34).

59. Without any other realistic remedy in Australia to protect herself and the Children from [REDACTED] and unsure of what [REDACTED] was trying to accomplish by agreeing to move, and then thwarting all attempts to do so, and with [REDACTED] impeding her ability to access their bank accounts after she left to stay with the [REDACTED] family, [REDACTED] used the little bit of [REDACTED] money she had left and was forced to borrow money from friends to buy plane tickets for her and the Children to go to the United States as planned to occur in [REDACTED].⁹ (Transcript [REDACTED] pg. 183).

⁹ Clearly, [REDACTED] still loves [REDACTED] and/or is suffering from Accommodation Syndrome based on her emails in [REDACTED] and January, [REDACTED] but this does not speak to justification of domestic violence or negate her defenses. (Petitioner's Exhibits "16" – "24"). (See Dr. [REDACTED] testimony herein for description of Accommodation Syndrome).

60. █████ and the Children debriefed in █████ and ultimately settled in the family estate and her parent's home in █████ with █████ providing the care for the Children through the time of trial.^{10 11}

(Transcript █████ pg. 16).

Domestic Violence Resources in Australia in █████ and █████

61. Noting the limits for domestic violence victims already set forth in these findings, and accepting █████ admission at trial that he was at least verbally abusive, a great deal of weight is given to █████ and the Children's "intolerable situation" and "grave risk of harm" they face if a Return Order issues is found in Australia's March, 2016 Royal Commission into Family Violence Report; this comprehensive report details the *wholesale* failure in Australia to address domestic family violence, *leaving battered women and children with the only choice to flee their home for safety if domestic violence is the issue:*

- All parts of the system—support services, police, courts—are overwhelmed by the number of family violence incidents now reported. *Services are not currently equipped to meet his high level of demand, which undermines the safety of those experiencing family violence and the potential for recovery.*
- *The many different forms and manifestations of family violence are insufficiently recognized,* and responses are not tailored to the particular circumstances and needs of diverse victim.
- There is a *lack of target resources to meet the specific needs of children and young people who have experienced family violence.*
- *The current response to family violence largely assumes that women will leave their home when family violence occurs.* For those who must leave,

¹⁰ █████ and the Children's fear of Father and further abuse of her and the Children is reflected in Petitioner's Exhibit "4" regarding █████ unexpected visit to the United States in █████ wherein she was seeking help and guidance.

¹¹ █████ also sent █████ █████ a letter about living in hiding in the United States, all to let her know she and the Children were safe, at the outset of relocation due to the unresolved abuse by █████ against her and Children. (Petitioner's Exhibit "1").

homelessness and housing systems cannot guarantee a safe place to stay or a permanent home that is affordable. For those who remain at home, monitoring of the perpetrator is inadequate.

- ***Key personnel in universal systems, such as health services and schools, are not adequately equipped to recognize that family violence may be occurring and often do not know what to do when it is identified.***
- The range of services a victim might need at different times, including at points of crisis and beyond, are not as well coordinated as they should be, particularly when these services are located in different systems—for instance health and justice systems. ***Gaining access to support can be difficult for victims, and service responses remain inconsistent and hard to navigate.***
- ***Efforts to hold perpetrators to account are grossly inadequate.*** Victims are too often left to carry the burden of managing the risk. Insufficient attention is given to addressing perpetrators' individual risk factors.
- ***The safety of victims is undermined by inadequate methods for sharing information between agencies about perpetrator risk.*** This is exacerbated by outdated information technology systems.
- ***Too little effort is devoted to preventing the occurrence of family violence in the first place,*** and intervening at the earliest possible opportunity to reduce the risk of violence or its escalation. Similarly, there is not enough focus on helping victims recover from the effects of violence and rebuild their lives.
- ***The ██████████ Government does not have a dedicated governance mechanism in place to coordinate the system's efforts to prevent and respond to family violence or to enable an assessment of efficacy of current efforts.***
- ***There is inadequate investment in measures designed to prevent and respond to domestic violence.***

(Respondent's Exhibit "S", pg. 6). (emphasis added).

62. Equally concerning to the Court during the lengthy trial in this case is its observation ██████ was robotic in nature and never expressed emotion consistent with anything other than prevailing to obtain a Return Order.

63. At present in ██████ with domestic violence just being recognized as a serious social problem, there is no effective legal or social safety net for ██████ and the Children if

returned to Australia, and [REDACTED] will continue unabated to be a batterer of [REDACTED] and the Children into the indefinite future, as clear in Dr. [REDACTED] testimony about his understanding of the current state for relief for domestic violence victims in Australia:

- Q. And, Dr. [REDACTED] is it your belief that that report and your entire interview process that if the children are returned to Australia that would put them, psychologically, at a grave risk of harm or in an intolerable situation?
- A. That is my belief, yes.

(Transcript [REDACTED] pgs. 152-153). (Exhibit “S”, Royal Commission into Family Violence, issued March, 2016).

Skilled and Professional Witnesses, a Forensic Clinical Expert, and Opinions on Implications for Return Order

1. [REDACTED]

64. As a threshold matter, the Court does not find the testimony of Dr. [REDACTED] of assistance to the finder of fact and of no weight because, while well-intentioned, Dr. [REDACTED] testimony is credible that Dr. [REDACTED] did not differentiate personal friendships from professional roles such that her testimony is skewed by her serving in prohibited dual roles:

- Q. So, Dr. [REDACTED] having said that, do you see an issue with Dr. [REDACTED] [REDACTED] ethically or professionally, providing psychological services in this case?
- A. Absolutely.
- Q. How so?
- A. The ethical standards of psychologists has a section on dual relationships. No psychologist, the instructions are, ethically, can offer themselves in a professional capacity when they also have another relationship with someone, for example, as a personal friend or to family members of a personal friend. That is, by definition, unethical behavior for a psychologist.

(Transcript [REDACTED] pgs. 131-132). (Respondent’s Exhibit “A” and “B”, APA Code of Conduct and Ethical Violations; Respondent’s Exhibit “C”, professional recommendations from [REDACTED] from her work email; Respondent’s Exhibit “D”, Facebook message from [REDACTED] to [REDACTED] Petitioner’s Exhibit “25”, reflecting Dr. [REDACTED]’s acting in a professional capacity,

notwithstanding denial of such at trial; Transcript [REDACTED] pgs. 130-132, wherein [REDACTED] admits to violated dual role APA ethical rule).

2. [REDACTED] [REDACTED]

65. The Court also finds that while therapist [REDACTED] [REDACTED] has some helpful testimony for the Court, it is best considered in light of Dr. [REDACTED] extensive work in this case as he spoke with her as a collateral contact. (Transcript [REDACTED] pg. 100).

3. [REDACTED] [REDACTED]

66. While [REDACTED] called [REDACTED] [REDACTED] to opine whether there had been domestic violence and/or if the Children had relayed anything to him that was concerning, such as the term “rage monster”, it is clear to this Court that Mr. [REDACTED] skills are insufficient to be of weight in this matter, and any counselor working with teenagers would understand the term “Rage Monster” from YouTube as common in teenage vocabulary; also any professional evaluating domestic violence would have spoken with both parents, so the Court does not put weight on this testimony as clearly Mr. [REDACTED] does no such forensic work as he admitted on cross:

- Q. Okay. So you have no idea then whether you’re helping determine if something occurred or if you’re harming because you don’t have forensic training in domestic violence with children.
- A. I would disagree with that.
- Q. *Okay. Tell me what forensic training you’ve had.*
- A. *None, but I’m talking about the concept of talking to children about what they’re experience and what they’re feeling and not leading them.*
- Q. *In domestic violence or physical, sexual, or mental abuse, you have had no forensic training.*
- A. *That is correct.*
- Q. Okay. And sir, which of the counselor - - let me strike that. I’ll come back to that. Did you, at some point, I thought I heard you say that a significant part of your practice was teens; correct?
- A. Yes.
- Q. And did you put value on or indicate that you thought and maybe I’m putting, I don’t want to say something that’s not accurate. *You believe that [REDACTED] was leading or otherwise giving the children an idea that maybe that that had occurred with their dad because of the use of the term rage monster?*

- A. I'm sorry.
- Q. *Did you not put value on the term rage monster used by one of the kids?*
- A. *Correct. And it was one of those things that in making note to see if that would come up in other things of other sessions with the kids.*
- Q. *And why did you put value on that term?*
- A. *Because it was a term she used to describe the behavior of Dad. I was using her language.*
- Q. *And is that atypical language for you, that term?*
- A. *Yes.*
- Q. *And where did you think that term came from?*
- A. *She chose to use it.*
- Q. *Okay. Sir, would it surprise you to know that in a teenage group that you're counseling, a significant group of kids follow are called Rage Monsters. Would that surprise you being a child therapist as you are?*
- A. *No.*
- Q. Then why did you put value on it?
- A. Because she did.
- Q. Okay. Do you know that there is a group called the Rage Monsters?
- A. No.

(Transcript [REDACTED] pgs. 141-143). (emphasis added). (Respondent's Exhibit "E", Rage Monster YouTube video).

- Q. *Okay. What did you do? Did you talk to Dad about that?*
- A. *I did not.*
- Q. *What did you do to verify if what their concerns were, were valid or not?*
- A. *Nothing.* The concept was that we would talk, potentially, with Dad, Skype or phone, in the future, so it was more validating the kids' feelings about that than if it was true or not. It was their perception.
- Q. Okay. So you were more concerned - - your focus, just so I'm clear, was on validating their concerns, not, and their perception, not whether what they were relating was true or not. I believe that's what you just said.
- A. Yes, but I think the truth would then come out in time talking to, if we did get to have Skype sessions.

(Transcript [REDACTED] pg. 151). (emphasis added).

- Q. *Sir, fair to say you weren't there long enough to complete the process and have no idea what the intensity was of any domestic violence if it was occurring?*
- A. *Yes.*

(Transcript [REDACTED] pg. 158). (emphasis added). (Respondent's Exhibit "E", Rage Monster YouTube information).

67. [REDACTED] also called [REDACTED] [REDACTED] [REDACTED] Senior Pastor of the [REDACTED] [REDACTED] of approximately 250 members, who claimed he [REDACTED] did not relay instances of domestic abuse to him, although he had relatively infrequent contact with the family; however, the Court does not find his testimony compelling or of much weight in light of the emergency state of family domestic violence in Australia and given his complete denial on *cross of any awareness of domestic violence in his congregation or the community at large:*

Q. Have you heard - - in this community have you heard rumors of domestic violence?

A. No, not - - the [REDACTED] family?

Q. No in general.

A. No not in general but I have heard rumors of bad parenting.

Q. Okay but just to be - - your question specifically is you have not heard rumors of domestic violence for anybody in your community?

A. That's right.

(Transcript [REDACTED] pgs. 21-22). (emphasis added).

5. [REDACTED] [REDACTED]

68. While [REDACTED] called [REDACTED] [REDACTED] an official from [REDACTED] [REDACTED], to apparently question [REDACTED] parenting ability because of the Children's absences, what the testimony actually revealed was the Children had educational shortfalls that needed medical attention, which [REDACTED] met with the approval of the school, as is clear from Mr. [REDACTED] testimony:

Q. Now, in the letter from you to Ms. [REDACTED] I know that you had expressed some concern about absences of the children.

A. That is correct.

Q. Okay. Did Ms. [REDACTED] apply for some kind of waiver or incapacity statement?

A. That is correct. After ten absences, then it's our standard practice to hand over a certificate of incapacity letter to be signed by a doctor. That, eventually, was signed by a doctor, and you can see the reasoning. I think you took back the forms that I had here, but it did provide reasoning as to why the students were absent.

(Transcript ██████ pg. 176). (Petitioner's Exhibits "7" and "8", Children's applications for ██████; Respondent's Exhibit "F", medical events of the Children at school necessitating treatment; Petitioner's Exhibits "5" and "6", letters to and from ██████ and ██████ addressing the absences which were remedied to school's satisfaction by Certificates of Incapacity; Petitioner's Exhibit "10", the absence records; Petitioner's Exhibit "13", ██████'s school fees).

Q. After you had a meeting with Ms. ██████ on or about ██████ and you both shared letters, the issues that were raised in the letter were addressed to your satisfaction; correct, or the school's satisfaction?

A. They were.

(Transcript ██████ pgs. 193-194).

6. Dr. ██████ (Pediatrician)

69. While there was some question as to whether the medications Dr. ██████ had prescribed the Children were appropriate, Dr. ██████ testified that such were necessary and acceptable to prescribe¹² to children within the age group of the Children, indicating ██████ was acting appropriately and prudently as a mother:

Q. Okay. And these medications that you've prescribed the children, is that in line with the standard of care in your profession?

A. Oh, yes, the drugs were approved for the ages that we've used them.

(Transcript ██████ pg. 153). (Respondent's Exhibits "G" and "H", Certificates of Incapacity for ██████ and ██████)

Dr. ██████ ██████ (Forensic Child Psychologist)

70. Turning to Dr. ██████ who interviewed the Parties in individual and group settings, conducted psychological testing, and made recommendations to the Court as to psychological harms to the Children and implications associated with return to Australia, Dr. ██████ testified and explained to the Court that ██████ from a forensic interview and psychological testing standing point, exhibited the factors associated with being narcissistic:

Q. Okay. And, Dr. ██████ I believe you indicated that ██████ might have a diagnosis of PTSD. Did you make any diagnosis for Mr. ██████

¹² Dr. ██████ was instrumental in obtaining the Children's Certificates of Incapacity.

- A. No, I'm not making – I'm not offering a formal diagnosis. Instead, I am speaking, descriptively. Let me clarify the differences here. If you go to the diagnostic and statistical manual of mental disorders, each of the diagnoses has a symptom list, and what's typically stated is that X number of five or nine, as an example, symptoms must be present to make a formal diagnosis. I don't have enough time in terms of my history with Mr. [REDACTED] to feel comfortable offering a formal diagnosis. What I am very comfortable in saying is that the pattern of behavior, as reported by Mother, the impact on Mother, psychologically, and the psychological testing on Mr. [REDACTED] are all consistent with a number of symptoms or narcissistic personality disorder, but I'm saying that descriptively, not diagnostically. I want that to be very clear.

(Transcript [REDACTED] pg. 98).

71. Dr. [REDACTED] went on to connect narcissistic traits with individuals like [REDACTED] who are also domestic batterers; who go undetected regarding both because of the public image they create; and also because domestic batterers may not even remember, or acutely remember domestic abuse:

- Q. Dr. [REDACTED] with domestic batterers, is their rage or outbursts, at times, such that they, actually, don't remember it or they just choose how their memory is framed of it?*
- A. Both, usually, exist. It's not at all uncommon that rage, particularly, in a narcissist can be so out of hand and so exaggerated that when they calm down later, it kind of disappears to them.*
- Q. Dr. [REDACTED] in this case, there's been significant testimony that Mr. [REDACTED] is charming, and is a good entertainer, and has a great social life, and the family's envied, and no one or few people have any concerns at all that he is a domestic batterer. Is that consistent or inconsistent with a domestic batterer and why?*
- A. It's consistent. It's also very consistent with narcissistic behavioral patterns. I mentioned earlier in testimony that there is an initial phase of what's called seduction. The way these individuals win their attempt to seduce others is by a tremendously positive, entertaining, charming, seemingly caring pattern of behavior at first.*
- Q. And then that continues, if I understand your testimony right, it continues in the public realm.*
- A. Oh, absolutely.*
- Q. Okay.*
- A. There is usually a significant attempt to protect oneself by creating a public image that is wonderful.*
- Q. And does that a public image include even close family and friends?*
- A. It can, often does.*

(Transcript ██████ pgs. 158-159). (emphasis added).

72. The Court finds credible Dr. ██████ testimony that ██████ is suffering from acute post-traumatic stress disorder, consistent with his forensic investigation and his conclusion it was likely caused by physical and psychological violence of her and the Children by the acts and behaviors of ██████

Q. Okay. And, sir, just since we've already mentioned those two tests, without getting into any other collateral information, what did your testing on the MMPI and the Millon reveal as far as Ms. ██████ is concerned?

A. The history provided by Mother was a history that suggested a long-time pattern in her relationship with Father of intimidation on Father's part, frightening behavior on Father's part, not necessarily in my ability to observe looking at the history any suggestion of a pattern of physical violence but, certainly, significant psychological, in my opinion, abuse. . . . ***The two elevations of significance, clinically, were anxiety and post-traumatic stress disorder. The history presented by Mother of the behavior on Father's part and its impacts on her were, in my opinion, corroborated, and I will read straight from this.*** And what I'm reading from is the interpretive commentary offered by the developers of the test that is supplied when the test is scored. 'This woman appears to have experienced an event or events that may have involved physical threat or serious injury to which she responded with intense fear or horror. Although she is not characteristically fearful or anxious, the memory of these upsetting experiences comes back in intensive and distressing recollections. She avoids exposure to cues that resemble or symbolize aspects of these traumatic events, when possible, where they cannot be avoided as in recurring nightmares and flashbacks. She may feel terrified, exhibiting a variety of symptoms of intense anxiety. Anticipation of their recurrence may result in persistent anxious symptoms such as difficulty in sleeping, exaggerated startle response, or protective numbing and detachment.' ***If you would go to the diagnostic and statistical manual of mental disorders, you will find many of those responses listed as symptoms in the section on post-traumatic stress disorder. So, I feel that Mother's presentation in these tests is consistent with the history she reported.***

(Transcript ██████ pgs. 84-85). (emphasis added).

73. Under the totality of the forensic interviews, psychological testing, and collateral contacts (such as ██████ ██████ Dr. ██████ addressed the long-term consequences on ██████ and the Children of ██████ physical and psychological abuse:

- Q. And, Dr. [REDACTED] is it something when you have this kind of mental abuse that the [REDACTED] were married, I believe, around [REDACTED] so it's been a lengthy period of time, [REDACTED] what happens with this dynamic over time as it relates to the impact on the children?
- A. *If this kind of pattern of behavior continues over time, then children are impacted more and more adversely from a psychological standpoint. When I have worked with adults, for example, that have been exposed to this as children, they are often powerfully insecure, highly anxious, struggle in their relationships with others due to lack of trust, and struggle, constantly, with self-esteem issues.*
- Q. *So what you're saying is if, by chance, this mental abuse by Mr. [REDACTED] is aimed only at Ms. [REDACTED] is it fair to say, if it continues, it's going to have a significant impact on the children, both in their relationships and lives now, and throughout the rest of their life short of deep clinical intervention?*
- A. *Well, hypothetically, if we were to assume that the family was, again, together, and all four continued to interact, and the pattern of behavior that I see, historically, was to continue, absolutely. The adverse impact from a psychological perspective on the children would continue and increase.*

(Transcript [REDACTED] pgs. 112-113). (emphasis added).

- Q. And, Dr. [REDACTED] know this was 20 years ago [with [REDACTED] [REDACTED] do you – in that ensuing time, based on your personal clinical training and observations and, obviously extensive professional education, does some who has that tendency [such as [REDACTED] whoever it is, to commit that kind of domestic violence recover and then relapse like in Mr. [REDACTED] or does this indicate a long term chronic pattern of domestic battery and domestic violence by Mr. [REDACTED]
- A. *The high probability is that it is a long-term pattern. I now have evidence that it's existed over a number of years and with two different women, so that, certainly, again, allows me to more easily state that I feel that this is part of a long-standing personality—based pattern of behavior.*

(Transcript [REDACTED] pgs. 120-21). (emphasis added).

74. From an actual impact on the Children of the physical and psychological abuse suffered solely by [REDACTED] Dr. [REDACTED] testified as to the impact: “Both children report frequent occasions where Father has lost his temper, screamed, and yelled in ways that have been terrifying to them. That’s why [REDACTED] goes to his closet and hides sometimes. So, these are the kinds of behaviors that have occurred from Father with the children, separate and apart from anything they’ve observed with Mother.”

(Transcript [REDACTED] pg. 116).

75. As it relates to [REDACTED] ability to acknowledge of his narcissism and pattern of domestic violence and understanding of his actions against [REDACTED] and the Children and to perhaps try to manage these behaviors, Dr. [REDACTED] painted a bleak picture:

Q. Okay. Dr. [REDACTED] you believe that Mr. [REDACTED] is completely in denial of what he has done to his children and to [REDACTED] [REDACTED] over the years?

A. Completely, probably not. For the most part, yes.

Q. And is that consistent with someone, who has narcissistic tendencies:

A. It would be.

(Transcript [REDACTED] pgs. 154-55).

76. In furtherance of this view, Dr. [REDACTED] did not say that the Children should not see their Father again or that they did not love him. Rather, he maintained that, for there to be healthy contact, it would have to be a product long-term therapy for [REDACTED]

Q. And, Dr. [REDACTED] you're not suggesting through whatever means and mechanisms the kids don't love their dad nor should they see him again. You're talking about if it's going to ever result in a normal relationship, supervised parenting time or something at a distance, you're talking about long term therapy for Mr. [REDACTED]

A. I am.

(Transcript [REDACTED] pgs. 241-242)

77. In being asked about his professional opinion as to the impact of return of the Children to Australia from a psychological and physical health standpoint, Dr. [REDACTED] proffered and explained the anticipated significant and substantial short-term and long-term outcomes:

Q. Okay. What do you postulate, in your professional opinion, is the impact on the children if they are returned to Australia with Mr. [REDACTED]

A. I have two sets of concerns. One is that in the immediacy of the event, they would be terrified, they would be extremely upset and angry. Much of that would be focused on their father. That would be very difficult for them to overcome. More, in terms of long term events, if there were not some means by which to address the pattern of behavior on Mr. [REDACTED] part, as I've testified earlier,

the impact of a continuing process of verbal abuse, intimidation, and threats would likely, significantly, and threats would likely, significantly, affect the children's ability to move into the future with any hope of being psychologically stable.

(Transcript ██████ pg. 155).

78. Dr. ██████ was clear as to the Children's objection to return, with ██████ being fifteen (15) and clearly of the maturity where she nears the age where the Hague no longer applies:

Q. With regard to these two children, tell me, specifically, the imminent risk of harm that you contend these children would be subjected to should they be returned.

A. That is multi-factored, frankly. Initially, the first thing that comes to mind is that there would be tremendous resentment and anger on the part of both. Their anxiety levels would go sky-high, in my opinion. *They would be extremely upset with being forced to do that against their wishes and against their will.* Both would fear that what they have gone through, that I've testified through today, would then resume, continue, and escalate because of their position, their feelings, my testimony. That would just be the start. To move further than that, again, if there were not a change in the overall dynamics of what's occurred in this family, I testified very clearly today about long term outcomes that would be of great concern to me. So, that's what first comes to mind as you ask me that question.

(Transcript ██████ pgs. 175-176). (emphasis added).

79. When asked as to the ultimate psychological question that impacts the ultimate legal issue before this Court regarding issuance of a Return Order, Dr. ██████ testimony was powerful and unqualified:

Q. And, Dr. ██████ is it your belief that that report and your entire interview process that if the children are returned to Australia that would put them, psychologically, at a grave risk of harm or in an intolerable situation?

A. That is my belief, yes.

(Transcript ██████ pgs. 152-153). (emphasis added).

Legal Fees and Costs

80. That Father seeks \$45,386.92 in legal fees associated with this Hague Case. (Petitioner's Exhibit "31", Fee Affidavit of ██████ ██████ also submitted a travel expenses

Affidavit totaling \$14,580.20, as well as costs he paid to Dr. [REDACTED] for the evaluation. (Petitioner's Exhibit "30").

81. That Mother seeks \$111,295.39 in legal fees associated with this Hague Case. (Respondent's Exhibit "N").

CONCLUSIONS OF LAW

The Court incorporates all of its special findings into the conclusions of law; and any finding that is a conclusion is deemed so.

Controlling Law

Hague Convention on the Civil Aspects of International Child Abduction

1. The Court concludes that the international application of the Hague Convention on the Civil Aspects of International Child Abduction and the corresponding International Child Abduction Remedies Act ("ICARA") is codified in the United States Code and governs this case, as supplemented by case law under the Hague Convention cases decided in the United States.

2. The general operational provisions of the Hague Convention (referred to as "Judicial Remedies") are codified in 22 United States Code Section 9003, as follows:

(a) Jurisdiction of courts: The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.

(b) Petitions: Any person seeking to initiate judicial proceedings under the Convention for the return of a child or for arrangements for organizing or securing the effective exercise of rights of access to a child may do so by commencing a civil action by filing a petition for the relief sought in any court which has jurisdiction of such action and which is authorized to exercise its jurisdiction in the place where the child is located at the time the petition is filed.

(c) Notice: Notice of an action brought under subsection (b) of this section shall be given in accordance with the applicable law governing notice in interstate child custody proceedings.

(d) Determination of case: The court in which an action is brought under subsection (b) of this section shall decide the case in accordance with the Convention.

(e) Burdens of proof: (1) A petitioner in an action brought under subsection (b) of this section shall establish by a preponderance of the evidence--(A) in the case of an action for the return of a child, that the child has been wrongfully removed or retained within

the meaning of the Convention; and (B) in the case of an action for arrangements for organizing or securing the effective exercise of rights of access, that the petitioner has such rights. (2) In the case of an action for the return of a child, a respondent who opposes the return of the child has the burden of establishing--(A) by clear and convincing evidence that one of the exceptions set forth in article 13b or 20 of the Convention applies; and (B) by a preponderance of the evidence that any other exception set forth in article 12 or 13 of the Convention applies.

(f) Application of Convention: For purposes of any action brought under this chapter--(1) the term “authorities”, as used in article 15 of the Convention to refer to the authorities of the state of the habitual residence of a child, includes courts and appropriate government agencies;

(2) the terms “wrongful removal or retention” and “wrongfully removed or retained”, as used in the Convention, include a removal or retention of a child before the entry of a custody order regarding that child; and (3) the term “commencement of proceedings”, as used in article 12 of the Convention, means, with respect to the return of a child located in the United States, the filing of a petition in accordance with subsection (b) of this section.

(g) Full faith and credit: Full faith and credit shall be accorded by the courts of the States and the courts of the United States to the judgment of any other such court ordering or denying the return of a child, pursuant to the Convention, in an action brought under this chapter.

(h) Remedies under Convention not exclusive: The remedies established by the Convention and this chapter shall be in addition to remedies available under other laws or international agreements.

3. Article 3 of the International Child Abduction Remedies Act provides the Court’s threshold question in this case and reads, in pertinent part, as follows:

The removal or the retention of a child is to be considered wrongful where –

- (a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and
- (b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

(Hague Convention art. 3. Oct. 25, 1980, T.I.A.S. No. 11670, 1343 U.N.T.S. 49.).

4. The Court concludes that Australia was the Children’s Habitual Residence at the time of removal, but █████ and the Children would face a “grave risk of harm” and/or “intolerable situation” if an order of return is issued; also █████ clearly and unequivocally “consented to” and/or “acquiesced” to the move to the United States in accordance with a family

plan to do so; also the Children do not wish to return to Australia.¹³

(See Convention, art. 12-13; *Bader v. Kramer*, 484 F.3d 666, 668-69 (4th Cir. 2007).¹⁴

5. As such, Respondent, ██████ who is opposing the Children’s return bears the burden of establishing her defenses, “grave risk of harm” and/or “intolerable situation”, and “consent to” and/or “acquiescence” by clear and convincing evidence. 42 U.S.C. Section 11603(e)(2)(A).

6. These determinations before the Court under the Hague Convention are mixed questions of law and fact. *Simcox v. Simcox*, 511 F.3d. 594, 601 (6th Cir.2007); *Silverman v. Silverman*, 338 F.3d 886, 896 (8th Cir.2003).

7. Article 13 of the Hague Convention on remedies is controlling as to defenses to a Return Order and reads as follows:

Notwithstanding the provisions of the previous Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that –

- (a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had *consented to* or *subsequently acquiesced* in the removal or retention; or
- (b) there is a *grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.*

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the

¹³ Given ██████ prior express consent, it appears that “wrongful removal” is not reached but this question is not developed in the case law.

¹⁴ The majority of Hague Cases are tried in federal court rather than state courts and there is little decisional guidance in Indiana or other states.

social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

(Hague Convention art. 13. Oct. 25, 1980, T.I.A.S. No. 11670, 1343 U.N.T.S. 49. [emphasis added])

8. Stated differently, “[r]eturn of the child to the country of residence is not required as remedy for parent's violation of other parent's right of custody, if the abducting parent can establish that an exception to the Hague Convention, as implemented by International Child Abduction Remedies Act (ICARA), applies. International Child Abduction Remedies Act, §§ 2(b)(3)(B), 4(b), 42 U.S.C.A. Sections 11601(b)(3)(B), 11603(b).”

9. With respect to legal fees, travel costs, and other expenses related to prosecution of the case to seek a return order, the controlling statute is set forth as follows:

(a) Administrative costs: No department, agency, or instrumentality of the Federal Government or of any State or local government may impose on an applicant any fee in relation to the administrative processing of applications submitted under the Convention.

(b) Costs incurred in civil actions: (1) Petitioners may be required to bear the costs of legal counsel or advisors, court costs incurred in connection with their petitions, and travel costs for the return of the child involved and any accompanying persons, except as provided in paragraphs (2) and (3). (2) Subject to paragraph (3), legal fees or court costs incurred in connection with an action brought under section 9003 of this title shall be borne by the petitioner unless they are covered by payments from Federal, State, or local legal assistance or other programs. (3) Any court ordering the return of a child pursuant to an action brought under section 9003 of this title shall order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of proceedings in the action, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

(22 U.S.C.A. § 9007 (West)).

10. It is an unanswered question whether a prevailing Respondent can collect legal fees, costs of travel, and expenses for prosecution of the case, such as expert fees.

Legal and Factual Analysis

Consent and/or Acquiescence¹⁵

11. From the inception of the marriage to the time [REDACTED] and the Children left for the United States in May, [REDACTED] there is no question that the parties intended to relocate to the United States, with [REDACTED] repeatedly admitting this throughout this Hague trial; simply put, there is no evidence to the contrary.

12. The clear purpose of [REDACTED] and [REDACTED]'s trip to see her parents in [REDACTED] was, with the agreement of [REDACTED] to determine when to move relative to her parents' declining health in accordance with the family plan, so at least as of that date [REDACTED] has acquiesced to the move or consented to such pursuant to Article 13(a) of the Hague Convention.

13. The clearest example of consent is found in [REDACTED] email to [REDACTED] on [REDACTED] stating as follows:

“In case you don’t know, [REDACTED] and I have formally decided to relocate to the U.S. . . . [REDACTED] mom’s condition is rapidly declining so she will be headed to the US next week for at least a month.”

(Respondent’s Exhibit “J”). (emphasis added).

14. While [REDACTED] trip to the United States lasted longer than a month due to her mother’s condition, the Court concludes [REDACTED] again consented to and/or acquiesced to the relocation and the express plan to do so by written message to [REDACTED] on [REDACTED]

“The plan is that [REDACTED] and [REDACTED] head back to the US and in a month or so and [REDACTED] and I join them a few months later when everything is settled here.”

(Respondent’s Exhibit “I”). (emphasis added).

15. Clearly as a matter of law and conclusion of this Court, [REDACTED] “consented to” and/or “acquiesced” to the move to the United States, which, once given, ***cannot be revoked as a***

¹⁵ Given the extreme weight and amount of evidence regarding the family plan, it is unclear whether [REDACTED] express and repeated “consent to” and/or “acquiescence” defenses both apply or one rather than the other.

matter of law as set forth in *Cascio v. Pace*, 992 F. Supp. 2d 856, 866 (N.D. Ill. 2014) (emphasis added):

“In short, then, the Court finds that Cascio expressly consented to the retention before it occurred, and that his later change of heart, is irrelevant, as the Hague Convention does not provide a mechanism for the revocation of consent once given.”

“Grave Risk of Harm” and/or “Intolerable Situation”

16. The court concludes that there is a long-term pattern of psychological and physical abuse by ██████ against his first wife, ██████ and then ██████ and the Children, which in Australia is a significant cultural problem whereby mothers are expected to leave the domestic or marital home as the method to prevent further domestic violence, with virtually no systemic resources for aid upon leaving if they do so.

(Respondent’s Exhibit “S”, Report)

17. The Court concludes there is a “grave risk of harm” to the Children and ██████ and comparable to that faced by the mother in *Baran v. Beaty*, 526 F.3d 1340, 1346 (11th Cir. 2008) in Australia as well, which denied Petitioner’s return action:

“To deny return, the district court was not required to find Samuel had previously been physically or psychologically harmed; it was required to find returning him to Australia would expose him to a present grave risk of physical or psychological harm, or otherwise place him in an intolerable situation. Convention, art. 13(b). The evidence presented was sufficient to support the Court’s conclusion that Baran’s violent temper and abuse of alcohol would expose Samuel to a grave risk of harm were he to be returned to Australia.”

18. The Court concludes as a matter of law under the facts before it, a return order should not be issued in this case because there has been significant psychological and physical harm to both the Children and ██████ in the past and this will continue if an order of return is issued, as is made clear from the record, and specifically, the testimony Dr. ██████

Q. And, Dr. [REDACTED] is it your belief that that report and your entire interview process that if the children are returned to Australia that would put them, psychologically, at a grave risk of harm or in an intolerable situation?

A. That is my belief, yes.

(Transcript [REDACTED] pgs. 152-153). (emphasis added).

19. *Van De Sande v. Van De Sande*, 431 F.3d 567, 569 (7th Cir. 2005) is similar and further demonstrates that Mother has provided the requisite clear and convincing evidence to prohibit a return order from issuing, said case addressing physical and verbal abuse in front of the children and their mother to deny return:

“Davy’s beatings of Jennifer [Mother] continued after the two children were born, and were often done in their presence

Davy also abused Jennifer verbally in the children’s presence, calling her a “cunt,” “whore,” “lazy fucking bitch,” and “lazy fat bitch.”

This Court concluded:

“Concern with comity among nations argues for a narrow interpretation of the “grave risk of harm” defense; but safety of children is paramount. Jennifer presented at the summary judgment stage sufficient evidence of a grave risk of harm to her children, and the adequacy of conditions that would protect the children if they were returned to their father’s country is sufficiently in doubt, to necessitated an evidentiary hearing in order to explore these issues fully. . . . reversed and remanded.”

20. The Court concludes as a matter of law under the facts before it, a return order cannot issue because there has been significant psychological and physical harm to both the Children and [REDACTED] and this will continue if the Children are returned as indicated throughout the trial evidence, but again highlighted by the testimony Dr. [REDACTED]

Q. Okay. What do you postulate, in your professional opinion, is the impact on the children if they are returned to Australia with Mr. [REDACTED]

A. I have two sets of concerns. One is that in the immediacy of the event, they would be terrified, they would be extremely upset and angry. Much of that would be focused on their father. That would be very difficult for them to overcome. *More, in terms of long term events, if there were not some means by which to address the pattern of behavior on Mr. [REDACTED] part, as I’ve testified earlier, the impact of a continuing process of verbal abuse, intimidation, and threats would likely, significantly, and threats would likely, significantly, affect*

the children's ability to move into the future with any hope of being psychologically stable.

(Transcript, ██████████ pg. 155). (emphasis added).

Children Object to Being Returned

21. While the Children did not directly testify, the Court concludes that the facts and inferences before the Court indicate that they are of the age and maturity that their objection to return is a defense that is also met, as ██████████ is nearing the cut-off age for the Hague to apply, as captured in Dr. ██████████ testimony:

- Q. With regard to these two children, tell me, specifically, the imminent risk of harm that you contend these children would be subjected to should they be returned.
- A. That is multi-factored, frankly. Initially, the first thing that comes to mind is that there would be tremendous resentment and anger on the part of both. Their anxiety levels would go sky-high, in my opinion. *They would be extremely upset with being forced to do that against their wishes and against their will.* Both would fear that what they have gone through, that I've testified through today, would then resume, continue, and escalate because of their position, their feelings, my testimony. That would just be the start. To move further than that, again, if there were not a change in the overall dynamics of what's occurred in this family, I testified very clearly today about long term outcomes that would be of great concern to me. So, that's what first comes to mind as you ask me that question.

(Transcript ██████████ pgs. 175-176). (emphasis added).

JUDGMENT/PROPOSED ORDER

That all findings and conclusions of law are incorporated herein as if set forth in full.

IT IS THEREFORE, ORDERED ADJUDGED AND DECREED that the Mother has shown by clear and convincing evidence that return of the Children to Australia would expose them to "grave risk of harm" and/or an "intolerable situation", ██████████ consented to and/or acquiesced to the relocation, and the Children do not wish to return to Australia, and, as such, Father's Verified Petition for Return of Minor Children is **DENIED**.

IT IS ALSO ORDERED, ADJUDGED AND DECREED that Father's request of an order for attorney's fees, costs, and expenses would be clearly inappropriate and is **DENIED**.

IT IS FINALLY ORDERED that Mother's request for fees, costs and expenses to be borne by Father in her meritorious defenses in this case in the amount of \$111,295.39 is taken

under advisement, with the Parties being directed to submit briefing on the authority for this award under the Hague Convention within thirty (30) days of this order.

SO ORDERED this ___ day of _____, [REDACTED]

THE HON. [REDACTED], JUDGE

Distribution:

Bryan Ciyou
Darlene Seymour
[REDACTED]