

1 JUVENILE COURT
2 CITY AND COUNTY OF DENVER
3 STATE OF COLORADO
4 1437 Bannock St., Room 157
5 Denver, CO 80202

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7 IN THE INTEREST OF:

CASE NO. 08JV141
DIVISION 2

8 PETITIONER:
9 ROBERT MANZANARES

10 v.

11 RESPONDENT: CARIE TERRY

12 -----
13 REPORTER'S TRANSCRIPT
14 -----

15 The hearing in this matter commenced on
16 Friday, February 29, 2008, before the HONORABLE D.
17 BRETT WOODS, Judge of the Denver Juvenile Court.
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1 AFTERNOON SESSION, FRIDAY, FEBRUARY 29, 2008

2 (The following proceedings were had and
3 entered of record:)

4 THE COURT: All right. Good afternoon.
5 We're here on Manzanares, 2008JV0141. If individuals
6 involved could enter their appearances for the record,
7 please.

8 MS. BERKELEY: Good afternoon, Your Honor,
9 Emily A. Berkeley, Reg No. 36240. I'm present here
10 with Petitioner Robert Manzanares sitting beside me.

11 THE COURT: Good afternoon.

12 RESPONDENT: Good afternoon, Your Honor.
13 Carie Terry Respondent.

14 THE COURT: Good afternoon.

15 MS. BURGOS: Vivian Burgos, Guardian Ad
16 Litem. Good afternoon.

17 THE COURT: All right. This matter is here
18 today on the paternity petition that was filed by the
19 Petitioner Mr. Manzanares, and it is before the Court
20 for a ruling on the issue of jurisdiction, which the
21 Court will proceed to, and also the petition that has
22 been filed.

23 Case is before the Court on the verified
24 petition for paternity pursuant to section 19-4-101,
25 et al., and to enjoin adoption pursuant to 19-5-200.

1 I'll -- I'll be going through the history of the case
2 and just proceed to the ruling.

3 History of the case is as follows: At the
4 outset the Court notes that it takes judicial notice
5 of its files and of the prior orders in the case. On
6 January 16, 2008, Petitioner Robert Manzanares through
7 his attorney filed a verified petition for paternity
8 pursuant to section 19-4-101, Colorado Revised
9 Statutes, and also to enjoin adoption pursuant to
10 section 19-5-200 of the Colorado Revised Statutes.
11 Title 19 of the Colorado Revised Statutes is commonly
12 known as the Colorado Children's Code. Title 19
13 contains the law also known as the Uniform Parentage
14 Act.

15 The petition filed by Mr. Manzanares alleges
16 that he is the father and that the Respondent Carie
17 Terry is the mother of a child that as of January 16,
18 2008, had not been born. Petition alleged that the
19 mother Ms. Terry was approximately 31 weeks and two
20 days pregnant as of January 16, 2008. Paragraph 7 of
21 the petition father alleges that the mother does not
22 dispute that he Mr. Manzanares, the Petitioner, is the
23 father of the child and that the Respondent Ms. Terry
24 is the mother.

25 In summary, the petition also alleged that

1 the father believed that the mother had plans to
2 surreptitiously make the child available for adoption
3 immediately upon his or her birth. Father alleged
4 that the mother will flee to Utah where she has family
5 to proceed with an adoption. Further, father alleged
6 that he had been voluntarily providing financial
7 support to the mother.

8 Father requested in his petition the
9 following: One, the determination that he Petitioner
10 is the father. Two, to determine that there is a
11 parent-child relationship between the child and father
12 once the child is born. Three, that allocation of
13 parental responsibilities, decision making and
14 parenting time, be addressed upon the child's birth.
15 Four, that costs be assessed. Five, that he be
16 allowed access to medical information concerning the
17 child. Six, that this Court enjoin the adoption of
18 the child immediately and prior to the child's birth.

19 On January 16, 2008, the father also filed
20 with this court an admission of paternity that was
21 verified. A summons in paternity was also filed. A
22 summons set the return date on February 20, 2008, at 9
23 a.m. in Room 281 of the Denver Juvenile Court. On
24 February 12, 2008, a return of service was filed with
25 the court. Return of service stated that Carie Terry

1 had been personally served on February 1, 2008, at
2 8:30 p.m. at an address in the city and county of
3 Denver, state of Colorado.

4 Also on February 12, 2008, Respondent
5 mother, Carie Terry, filed with the court a motion to
6 continue the February 20, 2008, return hearing. In
7 her motion to continue, Respondent stated she called
8 the Denver County Court on February 11, 2008, in
9 search of finding the necessary forms to respond to a
10 paternity petition.

11 She stated that a court caseworker then
12 asked if she knew there was a summons for her to
13 appear for February 20. Respondent stated that she
14 then notified the unnamed court assistant and unnamed
15 supervisor that she had neither been served a summons
16 nor had she signed a waiver of service to notify her
17 of the paternity hearing.

18 Respondent in her motion then asked the
19 Court to consider her response to the paternity
20 petition sufficient thus sufficing any need to hold a
21 paternity hearing. She then stated that if the Court
22 still wanted to hold a paternity hearing that it do so
23 in the latter part of March. She then referred to her
24 father's health issue and travel plans and she would
25 not be available for a hearing on February 20.

1 On February 12, 2008, Respondent also filed
2 a typed response to the petition for paternity. In
3 her response the mother agreed to paragraph 7 of the
4 petition in paternity. Paragraph 7 of the petition in
5 paternity is the paragraph that specifically alleged
6 that the Petitioner is the father of the child.
7 Mother stated that she had no knowledge of any other
8 proceedings besides the paternity petition in this
9 case. The mother wrote that two checks were never
10 received by her.

11 Mother asked the Court to, one, deny the
12 Petitioner a parent-child relationship once the baby
13 is born for the best interests of the baby. Two, to
14 deny the birth certificate to reflect the Petitioner
15 as the father for the best interests of the baby once
16 born. Three, to deny the Petitioner parental rights
17 and responsibilities once the baby is born for the
18 best interests of the baby. Four, to allow adoption
19 proceedings upon the baby's birth for the best
20 interests of the baby. Five, to support the fact that
21 mother has sufficiently communicated medical
22 information regarding the health of the unborn baby
23 and to deny the Petitioner access to the mother and
24 unborn baby's medical records. And finally, the
25 mother's costs to be paid by the Petitioner.

1 On February 20, 2008, a hearing was held
2 before the magistrate in Room 281 of this court. The
3 minute orders of the court reflect that the Respondent
4 called the Clerk's Office the morning of the hearing
5 and stated that she was out of town. Minute order
6 states that the Court called the Respondent on the
7 phone number listed on the pleadings, but the minute
8 order does not state if there was an answer. The
9 Court then continued the matter until March 5 and
10 ordered that the Respondent appear at the March 5
11 hearing. A Guardian Ad Litem, attorney Vivian Burgos,
12 was also appointed for the child.

13 On February 26 an emergency motion for a
14 forthwith hearing was filed with the court by the
15 Petitioner. The emergency motion alleged that the
16 mother had given birth to the baby, a girl, in Utah
17 within the last five days and that the mother had
18 illegally placed the daughter with an adoptive family
19 in Utah.

20 The emergency motion requested that the
21 father be given emergency temporary allocation of
22 parental responsibilities. A hearing was held on
23 February 27, 2008, before this Court. At the hearing
24 the Petitioner appeared and was represented by
25 counsel. The Respondent appeared pro se meaning that

1 she appeared by herself without an attorney. No
2 evidence was taken at the hearing but argument and
3 offers of proof were received by the Court.

4 At the hearing the Court on its own motion
5 raised the issue of subject matter jurisdiction. The
6 Court ordered the parties to brief by four p.m.
7 yesterday, Thursday, February 28, the issue of subject
8 matter jurisdiction. Those briefs have been received,
9 and the Court thanks the parties for their timely
10 response and for the quality of the briefs.

11 The Court now makes the following further
12 findings of fact and conclusions of law: The general
13 assembly has declared the policy of this state in the
14 Children's Code under section 19-1-102. The purposes
15 of the Children's Code are, one, to secure for each
16 child subject to the provisions of the Code such care
17 and guidance, preferably in the child's own home, as
18 will best serve the welfare and interests of society.
19 Two, to preserve and strengthen family ties whenever
20 possible, including improvement of the home
21 environment. Three, to remove a child from the
22 custody of his parents only when his welfare and
23 safety or the protection of the public would otherwise
24 be endangered and, in either instance, for the courts
25 to proceed with all possible speed to a legal

1 determination that will serve the best interests of
2 the child. The general assembly has instructed the
3 Court to construe the Children's Code to serve the
4 welfare of children and the best interests of society.

5 The Uniform Parentage Act, which is found
6 within the Children's Code, further provides that the
7 parent and child relationship extends equally to every
8 child and to every parent regardless of the marital
9 status of the parents. The parent and child
10 relationship includes the mother and child
11 relationship and the father and child relationship.

12 With respect to natural fathers, the Uniform
13 Parentage Act provides that the relationship is
14 established pursuant to the terms of the Act. A man
15 is presumed to be the natural father of a child if he
16 acknowledges his paternity of the child in writing
17 filed with the court or with the registrar of vital
18 statistics. The mother must be notified of the
19 acknowledgment and not dispute the acknowledgment
20 within a reasonable period of time by filing a dispute
21 with the court or the registrar of vital statistics.

22 A presumption of paternity may only be
23 rebutted by clear and convincing evidence. A legal
24 finding of paternity may be challenged in court only
25 on the basis of fraud, duress, or mistake of material

1 fact, with the burden of proof being upon the
2 challenger.

3 A proceeding to determine paternity is
4 commenced by the summons and petition. That is of
5 course what happened here. Section 19-4-105.5(3)
6 specifically provides that proceedings under the
7 article may be commenced prior to the birth of a
8 child. I find that this proceeding was brought before
9 the child was born.

10 Under the terms of the Act, I find that
11 Mr. Manzanares was a proper person to bring the
12 paternity action as he is a man who is presumed to be
13 the father under the paternity act. The Act provides
14 that venue is proper in the Juvenile Court. The
15 Juvenile Court is defined by the Children's Code as
16 the Juvenile Court of the City and County of Denver.
17 This case was initiated in this court by the
18 Petitioner.

19 The Act provides that this action may be
20 brought in the county in which the child or the
21 alleged father resides or is found. The mother was
22 served in Denver County. In addition, the mother has
23 appeared in this court at the hearing on February 26,
24 2008. Respondent mother did not object to venue.
25 Prior to the hearing she filed her motion to continue

1 and her response to the petition. Since the February
2 26, 2008, hearing, she has filed a brief on the issue
3 of subject matter jurisdiction.

4 I find that venue is proper in this court.
5 Both parties have stated to the Court that they have
6 no knowledge of any other proceeding regarding
7 paternity in any other court. The Act further
8 provides that the child may be made a party to the
9 action. By using the word may, it is clear that the
10 Act does not require that the child be made a party to
11 the action. Indeed, the Act goes on to provide that
12 the individuals that are required to be a party to the
13 action are the natural mother and each man presumed to
14 be the father and each man alleged to be the natural
15 father. The Act further provides that the case may be
16 commenced before the child is born.

17 As to subject matter jurisdiction, the Court
18 finds that it has subject matter jurisdiction. As
19 stated, the Act does not require that the child be
20 made a party to the action for the Court to have
21 jurisdiction. The Colorado Supreme Court addressed
22 this issue in the 1969 decision of People v.
23 Estergard, which is found at 457 P.2d page 698.

24 In that decision the Supreme Court held that
25 the Juvenile Court has jurisdiction over the subject

1 matter of the petition in paternity from the moment it
2 is filed in the Juvenile Court. The child in
3 Estergard also had not been born. The Supreme Court
4 construed the word child to include children not yet
5 born for purposes of the paternity statute. For these
6 reasons, the Court once again finds that it has
7 subject matter jurisdiction. The Court has
8 jurisdiction over the parties and over the subject and
9 the Court so finds.

10 The question now comes on whether the Court
11 should grant the father's request and enter an order
12 and judgment of paternity. The Court has reviewed its
13 files including the pleadings filed in this case and
14 the allegations and admissions contained therein.

15 The Court notes that the Petitioner Robert
16 Manzanares has alleged in his verified petition for
17 paternity that he is the father of the child. He has
18 alleged in paragraph 7 of his petition the following,
19 and I quote, mother does not dispute that the child
20 who is the subject of this petition is the issue of
21 Petitioner father and mother, unquote. The mother in
22 her response to the petition for paternity and in
23 particular to that allegation responded and again I
24 quote, agree, unquote.

25 Accordingly, the question of whether the

1 Petitioner is the father of the child is not in
2 dispute. The Petitioner is the father of the child.
3 Moreover, under the expressed terms of the Parentage
4 Act, Court is not prohibited from making this
5 decision because the child is not a party to the
6 case.

7 Further, under the terms of the Act and
8 authority from our Supreme Court, this Court is not
9 prohibited from making this determination because this
10 matter was filed before the child was born.

11 Accordingly, as to the issue of paternity
12 and the issue not being in dispute, it is the judgment
13 and order of the Court that the Petitioner Robert
14 Manzanares is the biological father of the child and
15 has all the legal rights and responsibilities that he
16 is entitled by law as to the child. It is further
17 ordered that the father's name be listed as the
18 biological father on the birth certificate. Order
19 will issue as to -- excuse me, as to a judgment of
20 paternity.

21 Now I think that is the issue that was
22 before the Court today on the issue of paternity. One
23 moment. Now there have been some other issues that
24 have been raised including issues regarding custody
25 and enjoining the adoption and so on and, counsel,

1 I'll just go down the line then. Would you like to be
2 heard at this time on the -- that issue?

3 MS. BERKELEY: Yeah. We're prepared to move
4 forward on that issue although in enjoining the
5 adoption -- if you read mom's motion, I believe that's
6 already occurred, so I think -- if you'd be willing to
7 enjoin it and go put -- enforce that, I would love to
8 move forward with that but.

9 THE COURT: All right. One thing we do
10 need, clerk reminded me, need to fill out a report of
11 paternity determination and that needs to be filed
12 with the court, so we do need to get that in.

13 Now the question that I had on the remaining
14 issue is looking at the issue of the Uniform
15 Child-custody Jurisdiction and Enforcement Act and
16 that Act contemplates some communication between this
17 Court and courts in other jurisdictions, and my
18 question is, what information, if any, do you need?
19 I'm not certain that I can issue an order enjoining
20 something in another state but be happy to find out
21 what information you think you need, and I want to
22 hear from the Guardian and also from you, ma'am,
23 anything you want to say, so counsel.

24 MS. BERKELEY: Your Honor, the thing is I
25 don't necessarily know if you need to consult with the

1 other court in the other state because mom
2 specifically says in her memo that adoption
3 proceedings are not governed by the UCCJEA; that they
4 are not custody proceedings. Accordingly, there's
5 been no custody proceeding filed in the state of Utah,
6 and I believe because the Court found there's subject
7 matter jurisdiction, Court can issue a custody order
8 right now and it can be enforced in Utah.

9 Mom alleges on page 2 -- not numbered --
10 under subsection II of her -- of her memo --

11 THE COURT: What is the order of custody
12 that I have the authority to issue either under this
13 Act or the parenting act or what Act are you referring
14 me to you believe would be able to be enforced
15 elsewhere outside of the state of Colorado?

16 MS. BERKELEY: I'm sorry, I didn't hear the
17 beginning.

18 THE COURT: I'm sorry. What order do you
19 believe I can issue regarding custody and under what
20 statute in Colorado that can be enforced in the state
21 of Utah or some other state?

22 MS. BERKELEY: Well, under the UCCJEA
23 there's two ways you can grant custody because we are
24 arguing Colorado is the home state of the child, and I
25 can make oral argument on that point. Under

1 14-13-10- -- sorry, 201 -- actually 102(7), but more
2 importantly 201 because of the home state, this Court
3 can make an initial child-custody determination.

4 But at the very least, under 14-13-106 this
5 Court can make orders under temporary emergency
6 jurisdiction because we believe the best interests of
7 the child are in imminent and present danger as
8 Colorado law has stated, and we had put in our
9 pleadings that it is in the child's best interest to
10 be presumed to be with the biological parents, and
11 since the child is not with her biological parents,
12 her best interests are not being met, so I think under
13 either of those statutes.

14 THE COURT: 14-13-201 and 14-13-106?

15 MS. BERKELEY: Sorry -- I'm sorry, 204, I
16 apologize -- 206, simultaneous proceedings, and I say
17 there aren't. There's been no custody action filed in
18 Utah.

19 THE COURT: Well, assuming for a moment that
20 I decide that I can issue that order under either of
21 those two statutes, which I will need to think about,
22 what would be your plan after that?

23 MS. BERKELEY: You mean after you entered an
24 order?

25 THE COURT: Yes.

1 MS. BERKELEY: Well, currently there's -- we
2 have retained counsel in Utah, and he has filed --
3 he's not filed -- he's prepared petitions, and he's
4 waiting to see what to do depending on what you do
5 today because if you retained jurisdiction, in Utah he
6 has a very, very good chance of negating the adoption,
7 so if we have an order, what he'll do is go to Utah
8 and Utah say recognize -- probably recognize Colorado
9 has jurisdiction and this is the order, and he'll
10 present that with the petition for paternity, which is
11 how they do it over there.

12 THE COURT: I'm not -- all right. So you
13 are asking for an order under 14-13-201 and/or
14 14-13-204?

15 MS. BERKELEY: That's correct. And attorney
16 Dale Dorius in Utah said he would try to be available
17 if you needed to talk to him. He's in a canyon
18 driving but would try to answer the cell.

19 THE COURT: I'm not in the habit of making
20 ex-parte communications. If they want to participate
21 in open court by phone, that's another matter.

22 MS. BERKELEY: That's what I would be
23 suggesting if you wanted to call him on the record.

24 THE COURT: Is that what you're asking to
25 have happen?

1 MS. BERKELEY: No. Just offering -- I don't
2 think it's necessary. He has already prepared all of
3 the proper pleadings.

4 THE COURT: Do you have a form of order that
5 you can prepare for the Court?

6 MS. BERKELEY: I can prepare one when I go
7 back to my office today if that's what you're asking.

8 THE COURT: All right. I'm not -- okay.
9 Thank you. What else -- what other information are
10 you asking for or are you asking from this Court?

11 MS. BERKELEY: Well, we would like the
12 father to have immediate information regarding the
13 whereabouts of the child, medical information
14 regarding the child, and because there's --

15 THE COURT: Hang on. Need information
16 regarding -- say that again.

17 MS. BERKELEY: Immediate location and
18 medical access to the child.

19 THE COURT: Location, medical access. All
20 right.

21 MS. BERKELEY: Location and medical access
22 and that -- I believe --

23 THE COURT: What is next?

24 MS. BERKELEY: You already determined there
25 is a parent-child relationship I believe, so we'd like

1 to address APR. We'd like you to address attorney
2 fees, and we didn't put in a wherefore, but you have
3 jurisdiction over mom, we're -- we're very worried
4 about the health of this child. We have a strong
5 suspicion it -- the baby was born due -- she induced
6 labor -- premature labor and the child was endangered
7 because of that, so like to access mom's medical
8 records as well since you have jurisdiction over her.

9 THE COURT: All right. What we're dealing
10 with then, the immediate issue, you're asking for
11 information regarding the location, medical access to
12 the child. You're asking that I order some type of
13 APR, which is allocation of parental responsibilities.

14 MS. BERKELEY: And father be allowed to go
15 collect the child since she is out of the hospital
16 immediately.

17 THE COURT: All right. All right. I will
18 come back to all of that. Thank you. All right.
19 Ma'am, thank you for your patience and for waiting.

20 RESPONDENT: No problem, Your Honor.

21 THE COURT: What are you asking at this
22 point or what questions or concerns do you have?

23 RESPONDENT: Well, I would just like to
24 point out a few things to the Court. Definitely I
25 would like to dispute the accuracy of the briefing

1 they submitted yesterday.

2 THE COURT: Okay.

3 RESPONDENT: On page 2 of the Petitioner's
4 pleading and on page 1 of my brief, UCCJEA Code,
5 Petitioner's counsel left out a very important part of
6 the UCCJEA Code which states the definition of a home
7 state regarding newborn children provides in the case
8 of a child less than six months of age, term home
9 state means the state in which the child lived from
10 birth with any of the persons mentioned. That is Utah
11 code and --

12 THE COURT: Hang on. Need to go slow.

13 RESPONDENT: Sorry.

14 THE COURT: You have a dispute with the
15 accuracy of the briefing on their page 2?

16 RESPONDENT: Correct.

17 THE COURT: All right. And then you have --
18 you said your brief page 1 is accurate?

19 RESPONDENT: It includes the whole thing
20 where hers leaves out the most important part which
21 states what a home state means to a child less than
22 six months of age.

23 THE COURT: All right.

24 RESPONDENT: Like me to continue?

25 THE COURT: What else would you like to say?

1 RESPONDENT: And states Utah Code and
2 Colorado statute at the time says state in which the
3 child lived from birth as the home state.

4 THE COURT: Okay. What else?

5 RESPONDENT: Then I would also like to
6 dispute the fact that I -- in their briefing on
7 page -- page 7 they are claiming that I accepted 2250
8 from the father he voluntarily paid. I have letters
9 to prove exactly how much money it was, and I received
10 1500, which is less than the -- less than half of the
11 \$3500 I have paid in increased medical insurance due
12 to just being pregnant.

13 THE COURT: So you're saying you received
14 only 1500?

15 RESPONDENT: Correct.

16 THE COURT: In money from Mr. Manzanares?

17 RESPONDENT: Correct. Which is less than
18 half of the 3500 I paid. I do have letters to support
19 that. And also I'd like to dispute the purjury they
20 say an adoption agency gave me a large amount of
21 money. Your Honor, I have never -- I never contacted
22 an adoption agency to fill out paperwork to look at
23 the families let alone to even accept any money. I
24 did not work with an adoption agency.

25 And this is just another thing I'd like to

1 bring up that along with the defaming of my character
2 of needing a psychological or psychiatric evaluation,
3 I think it is very obvious to the Court for me to
4 appear alone is pretty competent on my part and that I
5 do not need a psychological evaluation.

6 And just like the Court to note that in all
7 of the petitions I have filed or responses I have
8 filed with the court, not once do I defame the
9 Petitioner's character. Not once do I come up with
10 and construe the truth. I stick to just straight
11 facts, and I do not feel the need to attack his
12 character because that's not what this is. All along,
13 Your Honor, I have wanted what is best for the child.

14 And I just want to note, if you have one
15 person who is attacking the other person, clearly
16 trying to co-parent would not be in the best interests
17 of the child. Also, Your Honor, I would like to --

18 THE COURT: Let me just ask, you had stated
19 then, just so I understand what is going on, you said
20 you never contacted an adoption agency; is that
21 correct?

22 RESPONDENT: That's correct, Your Honor.
23 There is -- there is a family service center that is
24 along with my church I contacted for counseling, and
25 they in that family service center have an adoption

1 agency. Yes, I did ask the counselor I was seeking
2 counseling for. I just saw him three times just
3 because it was a big blow I was pregnant and just a
4 little bit of things I just needed to talk about, and
5 I did ask them questions just about the adoption
6 process, but that is as far as it went, Your Honorg.
7 I did not proceed any further. I did not fill out any
8 paperwork. I did not do anything with that side of
9 the family service center.

10 THE COURT: All right. So you -- I guess my
11 question was, if you did not contact an adoption
12 agency and perhaps you're in the process of answering
13 that.

14 RESPONDENT: Yes, just getting to that.

15 THE COURT: What did you do?

16 RESPONDENT: Just getting to that, Your
17 Honor. I went through friends of family, and I do
18 have -- it states in -- in my memorandum I gave to the
19 Court yesterday and in a letter that I submitted from
20 Larry Jenkins, who -- who is the person who helped me
21 with the adoption proceedings in Utah, that there is
22 adoption proceedings and temporary custody that was
23 already issued as of 8:45 a.m., February 20. I do
24 have copies of that if you would like that.

25 THE COURT: Copies -- certainly.

1 RESPONDENT: Okay. Should I give one to the
2 Guardian Ad Litem as well?

3 THE COURT: That would be wonderful.

4 RESPONDENT: Then I would also like, Your
5 Honor --

6 THE COURT: Hang on -- hold on. Let me just
7 read this. All right. Thank you.

8 RESPONDENT: Then there's just two more
9 things I wanted to address. The summons, Your Honor,
10 on February 1, I did receive the paternity petition.

11 THE COURT: Hang on -- on February 1 is when
12 you received the paternity petition?

13 RESPONDENT: Yes, Your Honor, that is
14 correct.

15 THE COURT: All right.

16 RESPONDENT: And what I received, Your
17 Honor, was a paternity petition.

18 THE COURT: Yes.

19 RESPONDENT: A case information sheet.

20 THE COURT: Okay.

21 RESPONDENT: And admission of paternity for
22 the Petitioner. Your Honor, I never did receive a
23 summons for the February 20 hearing, and I have a copy
24 of the return of service from the person who signed
25 it, and it says on here exactly what he delivered to

1 me, and a summons nor a waiver of service is listed on
2 here, Your Honor.

3 THE COURT: I see.

4 RESPONDENT: Would you like a copy of that?

5 THE COURT: Certainly.

6 RESPONDENT: On page 2.

7 THE COURT: Thank you. And just so parties
8 are aware what I have -- are two pages. First page is
9 an e-mail from Emily Berkeley to Carie Terry dated
10 February 7, 2008, subject matter correspondence and
11 pleading, and second is the return of service, which
12 is a copy of a return of service. Original was filed
13 with the court. All right. Thank you.

14 RESPONDENT: Then -- then, Your Honor, I
15 believe what counsel is referring to that I was
16 summoned, she did send me an e-mail on February 7 that
17 says and I quote, we -- we request that if you agree
18 that Rob is the baby's biological father, you sign
19 this document -- it was an attachment to the e-mail,
20 Your Honor -- in front of a notary and return the
21 original to our office by February 13. If you do so,
22 it may alleviate the need to go to hearing on February
23 20. Your Honor, there was no time, there was no
24 place, there was no this is a hearing you are summoned
25 to, Your Honor.

1 I did print off from the judicial web site
2 the legal way to summon someone, and, Your Honor, it
3 does say in here that I do have to be served with a
4 summons and original waiver of service and that I must
5 sign that original waiver of service, and it must be
6 served to me by a sheriff's department or a deputy,
7 and I do have a copy of that e-mail and also what I
8 found on the court judicial web site how to legally
9 file a hearing, if you would like a copy of that, Your
10 Honor?

11 THE COURT: Certainly. Is this all you had,
12 ma'am?

13 RESPONDENT: That is it, Your Honor. I
14 just -- I just ask the Court to request the Petitioner
15 and his counselor to apologize for defaming my
16 character in every one of these petitions.

17 THE COURT: All right. Thank you.

18 MS. BERKELEY: Your Honor, can I respond to
19 that at some point later?

20 THE COURT: Perhaps.

21 MS. BERKELEY: Okay.

22 THE COURT: The next -- I did have a
23 question on the paperwork. Is there any type of a
24 case number in Utah?

25 RESPONDENT: There is not, Your Honor. I

1 went -- I went right before the Supreme Third District
2 Court judge, and he's the one that signed that and
3 there was no need.

4 THE COURT: All right. So I guess -- well,
5 let me just ask the -- do you have any -- well, do you
6 know where the child is?

7 RESPONDENT: Your Honor, since I signed that
8 on February 20, I do not have -- privy to that
9 information.

10 THE COURT: And do you know if any type of
11 adoption has been filed?

12 RESPONDENT: They mentioned to me they were
13 going to file that day, Your Honor.

14 THE COURT: All right. So you believe an
15 adoption was filed that date, but do you have any
16 other information on that?

17 RESPONDENT: I do not, Your Honor.

18 THE COURT: Okay. Thank you. All right.
19 Ms. Burgos, moving down the line to the next
20 individual.

21 MS. BURGOS: Your Honor, I was going to go
22 to the point I believe the Court has ruled regarding
23 paternity at this point in time that father -- and
24 judgment enters today that father will be placed on
25 the birth certificate and that he is the father.

1 Basing my recommendations at this point on
2 that ruling, I'm requesting that mother give us today
3 as much information as possible. I know the Court has
4 asked if she knows if an adoption has been finalized
5 or what is going on. She -- I believe she stated it
6 was through friends or family. I'm not sure if she is
7 aware if there's anyone in Utah who can provide
8 information as far as the child is concerned as to
9 well-being or where the child was born so we can at
10 least get information as to her health.

11 I am in agreement that a custody order issue
12 as soon as possible that can be filed in the
13 appropriate court in Utah with the judge who signed
14 these proceedings so we can move forward as soon as
15 possible. This is a very young child, and at this
16 point in time if there's going to be any parental
17 bonding or anything of that nature, we need to move
18 quickly.

19 It's my understanding from father and his
20 attorney they have obtained counsel and have started
21 all the requirements as to what is necessary to
22 get everything going in Utah.

23 THE COURT: Thank you. All right. Let me
24 just ask, and I'll just do what I would normally do,
25 which is just when a Guardian Ad Litem asks questions,

1 I just go down the line, so let me just ask you,
2 ma'am, on your side of this, do you have any
3 information that you can provide to the Guardian Ad
4 Litem about the condition of the child or anything
5 like that? Asking parent -- this side first. I'll
6 ask everybody the same question. Everybody is treated
7 equally.

8 MS. BERKELEY: No. Only information we have
9 her attorney in Utah works exclusively for two
10 adoption agencies called Adoption Center of Choice,
11 which is funny enough the same agency in the Osborne
12 case in Utah, and Act of Love. Larry Jenkins does so
13 unless he did something special and different. Our
14 attorney in Utah under -- upon information and belief
15 believes he would have that information through one of
16 those two adoption agencies.

17 THE COURT: I see. So answer to my question
18 then at least as to you is no?

19 MS. BERKELEY: No.

20 THE COURT: All right. Moving to the next
21 side, do you have any information that you can help
22 the Guardian Ad Litem?

23 RESPONDENT: Your Honor, I can tell you that
24 I was not induced. The girl did come on premature
25 labor, and I can tell you that it was not long after I

1 read a few e-mails counsel had sent me. I had
2 mentioned to them earlier in a petition I had
3 submitted that the stress they were causing me through
4 constantly sending e-mails and, you know, and trying
5 to get me on the phone and voice mails was causing me
6 a lot of undue stress, Your Honor, and I did go into
7 premature labor four weeks early on my own. I was not
8 induced at all.

9 And I can say that -- that the -- the
10 friends of family were the ones who took the girl, and
11 I know that she's probably in the very upmost best
12 care possible. Other than that, I do not have any
13 more information.

14 THE COURT: Did you end up giving -- given
15 the fact this came so suddenly, were you able to get
16 to the hospital?

17 RESPONDENT: I was luckily I was at my
18 mother's office of work and she was -- she was very
19 close to a hospital and did come on suddenly.

20 THE COURT: Do you recall the name of the
21 hospital?

22 RESPONDENT: Pioneer.

23 THE COURT: Pioneer Hospital?

24 RESPONDENT: Uh-huh.

25 THE COURT: Is that -- hardly know anything

1 in Denver let alone outside, do you know where that
2 perhaps might be?

3 RESPONDENT: You know, Your Honor, I know
4 like Denver, Salt Lake. I don't know what side, city,
5 suburb city it is, Your Honor.

6 THE COURT: Thank you.

7 RESPONDENT: At this time, Your Honor, could
8 I ask a question?

9 THE COURT: Certainly.

10 RESPONDENT: According to -- now and maybe
11 you explained and I apologize if I don't quite
12 understand how it is that, you know, Colorado can rule
13 jurisdiction when it states that the home state of a
14 child is where it resides from birth?

15 THE COURT: Well, and that's a question and
16 certainly a fair question, and I have issued a ruling,
17 and I made my ruling, and I don't get to help either
18 side. All I can do is say I made my ruling, and all I
19 can say on those types of issues is whether I have
20 made the correct ruling is a matter that ultimately is
21 probably not decided by me. All right.

22 MS. BURGOS: Your Honor, if I may? I just
23 wanted to inquire if the baby was born healthy, mother
24 give us any of those -- any of that data so that we
25 have that information at least to begin with regarding

1 the status of the child when she was born.

2 THE COURT: If you're able to.

3 RESPONDENT: Obviously with a child that is
4 born four weeks early, you are going to have lung
5 development issues, Your Honor, and it is very typical
6 especially in children up to full term to be on
7 oxygen, but the child was only on oxygen for a day or
8 two and then was released.

9 THE COURT: Thank you. All right. Let me
10 do this, there are obviously some outstanding issues
11 in the case. What I would like to do at this time is
12 to take a recess in the matter, give the parties a
13 chance to visit with each other if they would like to.
14 This would also give I guess Petitioner a chance to
15 contact whatever people they might like to contact who
16 may not be here and perhaps have a conversation with
17 them including of course the person you may have
18 mentioned to me in terms of precisely what is the next
19 step that the Petitioner is asking for.

20 And then I also obviously want to hear the
21 next step that the Petitioner -- Respondent is asking
22 for in the clearest possible terms and what the next
23 step would be from the Guardian Ad Litem in the
24 clearest possible terms and then I can reconvene. It
25 is now approximately 2:30. My intention would be to

1 reconvene this at approximately 3:00.

2 If we need to have any other individuals on
3 the line, we can do that, and then we can discuss what
4 forms of order, if any, need to be prepared so those
5 forms of order, if any, can be signed. Court will be
6 in recess at this time.

7 (A recess was taken from 2:35 to 3:15 p.m.)

8 THE COURT: Back on the record in 2008JV141.
9 Parties previously entered their appearances and are
10 still here. I have taken a recess to allow the
11 parties to have a chance to speak and to see how they
12 wanted to move forward following the ruling that was
13 issued a short time ago on paternity, so let me just
14 ask counsel for the Petitioner what we have in mind?

15 MS. BERKELEY: Your Honor, we -- we actually
16 haven't spent time with Ms. Terry. She spoke with the
17 GAL instead. She left after you left the courtroom,
18 so I know what we have in mind. I know what Utah
19 would require. I did speak to counsel in Utah, and I
20 wrote it out right here if you'd like to see this or
21 just tell you.

22 THE COURT: Whatever you would like to do.

23 MS. BERKELEY: Well, I will just tell you
24 the attorney in Utah said basically that the Court --
25 the legal system in Utah simply needs an order stating

1 what they already -- there is subject matter
2 jurisdiction over the child and over the parents in
3 Colorado; that or -- sorry, subject matter
4 jurisdiction over the parties, Colorado is the home
5 state of the child, Utah is not the proper
6 jurisdiction for this matter.

7 Furthermore, what you said previously that
8 the Court finds Petitioner is the father of the
9 parties' minor child, a daughter born on the 17th of
10 February '08; that the Petitioner's name shall be
11 listed as the father on the child's birth certificate.

12 THE COURT: Hold on. Go ahead. Number one,
13 you had the home state. What was before that?

14 MS. BERKELEY: Court has subject matter
15 jurisdiction over the parties.

16 THE COURT: Okay.

17 MS. BERKELEY: That the Petitioner father --
18 you got that one?

19 THE COURT: Yes.

20 MS. BERKELEY: Name shall be listed on the
21 birth certificate; that the father -- and if this
22 doesn't happen, basically be in limbo -- the father is
23 granted sole legal and physical custody of the
24 parties' daughter; that the mother and her attorney
25 shall disclose the whereabouts of the child and child

1 must be relinquished to the father. That a warrant --

2 THE COURT: Hang on.

3 MS. BERKELEY: Okay. Sorry.

4 THE COURT: Sole legal and physical custody.

5 MS. BERKELEY: And child must be

6 relinquished to the father.

7 THE COURT: All right. What else?

8 MS. BERKELEY: That under Colorado law a
9 warrant in Colorado and Utah warrant be issued
10 authorizing law enforcement to take physical custody
11 of the child, and I found a couple of statutes if that
12 helps you in Colorado.

13 THE COURT: Okay.

14 MS. BERKELEY: The statutes I found were
15 under the UCCJEA, 14-13-102 subsection 16 defines the
16 word warrant and then 14-13-311 discussing a warrant
17 and basically says -- although it says there is risk
18 of the child will be removed from the state, which
19 already happened, says imminently likely to suffer
20 serious physical harm, which we believe is happening
21 because of the bonding situation, and/or be removed
22 from this state, and that's already happened so --

23 THE COURT: Okay.

24 MS. BERKELEY: Then finally that Petitioner
25 father has immediate right -- called a pickup order in

1 Utah and has immediate right to pick up the parties'
2 daughter and take her in his physical custody. Thank
3 you.

4 THE COURT: Okay. All right. Thank you.
5 Let me just look here. Where was the definition?

6 MS. BERKELEY: Warrant, it's 14 --

7 THE COURT: No, sorry. Okay. Some
8 questions but all right. Thank you. The Respondent
9 mother?

10 RESPONDENT: Your Honor, I did call and talk
11 to my lawyer in Utah, and he said there is a case
12 number for the adoption proceedings, but I do not know
13 what it is. And he also said that the Utah courts
14 will not honor orders from outside courts --
15 out-of-state courts in dealing with an adoption
16 proceeding. He has covered multi state, national
17 adoption cases for over 25 years. Actually has also
18 written proceedings and statutes that have become law
19 for Utah.

20 And he said that Utah courts will uphold
21 their strict laws, which I stated in my brief, and he
22 said that the Petitioner is welcome to bring his case
23 there and that the family -- adoptive family and I are
24 ready to dispute that in Utah.

25 THE COURT: Okay. Thank you. From the

1 Guardian Ad Litem?

2 MS. BURGOS: Your Honor, I'm in agreement
3 with the requests being made by the father of the
4 child on today's date. I believe it's appropriate
5 that father be granted sole legal and physical custody
6 of the minor child and the Court order the child be
7 brought back to the state of Colorado, which this
8 Court has made very clear is the home state and this
9 Court has jurisdiction over.

10 THE COURT: All right. Well, you know,
11 that's the issue that I had my concern about, and the
12 Uniform Child-custody Jurisdiction and Enforcement Act
13 does contemplate -- let me just look here -- I had it
14 here earlier -- look at 14-13-110 says a court of this
15 state meaning Colorado may communicate with a court in
16 another state concerning a proceeding arising under
17 the Uniform Child-custody Jurisdiction and Enforcement
18 ACT.

19 And what I'm trying to avoid is basically
20 competing orders as much as possible, and, for
21 example, for lack of a better way of putting it,
22 calling it a pickup order that may end up with a
23 police officer who's got an order from one
24 jurisdiction and an order from another and standing
25 there saying what do I do. So that's why I suggested

1 you might want to have a conversation and find out
2 what the court is in Utah and is involved in all of
3 this and then what you want to do about it, so if
4 you -- it's getting to be sort of late in the day for
5 courts in Utah and I imagine --

6 MS. BURGOS: Your Honor, I don't know if
7 there's any way if mother has spoken to her lawyer we
8 can get a case number. I don't think there's any way
9 of being able to figure out where we go from here if
10 we do not have a case number. If her attorney is
11 aware of that and mother has access to that, I'm
12 asking that be provided so that therefore we know
13 which court, where to call, and where we need to go
14 from here.

15 MS. BERKELEY: Your Honor, can I just say
16 again there's no custody proceeding in Utah. There
17 isn't. They have to file a custody proceeding. An
18 adoption proceeding under the UCCJEA is not a custody
19 proceeding. What exactly mother said on the second
20 page of her memo. There is no custody proceeding. So
21 they were to file one in Utah, you already assumed
22 jurisdiction. There wouldn't be adoption proceedings.

23 Basically there have been -- parents --
24 adoptive parents have to get the child and right now
25 then have to file a custody proceeding because some

1 dispute at that point. So I don't think -- I don't
2 think a big issue, and I'm prepared to also argue home
3 state, if you would like, but I think already found
4 that, but there's nothing to call -- there's no one to
5 call under this.

6 THE COURT: All right. Yes, ma'am?

7 RESPONDENT: Your Honor, there are custody
8 and adoption proceedings that took place on February
9 20, so they did file with the court on February 20.
10 They are and have taken place. And to just -- yeah,
11 on February 20 they did take place.

12 MS. BERKELEY: I'm looking at the documents
13 filed on February 20 and all have to do with adoption
14 it seems. Yeah, all adoption -- all adoption
15 pleadings.

16 RESPONDENT: That's -- excuse me, Your
17 Honor. That's my consent. My lawyer confirmed they
18 did file custody and adoption proceedings that day. I
19 don't have copies of that. Again I relinquished my
20 rights so I don't have copies of their temporary
21 custody orders or adoption proceedings, Your Honor.

22 THE COURT: Okay.

23 MS. BERKELEY: And lastly, Your Honor, I'm
24 sorry, but our attorney in Utah spoke with Mr. Jenkins
25 and her attorney --

1 THE COURT: Who is that?

2 MS. BERKELEY: Her attorney in Utah is
3 Mr. Jen- -- Larry Jenkins.

4 THE COURT: I'm sorry.

5 MS. BERKELEY: Our attorney in Utah is Dale
6 Dorius and Dale M. Dorius called -- he's been doing
7 this for 40 years -- called her attorney and found
8 out, A., it's an open adoption through a family friend
9 just as she stated; B., almost definitely knows of the
10 parents and location of the child; and C., as far as
11 he knows adoption proceedings were -- were initiated
12 but no custody proceedings because custody is not in
13 dispute. That's when I talked to him. That's his
14 understanding.

15 THE COURT: All right. Well, thank you.
16 Well, then why don't you do this, I will go ahead and
17 recess the proceedings, and if you want to prepare a
18 form of order for me to look at, I'll go ahead and
19 look at it, and if it appears appropriate, I can enter
20 the order, and if it doesn't appear appropriate, I
21 won't, but I'll just need a form of order.

22 MS. BERKELEY: Okay. Thank you. How long
23 will you be recessing?

24 THE COURT: Well, as soon as you get a
25 proposed form of order for me to look at and consider.

1 MS. BERKELEY: I can add a couple of things
2 to this.

3 THE COURT: I think it ought to at least be
4 typed.

5 MS. BERKELEY: Well, my office is ten
6 minutes away by foot.

7 THE COURT: I'm not going anywhere, so I can
8 reconvene at -- you just submit the -- Clerk's Office
9 here closes at four; however, you can submit a form --
10 my office will remain open -- and you can submit a
11 form of order, and I can look at it, and if it appears
12 appropriate, execute it. If not, I can reconvene and
13 notify the parties why it might not be.

14 MS. BERKELEY: Okay. I will try to find
15 something in this courthouse I can use first. When do
16 you want me to come back -- by 4:30?

17 THE COURT: 5:00. I'm not leaving. I'll be
18 here.

19 MS. BERKELEY: I guess question is then
20 depending on if signed order or not, if we got a
21 certified copy, then I can just provide it to Mr.
22 Manzanares at that point, right, and that would be it?

23 THE COURT: I think that's correct.

24 MS. BERKELEY: All right. Thank you. I'll
25 be back shortly.

1 MS. BURGOS: Court wish we also stay or can
2 we be available by phone, if necessary, to come back?
3 I know mother has to pick up a child from school, and
4 I know why she's right now nervous wants to make sure
5 she gets there to pick up her daughter.

6 THE COURT: Well, parties are free to go or
7 stay.

8 RESPONDENT: Order she submits could I
9 request I get a copy of that as well?

10 THE COURT: Absolutely.

11 RESPONDENT: Since going to my lawyer in
12 Utah.

13 THE COURT: Absolutely.

14 RESPONDENT: Perfect.

15 MS. BERKELEY: I will provide one to you and
16 your lawyer immediately -- fax and e-mail then, and I
17 have your e-mail, okay to e-mail it to you?

18 RESPONDENT: That's fine.

19 THE COURT: Is that satisfactory?

20 RESPONDENT: Great.

21 THE COURT: All right. Thank you. And I
22 will look to receive that by approximately five p.m.
23 and look at it and consider it and see if it's --

24 THE CLERK: Possibly clear another date
25 while we have parties?

1 THE COURT: Another date for what?

2 THE CLERK: I don't know if we need one.

3 MS. BERKELEY: Probably do need to set
4 another one and thought we could get mom under oath
5 and tell us where the child is while we're here.

6 THE COURT: Someone want to present any
7 evidence?

8 MS. BURGOS: Ms. Terry --

9 THE COURT: I didn't realize that.

10 MS. BURGOS: I think, Your Honor, parties
11 were inquiring as to where the baby was. If the Court
12 could just swear her in and just ask her that question
13 that she understands what's at risk here. It's my
14 understanding from father's attorney that she was told
15 mother knows where the child is.

16 THE COURT: Asking to take some evidence?

17 MS. BURGOS: That is the only question I
18 wanted to ask if mother --

19 CARIE TERRY,
20 Called as a witness on behalf of the Guardian Ad
21 Litem, having been first duly sworn, testified as
22 follows:

23 THE COURT: You may inquire of the witness.
24
25

DIRECT EXAMINATION

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BY MS. BURGOS:

Q Ms. Terry, was this an open adoption in the state of Utah?

A It was.

Q And as an open adoption, were you given information who was adopting your child?

A I was.

Q And who adopted your child?

A Scott -- Scott and Julissa Byington.

Q Say their names and spell their last name, please.

A Scott, S-C-O-T-T, and Julissa, J-U-L-I-S-S-A, Byington, B-Y-I-N-G-T-O-N.

Q Do you have a current address or phone number?

A I do not have their address.

Q Do you know where they live?

A Salt Lake.

Q Did you have the opportunity to meet with Scott and Julissa Byington?

A Yes.

Q And an open adoption were you provided with a phone number or contact in order to have information regarding your daughter?

1 A I do have a phone number.

2 Q What is that phone number?

3 A I don't know it by heart. It's in my phone.

4 Q Cell phone you have with you?

5 A Yes.

6 Q If you could please look at your cell phone
7 and provide that information.

8 RESPONDENT: Your Honor, may I say something
9 after I'm done answering questions?

10 THE COURT: Certainly.

11 RESPONDENT: Great. Thank you.

12 A 801-830-6668.

13 Q (By Ms. Burgos) When was the last time you
14 received any information on your daughter?

15 A Last week.

16 Q What was that information that you received?

17 A She's healthy.

18 MS. BURGOS: Thank you, Ms. Terry. Your
19 Honor, what I would ask is that the information that
20 was provided today by Ms. Terry that the family
21 members understand that is not information they can
22 use to call or --

23 RESPONDENT: What I would mention, they
24 already have and harassed them.

25 MS. BURGOS: If I can finish.

1 RESPONDENT: Sorry.

2 MS. BURGOS: If the family understands no
3 one can call them; that everything has to be handled
4 in a professional manner by the attorneys and any
5 professionals that are working on this case and for
6 people not to call this family.

7 THE COURT: I don't really -- counsel, would
8 you stipulate to that?

9 MS. BERKELEY: Yeah, Your Honor, we do
10 stipulate to that. Mr. Manzanares did call her
11 brother at one point last week because he found out
12 the baby was born. He just called to say do you know
13 where the baby is. This is the first we found out he
14 has the baby and, yes, won't call him directly. Let
15 law enforcement or you guys do that.

16 THE COURT: All right.

17 RESPONDENT: Your Honor, they called
18 everyone in my family.

19 THE COURT: Okay.

20 RESPONDENT: And was harassing them.

21 THE COURT: They said they won't do that.

22 RESPONDENT: Okay. .

23 MS. BURGOS: No further questions.

24 THE COURT: All right. So with that that
25 will conclude this proceeding.

1 MS. BURGOS: Thank you.

2 THE COURT: Anything else I missed? Thank
3 you.

4 (A recess was taken from 3:35 to 5:10 p.m.)

5 THE COURT: All right. We're back on the
6 record in 2008JV0141. If the parties that are here
7 could enter their appearances, please.

8 MS. BERKELEY: Thank you, Your Honor. Emily
9 A. Berkeley, Reg. 36240, attorney for the Petitioner,
10 Robert Manzanares who is here beside me.

11 THE COURT: All right. When we recessed an
12 hour or so ago, Ms. Terry the Respondent mother was
13 here. She informed the Court she needed to leave.
14 She was picking up her daughter and that she did know
15 this proceeding may be coming back and you would be
16 presenting me with an order, and I believe I said
17 something to the effect I would look at the order and
18 consider that; that she was obviously free to be here
19 or not. As a civil proceeding, she is obviously not
20 required to be here. The Guardian Ad Litem is not
21 here as well and for similar reasons.

22 Let me just tell you what I have been able
23 to accomplish since the last recess. Because there
24 have been issues that have been possibly raised under
25 the Uniform Child-custody Jurisdiction and Enforcement

1 Act, that Act requires courts from different states to
2 consult with each other, and when you may consult with
3 each other does not need to be on the record if you
4 are just trying to locate basic information such as
5 schedule, calendars, court records, and so on.

6 Given that, I was able to find some
7 information. There is a case in Utah that apparently
8 has been filed in the Third Judicial District for Salt
9 Lake County, case number is 082900089, and it is in
10 the division or may be in the division of a Judge
11 Robert K. Hilder, last name spelled H-I-L-D-E-R. The
12 Court has not spoken with Judge Hilder. A
13 representative from this court has spoken with his law
14 clerk whose name is Mark Paradise, P-A-R-A-D-I-S-E,
15 and his phone number is 801-238-7377, so I wanted to
16 update the parties on that.

17 Now with respect to the order that has been
18 presented to me as a -- and it is styled as a proposed
19 custody order and it is based on the information that,
20 counsel, you said you wanted at -- you were going to
21 prepare an order -- form of order for me to look at
22 it, I said I would look at it and consider it and said
23 all the things you would put in the form of order and
24 indeed they are here.

25 I do note we have confirmed that there is a

1 case in Utah and that an order of temporary custody
2 has apparently issued in Utah. I have further noted,
3 and I believe, counsel, you stated this to me, and I
4 have certainly noted that the Uniform Child-custody
5 Jurisdiction and Enforcement Act does not apply to
6 adoption proceedings.

7 And although I don't have any direct
8 knowledge that there is an adoption proceeding in
9 Utah, there has certainly been offers of proof made to
10 me there is an adoption proceeding going on in Utah.
11 The issues that I determined here today in this court
12 really related to the issue of paternity and that was
13 an issue that really could be decided almost on sort
14 of a summary judgment type basis because there really
15 hasn't been any dispute as to paternity. Everyone has
16 agreed to that.

17 If I was treating this as any sort of normal
18 type of paternity action, which I think I'm required
19 to do, the additional orders that you are requesting
20 that I enter here -- in particular any order granting
21 sole legal and physical custody to the father at this
22 time, that the child would need to be relinquished to
23 the father.

24 I mean I have to make those determinations
25 really under the Colorado generally speaking best

1 interests standards and so on, and I really -- I mean
2 we haven't had any testimony or evidence on that.
3 Obviously I can infer what you might argue to me,
4 which is that it is in the best interests because the
5 mother took the child to Utah or gave birth to the
6 child in Utah and left it there with someone else so
7 that custody should come to the father, but I don't
8 have any -- we just haven't had any testimony on that
9 or evidence.

10 In terms of warrants and so on, you know, a
11 Colorado court issuing a warrant for a child to be
12 taken into custody when the child is not in the state
13 I think is problematic at best.

14 Then the issue of home state -- there is an
15 issue what is called home state, and you wanted to
16 offer some argument on home state at the appropriate
17 time. I'm pleased to hear that, but given the fact
18 that the Uniform Child-custody Jurisdiction and
19 Enforcement Act doesn't apply in adoption proceedings,
20 what I say the home state is wouldn't necessarily
21 apply in an adoption proceeding. And I don't
22 necessarily know what the adoption laws are of Utah.
23 That would certainly not be my place to know that;
24 although, my understanding they have been in flux and
25 may have changed even recently as like the first of

1 February or something.

2 So bottom line is, I don't believe I can
3 sign this order as is proposed at this time. I can
4 certainly sign an order related to the paternity
5 issues that I have determined, and I'm pleased to do
6 that. And quite frankly, then if I signed this order
7 as proposed today, the effectiveness of this order I
8 think would be somewhat doubtful.

9 I'm happy to set this for further hearing
10 and argument and evidence as you would like. You had
11 referenced earlier that you would want to be able to
12 have the attorney from Utah on the line, and we have a
13 speaker phone and that would be fine. Again the
14 issues that I have determined are paternity. I don't
15 think that I have determined much more than that.

16 MS. BERKELEY: Can I speak?

17 THE COURT: Certainly be pleased to hear
18 whatever you'd like to say.

19 MS. BERKELEY: Well, Your Honor, the thing
20 is that, first of all, do you know when the custody
21 case in Utah was filed? Had to be after the birth.
22 Had to be -- right -- we filed our case -- custody
23 matter in Colorado first and you found you have
24 subject matter jurisdiction over the parents and you
25 did find that Colorado is the home state of the child.

1 THE COURT: Actually didn't say those words
2 in my order. My order determined paternity, and I --
3 and again even if I had found -- I have it here
4 somewhere -- I said subject matter jurisdiction is
5 here in terms of -- I put it in the office.

6 MS. BERKELEY: Your Honor, I talked to the
7 Guardian Ad Litem and we both asked you to confirm and
8 you did confirm that Colorado -- whether or not
9 helpful on an adoption proceeding, isn't a custody
10 proceeding, you did confirm that it was the home --
11 Colorado is the home state.

12 THE COURT: Well, and, you know, as I said
13 even -- even if that has occurred and we can talk
14 about that, but the main issues that I have determined
15 really are paternity, and as I say, I'm certainly free
16 to hear further argument and evidence as necessary.
17 You did in your petition ask for allocation of
18 parental responsibilities and so on and orders to
19 enter with respect to that, and I'm happy to proceed
20 with that in the normal course.

21 But again what effect that would have in
22 another jurisdiction, I don't know, but that is to be
23 determined in another jurisdiction, and the fact there
24 is an adoption proceeding in another jurisdiction
25 words home state under the Child-custody and

1 Enforcement provisions, I don't know if that would
2 apply in another jurisdiction, but I think you would
3 have to take that up out there, so I'm pleased to keep
4 going with this and don't think I'm not, but I -- the
5 issues I have determined are paternity.

6 MS. BERKELEY: So you're not -- I guess I
7 got confused because when we talked before I left, I
8 understand and from the Guardian Ad Litem we all
9 understood that you at least had the authority to
10 issue some temporary emergency custody under 14-13-204
11 perhaps, and I just can't see why that wouldn't -- the
12 adoption proceeding was entered into when this court
13 had jurisdiction over this matter so I mean.

14 THE COURT: Well, that may be the issue that
15 we would need to consult on with the Utah court if
16 that comes up when there's consultation because the
17 way the Uniform Child-custody Jurisdiction and
18 Enforcement Act is written, if this was a child
19 custody matter and it was filed first, maybe based on
20 consultation then Utah will yield to that and that
21 would be the purpose of some consultation, but I think
22 that would have to be done through the consultation
23 process that is here.

24 MS. BERKELEY: Well, actually I'm positive
25 that you can enter a temporary emergency order and

1 then you have I believe 30 days to consult. I just
2 went through the same similar situation -- not this
3 dramatic with Judge Rice and basically in that --
4 that's in Arapahoe County District Court -- basically
5 you can enter a temporary emergency order for the best
6 interests of the child and then you have to consult
7 within a certain amount of time. Might actually say
8 reasonable anymore. Okay. Right. You can enter it
9 and than you shall immediately consult.

10 You can enter an order in the best interests
11 of a child, which -- I mean under case law even
12 Everett, Wellbrink, under Allen, it's assumed fit and
13 suitable parent is the biological father or the
14 biological parents, and it's assumed it's in the best
15 interests of the child under Allen that the child is
16 with the biological parents, and I think this Court
17 has to make an order regarding the best interests of
18 the child under temporary -- under a temporary
19 emergency order. I can't see how -- how that wouldn't
20 be the case.

21 THE COURT: What is the statute that you're
22 referring to?

23 MS. BERKELEY: Hold on. I'm now under
24 14-10-12- -- 129 -- 14-10-124, and it's --

25 THE COURT: Was this order with Judge Rice,

1 does that involve a child that was in another state?

2 MS. BERKELEY: Basically what happened is
3 mom -- mom whisked the child out of Missouri into
4 Colorado when there was a current order in Missouri
5 and filed -- filed emergency -- emergency jurisdiction
6 and also filed for emergency orders, and I think the
7 Court has to hear that within seven days emergency
8 custody, and what happened was the Court was supposed
9 to confer immediately with Utah -- with Missouri and
10 Judge Rice just didn't do it, and a month went by and
11 more time went by and we filed and filed and filed and
12 finally found, oh, whoops, I did need to consult, and
13 she did make emergency orders, and she just needed to
14 consult with the other judge, but -- but the child was
15 allowed to stay here for a little while.

16 And I just can't see how -- how we can't
17 make an order in the best interests of the child -- I
18 just don't understand how we couldn't. Oh, and
19 attorney Dorius, I got his cell phone number. Did say
20 Utah -- a Utah court -- Utah law enforcement, he
21 believes -- he had a case out of North Carolina --
22 will give good faith and credit to whatever order you
23 issue today, and if we can have further proceedings
24 once the child is safe and secure, I would love it.
25 I'm ready for those as well.

1 THE COURT: What about the circumstance
2 where the Uniform Child-custody and Jurisdiction and
3 Enforcement Act doesn't apply expressly to adoptions?

4 MS. BERKELEY: Well, I mean how can this
5 Court say that mom can be under the jurisdiction of
6 this court, submit a response, submit a motion to
7 continue, show up here, and then -- then say but I can
8 go to Utah and initiate adoption proceedings and give
9 my child to my brother.

10 THE COURT: I didn't say she could do that.
11 What I said, what I decided is paternity.

12 MS. BERKELEY: Well -- well, right, but we
13 asked for emergency -- emergency orders as did the
14 Guardian Ad Litem who also believes that in this case
15 it's appropriate to do such emergency. She told me
16 temporary emergency orders were appropriate and I
17 could ask for sole physical and -- and whatever
18 custody, but she thinks -- she thought probably this
19 Court would find it appropriate it was on a temporary
20 emergency basis until further proceedings can be held.

21 But according to Mr. Dorius once the child
22 is here, they can object to the adoption, and at this
23 point if the Court stays -- keeps jurisdiction, give
24 us emergency orders at the very least.

25 THE COURT: What are you asking for in the

1 emergency order?

2 MS. BERKELEY: Well, let me look at the
3 language that the GAL gave me specifically.

4 THE COURT: Give me --

5 MS. BERKELEY: Excuse me.

6 THE COURT: What is the statute again for
7 the emergency orders? I can't imagine how difficult
8 this must be for the people that are here. I do
9 understand, and I wouldn't insult you by saying I do
10 know how difficult it is. I can't imagine.

11 MS. BERKELEY: Okay. It's 14 -- now just
12 going by the seat of my pants so stand by.

13 THE COURT: That's --

14 MS. BERKELEY: 14-10-124(1.5)(a).

15 THE COURT: Let's take a look.

16 MS. BERKELEY: Wait a second. I think I
17 looked at the wrong one. Hold on.

18 THE COURT: That is the Dissolution of
19 Marriage Act although that may have some application.

20 MS. BERKELEY: UDMA does apply to unmarried
21 parties in terms of child support and -- hold on one
22 second. I don't know -- this is such a weird case --
23 I don't know if this would be a modification of
24 parenting time since mom had the child -- I don't
25 know if it would be a modification of parenting time

1 then definitely you could restrict her parenting time
2 due to endangerment under 14-10-129 then under 14 --

3 THE COURT: Under temporary emergency
4 jurisdiction of the Uniform Child-custody Jurisdiction
5 and Enforcement Act.

6 MS. BERKELEY: 14-13-204.

7 THE COURT: Says a court of this state has
8 temporary emergency jurisdiction if the child is
9 present in this state and the child has been
10 abandoned --

11 MS. BERKELEY: Or --

12 THE COURT: -- or it is necessary in an
13 emergency to protect the child because the child, or a
14 sibling or parent of the child, is subjected to or
15 threatened with mistreatment or abuse.

16 MS. BERKELEY: Which I think there's a
17 strong argument that's the case. Even if there was a
18 previous child-custody determination, you can still
19 make emergency orders. That's where you go to
20 subsection (4) you have to immediately communicate
21 with the -- the Utah court which you have done
22 actually.

23 THE COURT: I have not communicated with the
24 judge in the court. We have done nothing on the
25 record. All we've done is find out a case number and

1 name and telephone number of a law clerk.

2 MS. BERKELEY: So I mean this judge is going
3 to call you back I assume or --

4 THE COURT: I didn't leave a message. We
5 just got that information. We did leave them my name.

6 MS. BERKELEY: If you made a temporary
7 emergency order today, you'd have to immediately call
8 the other judge again and say I did this and consult.

9 THE COURT: All right. Let me take a moment
10 to think about it.

11 MS. BERKELEY: I just don't see how the
12 Court can have jurisdiction over the matter when this
13 child is clearly in danger and not a suitable and fit
14 person and to not make an emergency order.

15 THE COURT: That is information I don't have
16 because I haven't had any evidence. I know the
17 child's been placed with someone in Utah.

18 MS. BERKELEY: But under Allen it is
19 presumed that interests and welfare of such children
20 are best served -- okay. Under -- called Allen v.
21 Huffman, 135 Colo. 1, 1957 case, the pinpoint is 7.

22 THE COURT: What is the Pacific cite?

23 MS. BERKELEY: 307 P.2d 802, and the
24 opinion -- pinpoint page number is 805, and basically
25 what it says is that the biological parent -- it is

1 presumed it's in the best interests and welfare of
2 such children meaning the children of the biological
3 parents they're best served when under the care and
4 control of their biological parents. It is presumed
5 under Colorado law that's the case, so unless she's
6 given evidence otherwise, this Court has to presume
7 Rob's the best fit parent.

8 In addition there is a case, Everett v.
9 Berry, and got copies of all these cases with me.
10 Another case Wellbrink v. Walden parent is presumed to
11 be a fit and suitable person to have the custody of
12 his children and if a parent is fit and suitable that
13 parent has the prior right of custody of his children
14 over any other person or the state.

15 In addition, it has to be -- only become --
16 overcome by convincing evidence to the contrary,
17 which -- which Ms. Terry has not given us convincing
18 evidence to the contrary that he's not the fit and
19 proper person, he has to be ordered the child.

20 In addition, under Allen the case says these
21 presumptions we just discussed are the -- are like the
22 presumption of innocence in a criminal case ever
23 present throughout the controversy until overcome by
24 the most solid and substantial reasons established by
25 plain and certain proofs.

1 THE COURT: 307 P.2d 802 was the other cite?

2 MS. BERKELEY: Everett is 252 P.2d 826 and
3 pinpoint is 829. And that's Everett. And then
4 Wellbrink says exact same thing.

5 THE COURT: 252 P.2d 826, 829?

6 MS. BERKELEY: That's Everett.

7 THE COURT: 307, 802?

8 MS. BERKELEY: That's Allen and Wellbrink is
9 a different case. It's -- it says the same thing as
10 Everett says. I don't know if you want to see it as
11 well.

12 THE COURT: What is the cite?

13 MS. BERKELEY: It is 349 P.2d 697.

14 THE COURT: All right. Again how do you get
15 around the fact this order under the Uniform Child-
16 custody and Jurisdiction and Enforcement Act does not
17 apply to adoption proceedings?

18 MS. BERKELEY: Because, for example, there's
19 custody of a child in Colorado, mom can't take the
20 child -- just an example, to Utah and put it up for
21 adoption. She can't do it. It doesn't matter it
22 doesn't apply to an adoption proceeding. What she has
23 done is totally illegal. Doesn't make any sense.

24 I know she's not here and she has a right to
25 be here, but if I can quickly talk to you about home

1 state and why that is important or can I just tell
2 you.

3 THE COURT: Just tell me about home state.

4 MS. BERKELEY: Well, fact she says Utah is
5 now the home state would lead to an absurd result.
6 First of all, the current action for paternity
7 proceeding with respect to emergency or at least some
8 sort of custody order, and because this Court has now
9 retained subject matter jurisdiction, the Court has to
10 apply 14-13-102(7), and that's the home state, you
11 know, definition if the child lived in the state for
12 six consecutive months before the custody proceeding
13 was filed.

14 Well, you just found as did other Colorado
15 courts and Supreme Court that in paternity proceedings
16 and proceedings to end parental rights an unborn
17 child -- you can have jurisdiction over an unborn
18 child.

19 THE COURT: For purposes of paternity, yes.

20 MS. BERKELEY: Correct. So -- so it
21 doesn't -- home state -- let me go back. Paternity is
22 a custody proceeding under the UCCJEA under 14-13-202
23 I think it is. Yeah. And 201 -- hold on -- right,
24 201, I'm sorry. So -- so -- no, I'm so sorry. Got so
25 many things in my head.

1 THE COURT: I know -- I know these are
2 difficult issues and take your time.

3 MS. BERKELEY: I have thought about them a
4 lot.

5 THE COURT: I understand you have. I
6 understand where it says except as otherwise provided.

7 MS. BERKELEY: Right.

8 THE COURT: Court of this state has
9 jurisdiction to make an initial child-custody
10 determination only if this state is the home state of
11 the child on the date of commencement of the
12 proceeding, or was the home state of the child within
13 six months before the commencement of the proceeding
14 and the child is absent from the state but a parent or
15 person acting as a parent continues to live in the
16 state.

17 MS. BERKELEY: Correct.

18 THE COURT: You're saying the child need not
19 have been born for me to find this is the home state?

20 MS. BERKELEY: Correct. Correct. I
21 absolutely think that because if Colorado law says
22 that, and it's not disputed, a paternity proceeding is
23 a custody proceeding. I can find that for -- did you
24 see that in my brief?

25 THE COURT: I will take your word for it.

1 MS. BERKELEY: A paternity proceeding is a
2 custody proceeding under Colorado law, so a child --
3 if a custody proceeding has been filed which --

4 THE COURT: All right. Let me try to just
5 bring some closure to this and take -- retire and
6 consider it but --

7 MS. BERKELEY: Let me just say this much.

8 THE COURT: Go ahead.

9 MS. BERKELEY: I was just going to say this
10 to me is the most -- is -- to say this is not the home
11 state when we're talking about home state would be
12 absurd because would mean -- because a paternity
13 proceeding is a custody proceeding, an unborn child is
14 subject to jurisdiction under a paternity proceeding,
15 would mean basically fathers would have to file their
16 case in Colorado, keep track of mom 24-7, and have
17 prepared a petition to file in any state of the union
18 because they have -- they would have to know whether
19 mom was leaving the state and if left the state and
20 file a petition in that state and in Utah you have 24
21 hours. So would be absurd to say, you know, that
22 would be a requirement of a father. That's not what
23 the UCCJEA or Children's Code or anything else
24 contemplated was a father to have to do that kind of
25 thing. Doesn't make sense.

1 THE COURT: I understand.

2 MS. BERKELEY: So I think there's a conflict
3 and the law should be resolved to avoid an absurd
4 result, and if this Court needs to make new law or say
5 this is an issue of first impression, this Court has a
6 right to do that, and I think in this case it's
7 absolutely mandatory this child be protected.

8 THE COURT: Thank you. Well, let me --
9 again I will retire and think about this some more --
10 let me look at your proposed order, and I'll be back.

11 MS. BERKELEY: Okay.

12 THE COURT: I know it's a tough issue for
13 everybody.

14 MS. BERKELEY: Yeah.

15 THE COURT: Thank you.

16 MS. BERKELEY: Want me to call Mr. Dorius, I
17 will because seems to think that a pickup order --
18 pickup order will be honored in Utah if you want to
19 talk to him.

20 THE COURT: Is he available by speaker
21 phone?

22 MS. BERKELEY: Let me just see if I can even
23 get him on the phone. He's been practicing for 40
24 years so -- he said he would be available, but he
25 drives to and from Salt Lake City.

1 THE COURT: We have a speaker phone so you
2 can call.

3 MS. BERKELEY: Let me get his number.

4 THE COURT: All right.

5 MS. BERKELEY: Sorry. My phone -- I have it
6 off because we're in court.

7 THE COURT: I know I'm a glutton for
8 punishment on these matters.

9 MS. BERKELEY: I know. I thank you.
10 It's area code 435-720-2268. And then also try to
11 call his office if --

12 (Calling Mr. Dorius.)

13 MS. BERKELEY: Dale, this is Emily Berkeley
14 here in court with Judge Woods and the parties or
15 Mr. Manzanares only. Okay. Can you hear me? Are you
16 there? Dale, can you hear me?

17 (Calling Mr. Dorius.)

18 MS. BERKELEY: This is Emily. I'm here in
19 court with the judge and Rob and just wondering if we
20 can put you on speaker phone and you could talk to the
21 Court. Can you hear me? Dale, can you get into an
22 area where you have a signal? I'm going to call back
23 in one second. Driving through a canyon, as I told
24 you, so I don't know -- try to get ahold of him when
25 you're thinking and bring the phone back?

1 THE COURT: Let me be in recess for a
2 moment.

3 (A recess was taken from 5:43 to 5:45 p.m.)

4 MS. BERKELEY: Okay. Dale, here comes the
5 Honorable Judge Woods.

6 THE COURT: Hello, sir. We're on the record
7 in court. Counsel for the Petitioner father said you
8 wanted to make some kind of argument or could inform
9 the Court in terms of your position.

10 MR. DORIUS: Well, I think if the Court
11 would give us -- give the father temporary custody, we
12 could probably enforce that here in Utah. We may have
13 to go into the adoption proceeding and we appreciate
14 that, but the Utah court -- out-of-state orders --

15 MS. BERKELEY: Even --

16 MR. DORIUS: Don't give us temporary
17 custody, leaves us in limbo over here.

18 MS. BERKELEY: All right.

19 THE COURT: Now they had prepared an order
20 for me that is a pickup order that has warrants for
21 the arrest and so on, and I am most doubtful this
22 Court would have jurisdiction to do that.

23 MR. DORIUS: Well, that's probably true.
24 That's probably true. If we had a pickup order it
25 would help, but if Utah would honor it or not, I don't

1 know where you don't have jurisdiction over the
2 adoptive parents or attorney over here. If we at
3 least had a temporary order of custody out of your
4 court, then we could probably enforce that in court
5 over here.

6 THE COURT: All right. Thank you.

7 MR. DORIUS: Did that help?

8 THE COURT: Yes, sir, thank you.

9 MR. DORIUS: Okay.

10 MS. BERKELEY: Thanks, Dale. I will call
11 you later.

12 MR. DORIUS: Okay. Good-bye.

13 MS. BERKELEY: Bye.

14 THE COURT: All right. Let me think about
15 it.

16 (A recess was taken from 5:48 to 6:10 p.m.)

17 THE COURT: All right. First of all --
18 again this is back on the record, and we're going to
19 have to conclude it for today. This is an enormously
20 complex legal issue, and it's also I know enormously
21 difficult on the parties. I can issue the paternity
22 order. I have -- I'm certain I can do that.

23 The order on temporary emergency
24 jurisdiction, you're asking me to enter a temporary
25 order basically to have the child taken into custody,

1 setting aside the issue of whether or not such an
2 order would be recognized by another state
3 particularly when there is -- this doesn't apply in
4 adoption proceedings, setting that aside, this is what
5 the statute says, it says, court of this state,
6 Colorado, has temporary emergency jurisdiction if the
7 child is present in this state. Child is not present
8 in the state. And the child has been abandoned or it
9 is necessary in an emergency to protect the child
10 because the child or a sibling or parent of the child
11 is subjected to or threatened with mistreatment or
12 abuse.

13 I don't have any evidence before me that the
14 child is being threatened with mistreatment or abuse.
15 All I know is that the child has been placed
16 apparently with a family in Utah. I have no evidence
17 at this point to say that the child is being
18 threatened with mistreatment or abuse.

19 I understand the father's argument and the
20 presumptions that pertain that the father has the
21 right to parent the child and so on. That's not what
22 this is dealing with in terms of custody, so I'm
23 willing to look at this situation again and advance it
24 on the docket and let folks think about it, and if you
25 can provide me with some more information, I will

1 certainly keep considering the cases that you have
2 sent.

3 I'm pleased to sign the paternity order that
4 I ruled on today, and I don't believe I can issue an
5 order at this point for custody, and even if I could,
6 as I said, it's most doubtful whether that order would
7 be respected in the other jurisdiction.

8 MS. BERKELEY: Your Honor, can I ask a
9 couple of questions?

10 THE COURT: Sure.

11 MS. BERKELEY: I got a couple of questions.
12 First of all, did Your Honor read the part in the
13 brief about the Osborne case in Utah? We brought up
14 emergency jurisdiction only because I said -- I think
15 you can issue -- I think you can issue sole physical
16 custody not on an emergency basis because you have
17 jurisdiction over the child. That's what I think.

18 Emergency thing just came up because I was
19 giving you another option, but under the Utah case,
20 Osborne case, Utah law clearly says once father has
21 pursued all rights in the home state, he can --

22 THE COURT: Are you referring to Utah Code
23 Annotated -- turn to page 8 of your brief.

24 MS. BERKELEY: Uh-huh.

25 THE COURT: And indented paragraph there

1 Utah Code Ann. 78-30-4.15 and it's 2002.

2 MS. BERKELEY: Yeah, and I think same now.
3 I looked it up. That is a quote from a case.

4 THE COURT: 78-30-4.15(4) where it says it
5 allows an unmarried biological father who resides in
6 another state to challenge the mother's placement of
7 the child for adoption if he resided in another state
8 with the mother and has, and I quote, complied with
9 the most stringent and complete requirements of the
10 state where the mother previously resided or was
11 located in order to protect and preserve his parental
12 interest and right in the child, and then cites to the
13 statute again. Is that what you're relying?

14 MS. BERKELEY: Yes, correct.

15 THE COURT: Ma'am, that statute was repealed
16 in 2006.

17 MS. BERKELEY: Oh. I just checked it. Are
18 you sure? But -- oh, but I have something else for
19 you. Supreme Court -- sorry, District Court in Utah
20 in January 23 of 2008 upheld this case and I have it.

21 THE COURT: All right. Why don't you submit
22 that to my clerk. I'll be happy to reconvene this on
23 Monday if you want to submit the paternity order.
24 I'll look at it. I will sign the paternity order as I
25 have discussed based on the matters I have shown you

1 and --

2 MS. BERKELEY: You do retain jurisdiction?

3 THE COURT: Yes.

4 MS. BERKELEY: Over this matter?

5 THE COURT: Yes. I'm retaining jurisdiction
6 over this matter. Issues I settled today were
7 paternity.

8 MS. BERKELEY: Okay.

9 THE COURT: That's the issue I settled
10 today.

11 MS. BERKELEY: Taking back home state.

12 THE COURT: I have read my decision. I
13 didn't say the word home state in my decision. What I
14 decided was paternity. That's what I decided. Just
15 read the whole thing again, and we -- we've been
16 talking about the issue of home state. What I decided
17 was paternity. If you want to present further
18 argument on home state, I'll look at it.

19 MS. BERKELEY: Okay. So I will give Kristin
20 that copy of that opinion I just got.

21 THE COURT: Thank you. Get you some time.

22 (The proceedings were concluded.)
23
24
25

REPORTER'S CERTIFICATE

The above and foregoing is a true and complete transcription of my stenotype notes taken in my capacity as Official Reporter of Division 2, Juvenile Court, Denver County, Colorado, at the time and place above set forth.

Dated at Denver, Colorado, this 27th day of March, 2008.

Kari Larson
Kari Larson, RPR, CSR

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