Donald Smith cross examination outline

1. RTSC October 21-22, 2022
   1. Per October 5, 2020 order in this case “Each party shall provide the other a written itinerary if the minor child or children will not be at their residence on a night they have physical possession of the child or children. This itinerary will include the address where the child or children will be staying”
   2. Per that same order, “The Plaintiff's Gizmo device shall be on and charged at all times and in NS’s possession.”
   3. Per an August 1, 2022 order from Plaintiff’s Rules to Show you were found in contempt for attempting to deceive Samantha about his location on February 12, 2022 and not insuring NS had the Gizmo device in her possession.
   4. That order further found you in contempt for overriding Samantha’s legal custody rights and failing to inform him about appointments for the children.
   5. That order clarified the October 5, 2020 order so that “To avoid future problems NS’s Gizmo watch shall be checked at 6:00 p.m. each day to determine whether it needs to be charged. Further the parties’ shall report to other via OurFamilyWizard by 6:30 p.m. if the Gizmo watch is lost or misplaced and what attempts have been made to locate it.”
   6. On August 10, 2022, you represented to myself and Samantha that you had moved to 2230 Dorchester Road, North Charleston, SC 29414 **Exhibit August 10, 2022 email from Donald**
      1. Between that date and October 21-22, 2022, you did not inform Samantha of a different address change
      2. On the overnight of October 21-22, 2022, you had physical possession of your daughters.
      3. Nancy’s and Lucy’s Gizmo app shows both were in Summerville, South Carolina that night **Exhibit Gizmo record**
      4. Either Nancy didn’t have her Gizmo in her possession that night or she spent that night in Summerville
      5. Lucy’s Gizmo app spent the night in Summerville
      6. You never informed Samantha that your daughters were not going to be in his residence the night of October 21-22, 2022
      7. You inform Samantha, in advance on both October 20 and 22nd that you will be staying at your wife’s house that night **Exhibit October 22, 2022 OFW message Overnights**
      8. But when Samantha asks you the address where the girls slept on October 21, 2021, you answer “in their beds” **Exhibit October 22, 2022 OFW message where did the girls sleep last night**
         1. When she asks you “at what address” you respond “the watches have been on”
2. Gaslighting
   1. In his deposition I asked if he understood the concept of gaslighting and he said yes. **Deposition, p. 9, lines 22-24**
   2. He asked for and was provided a definition of gaslighting **Deposition, p. 9, line 25-p. 10, line 7**, “"Gaslighting" is a colloquialism loosely defined as manipulating someone so as to make them question their own reality."
   3. He was asked if that was his understanding of gaslighting and he said yes. **Deposition, p. 10, lines 7-9.**
   4. He was asked if he ever engaged in gaslighting behavior towards Samantha and he said no. **Deposition, p. 10, lines 10-12**
   5. Samantha raised issue in March 2022 about Lucy being bullied at school
      1. **Exhibit March 14 2022 email string** **Lucy and bullying**
      2. Ms. Jones emails Lucy’s teacher about concerns Lucy is being bullied in school
      3. She courtesy copies you on the email
      4. The teacher writes back sympathetically
      5. You write back to the teacher, and courtesy Samantha “Lucy, is very happy and comfortable in your class and at school and it's not affecting her life outside of school at all.”
         1. You are overriding Samantha’s perception to Lucy’s teacher?
         2. What is the purpose of this?
      6. On May 18, 2020, he writes Samantha acknowledging that Lucy is being bullied in school **Exhibit email Lucy**
         1. This is not what he was claiming two months prior
         2. He writes, “Like I stated in the past I don't have the same problem you and CMS do at the same time I don't have a very loose rule/Lifestyle either. Plus Lucy is actually a very sweet girl until something bullies her and then she defends herself and then that person who was bullying her starts crying then Lucy gets in trouble for the whole thing so maybe just maybe Lucy need somebody to supervise the whole situation better and stop pointing the finger at Lucy all the time. I can't go tomorrow you gave me no notice but please let them know that I will love to speak with them so they can hear the true story about Lucy.”
         3. Criticizing Samantha for “loose rules and lifestyle”
         4. Claims Lucy needs “better supervision”
            1. He was the parent leaving the children alone
         5. Wants to tell Ms. Miller the “true story about Lucy”
            1. So Samantha is telling counselors “false stories” about Lucy?
   6. The guidance counselor at school raised safety concerns again about Lucy being bullied
      * + 1. **Exhibit email string Lucy Smith**
        1. Guidance counselor notes talking to Lucy and Lucy confirming having been bullied once by this particular child and having witnessed that person bullying others
        2. He writes to guidance counselor and courtesy copies Samantha ”at this time I have no school safety concerns for Lucy. I’ll keep doing my part at home and if anything comes up I’ll let everyone know.”
        3. You are overriding Samantha’s perception to the guidance counselor, aren’t you?
        4. You are overriding what Lucy’s counselor is actually reporting?
   7. Ella Miller
      1. From May 2020 until August 2022 Ella Miller was his daughters’ counselor
         1. She stopped counseling because he reported her to the LLR
            1. You reported her to the LLR because she wouldn’t share your daughters’
            2. counseling records with you. **Deposition, p 66,lines 15-19**
         2. In a March 2022 email string he emails Samantha and courtesy copies Ella Miller “Samantha, Can you please apologize to Lucy’s teacher immediately? Causing a false flag at Lucy’s school, not even 24 hours after I told you my plans is going way too far this time. I am truly sorry but you’re the only one saying the girls have behavioral issues. I think you might benefit from having someone come over and do supervised visits to see where the disconnect is with you and the girls.” **Exhibit email March 11, 2022 email Lucy having big emotions**
            1. What is his purpose in sending this to Samantha?
            2. Why courtesy copy the children’s counselor on this?
      2. Samantha as part of that same string emails Ms. Miller that she courtesy copies him on **Exhibit email March 13, 2022 email Lucy having big emotions**
         1. He eventually writes to Samantha and courtesy copies Ms. Miller: “I do talk to the girl's a lot and both girls are doing great even when classmates or friends are having a bad day. I think it's time to start looking at the bigger picture and stop trying to blame the girls for everything. After spending most of my night doing research this is what I keep coming to and I think it's time I shared it with you all. Please also see the link below and let me know what you think. Factitious disorder imposed on another (previously called Munchausen syndrome by proxy) is when someone falsely claims that another person has physical or psychological signs or symptoms of illness, or causes injury or disease in another person with the intention of deceiving others.
         2. He is telling Samantha she may have Factitious disorder
            1. What is his purpose in doing this?
            2. Why courtesy copy this claim to the children’s counselor
      3. On June 21, 2022, he sent Ms. Miller an email alleging Samantha was committing child abuse **Exhibit email child abuse**
         1. He courtesy copies guardian ad litem on that email
         2. “Ms. Miller, I hope you are well. I'm following up with the conversation we had in your office last Wednesday about everything the girls informed me about and what Ms. Jones told you about regarding her and her boyfriend arguing in front of Nancy and Lucy on multiple occasions including multiple breaks UPS. As you know emotional and verbal abuse can include anything that affects the victim's psychological or mental health. These forms of abuse are non-physical and may include insults, constant blaming, social isolation, intimidation, and degradation of the victim. With that being said can you please inform me what you gathered from Nancy and Lucy during their session and will you please offer your opinion on what steps need to be put in place to prevent this or something worse from happening again in front of Nancy Lucy in mom's care?”
         3. Does he not see this as undermining Samantha’s parenting?
   8. Lucy moving classrooms
      1. In October 2020 Lucy’s school was considering changing her teachers
      2. Ms. Jones began an email string expressing concern **Exhibit email Lucy Smith switching to Mrs. Thames and Ms. Jennifer's class**
      3. He interjects, “It took Lucy a couple weeks to come out of her shell in Ms. Wise class and it might be the same with Mrs. Thames, But over all I would say Lucy is doing great adjusting to school.”
         1. What was his purpose in doing this
         2. Doesn’t he see how this undermines Samantha’s concerns about Lucy
   9. Ear piercing
      1. In Spring 2022 Samantha was considering getting the girls’ ears pierced
         1. She has final decision-making authority on this
         2. She has duty to consult with you first
         3. There is an OFW string in which she consults with you **Exhibit Girls ear piercing**
         4. Samantha is trying to arrange time he can come with them
         5. That’s because he wanted to go
         6. He ends the string, “I'm sorry, but I can't trust the 3 of you to stay on top of the Hygiene part of this for the 1st week when Infections pose the most risk. The girls have horrible hygiene at your house as it is so with that being said I would prefer to do this when I have them for a long period or please do it when you have them for a long period. You're more than welcome to join us but now it won't be until Summer vacation week one if I'm doing it which is only 30 days away. So let know”
         7. He reported horrible hygiene concern to the guardian
         8. Guardian did not find this
   10. Bras
       1. He purchased bras for Nancy and Lucy when they were ages eight and six years old
       2. He didn’t inform Samantha he was going bra shopping with the girls before he did it
       3. First she learned of it was when Nancy came back from a visitation wearing a bra
       4. Samantha inquired about this **Exhibit OFW girls wearing bras**
       5. He didn’t deny obtaining the girls bras without first informing Samantha
       6. He writes, “I don't understand what this is all about? You have shown little to no interest in Nancy and Lucy's appearance and/or hygiene growing up. plus you informed everybody that you refused to co-parent with me, so what has changed?”
          1. So Samantha, a woman and mother, shows no interest in her daughters’ appearance?
          2. So Samantha shows no interest in their hygiene
          3. She refuses to co-parent
             1. But you didn’t discuss bra issue with her before purchasing it
          4. Does he see how embarrassing it might be for his daughters to discuss issues involving their eventual budding puberty with the opposite sex parent?
          5. Why would he think it a good idea for a father to purchase bras for an eight and six year old without discussing it with their mother?
   11. Appointments
       1. You have set up appointments for the girls during Samantha’s time without clearing the time with Samantha
       2. In November 2022, you and Samantha engaged in discussions about the scheduling of Nancy’s orthodontic appointment **Exhibit OFW Nancy upcoming ortho appt ?**
          1. Samantha reaches out to him after getting a notification for an upcoming appointment
          2. You claim she was notified on the same day as the cancellation and write “I’, confused, and I'm not sure why you're sharing your feelings with me a week later. I would appreciate it if you shared your feelings in a more reasonable time frame.”
          3. She writes back asking for proof of when he informed her of the new appointment time and proof that he coordinated that with her
          4. Rather than providing proof he writes back, “Please confirm or deny that the orthodontist's office reached out to you "a week ago" about the cancellation and new appointment. Please confirm or deny that you and I had a phone conversation immediately following Nancy's appointment at Urgent Care on the same day.”
          5. Again he is denying her reality that she wasn’t informed of the appointment change
          6. Again he evades her reasonable inquiry for proof that he did inform her of the appointment change
   12. He had COVID in December 2021
       1. Had children for a week prior to exchange on Christmas day at 2pm
       2. Children were sick at exchange
       3. Donald felt symptoms of sick but did not inform Ms. Jones
          1. **“**Q- And you were aware that if you did have COVID, there was a reasonably decent chance your daughters were at least exposed to COVID, correct? A- I would have no idea; no” **Donald Deposition PG 39 line 17-20**
          2. Testified he was not tested for COVID **Donald Deposition Pg 38 Line 16**
       4. He sent Samantha a positive COVID test on December 28, 2021 **Exhibit email POSITIVE COVID-19 Test**
       5. Children were tested afterward by mom and children were COVID positive
          1. **Exhibit Donald Girls Dad**
          2. Does he think at the peak of the Omicron spike in winter 2021-22 that he returned girls while sick without getting them tested
   13. Nancy haircut
       1. On November 30, 2020, she informs Donald that Nancy wants a haircut so she will set up an appointment **Exhibit November 3, 2020 email Nancy Haircut**
       2. He writes back “We both know that's not true plus she told you and you're mom no the last time when you got Lucy's hair chopped off. I think it's more important to make sure she's lice free right now, Continuously asking me to step down/switch roles/not a good mother For the best interest of our girls, I think you need to step down and switch roles with me asap.”
          * 1. He’s alleging Samantha is lying about Nancy wanting a haircut
            2. He’s accusing her of getting horrible haircuts for Nancy
            3. He’s accusing her of not having sufficient concern for hair lice
            4. He’s demanding to take over responsibility of Nancy’s haircuts

Samantha has primary legal decision making on everything but extracurriculars

* + - 1. He then responds, “The truth of the matter is I spent every minute building the girls up. The only problem is when you decide to chop off Lucy's hair without even talking to me about it 1st it's called co parenting. If your such a lice expert how come this is the 2nd year in a row you sent them to me infested with lice and had no idea?? and actually lice don't care if you have long, short, clean or dirty hair. I really wish you would start focusing on the girl's more and focus less on everything else going on in your life.”
         1. So Samantha doesn’t build the children up?
         2. Again criticizes her concern over lice
         3. Accuses her of not being focused on the children
      2. He then writes, “oh course you wouldn't have to inform me about clothes or accessories for the girls you never buy them. Changing the girl's appearance or altering their bodies without communicating with me 1st is definitely not coparenting. I don't know why you would go out of your way to give the girls haircuts when they both hold us together that they want me to do it. Again I wish you would focus more on keeping the girls healthy and happy instead of finding ways to make disruptions.”
         1. She is informing you beforehand
         2. Samantha *never* buys the girls clothing or accessories?
         3. Child support was set at $382 per month under prior final order
         4. Child support has not been modified in this case
         5. He hasn’t made a child support payment since August 2020

Thirty one months of unpaid child support

$11,842

Think Samantha could purchase more clothing and accessories if she had an additional $11,842?

* 1. Decision making
     1. On March 31, 2022 he sends OFW message **Exhibit Decision making**
     2. “For the best interest of our girls, I think you need to step down and switch roles with me asap so I can get Nancy and Lucy moving on the right track. Please let me know when you would like to start making the switch”
        1. This is in the midst of a case in which she is trying to reduce your time with the children?
        2. How could you possibly believe this message would find a receptive audience?
  2. Discussions with educators

1. Samantha reaches out to you about seeking input on the girls’ education **Exhibit April 29, 2021 email Discussions with educators**
   * 1. Her initial email to you is kind, respectful, and seeks your input
     2. He acknowledges this, “if I'm reading your email correctly it sounds like your ready to start working together on the girls education which is great. You have 2/3 majority of time with the girls and final say so, something gotta change and hopefully sooner rather than later
     3. But he starts that email, “I tried voicing all my concerns to you before Nancy started going to grade school, but you just pulled rank on me.”
        1. Even when you acknowledge she’s trying-- you have to start with a dig?
        2. He later writes, “You can keep pointing your finger at me but at the end of the day you have 2/3 majority of time with the girls and final say so, something gotta change and hopefully sooner than later.”
     4. He’d asked her the prior month about changing school schedules **Exhibit March 3, 2021 email Girls Sports**
        1. She wasn’t receptive to that email
        2. Yet you asked again the following month
     5. A year prior he wrote her, “At this time I'm officially and respectfully asking you to step down as final decision maker for the girls and cut back on your days/night's with then until you complete my request of counseling and anger management evaluation recognized by Charleston county courts and completing any recommendations from the evaluation.... Once completed we can start meeting for counseling again.” **Exhibit May 5, 2020 email Smith red flags**
        1. If her behavior was so problematic, why weren’t you fling for custody?
     6. He wrote school on October 18, 2022 complaining about Samantha not allowing Lucy and Nancy to be in tutor **Exhibit October 18, 2022 email Nancy and Lucy’s 1st quarter update**
        1. He did not courtesy copy Samantha on this email
        2. Ms Jones had asked to be put on all emails with the school? **Prior exhibit April 29, 2021 email Discussions with educators**
        3. He did not do so
   1. Girls sports
      1. Samantha starts an email string about whether he signed the girls up for a second sport each **Exhibit March 10, 2021 email Girls sports**
      2. What caused this string to devolve into something where he’s writing her “ I don’t agree with 90% of what you’re doing as a coparent and mother
2. Undermining Ms. Jones’s parenting
   1. Emails to Ella Miller
      1. He sometime did not courtesy copy Ms. Jones on emails to Ms. Miller that show concerns about Ms. Jones’s parenting. **Donald’s deposition Page 71 Line 5 to 8**
         1. Why would he not want Samantha to know he was sharing these concerns with Ms. Miller?
      2. The purpose of these emails was to “shine light on the issue” regarding his concerns over Ms. Jones **Deposition, p. 71, lines 9-16**
      3. “I’ve had conversations” with school guidance counselor that are critical of Ms. Jones’ parenting [without Ms. Jones involved] **Donald deposition Page 72 line 3 to 6.**
   2. He states he has not spoken to school officials about Ms. Jones in a negative way.
      1. **Donald deposition Page 72 line 20 to 23**
      2. **Exhibit November 11, 2022 email OG Tutor “**Even if Nancy and Lucy always meet State Standards, why wouldn't we want them to have extra help outside school and at home? Keeping them prepared for this and the next level is always a good thing, wouldn't you agree? Why are you waiting for the school to tell us, as parents, to give Nancy a little more help? You pulled them out of tutoring last spring right after Nancy's IEP meeting for no good reason, so please put them back in, or please stand down and allow me to start them back into tutoring asap. I don't understand why it takes seven months to research/talk about tutoring when we could have had them in tutoring for the past seven months.”
         1. This email was sent to Samantha but courtesy copied to the school
         2. Why did he need to courtesy copy the school
            1. Including the school principal
            2. Did that to humiliate her
            3. Did that to show her & school he is in charge
   3. Sent email to Lucy’s teacher with private information between parents regarding home incident and counseling discussion before communicating with Ms. Jones about it.
      1. **Exhibit May 6, 2020 email Incident report**
         1. He writes to Lucy’s teacher, “I don't know if Samantha informed you yet or not about the incident with Lucy smacking Nancy in the head with a hammer at Samantha's house. At this time all I really know is what the girls told me I'm still waiting to hear back from Samantha officially via email. I thought you guys should know plus I was hoping when Lucy is there you or one of the other teachers can get her to open up about the past couple of months.”
            1. What is the purpose of telling school this?
   4. Nancy to go to Lucy bridging up
      1. On May 26, 2022 Samantha ask you if you can bring Lucy to Nancy’s bridging up ceremony **Exhibit May 28, 2022 OFW Nancy to go to Lucy bridging**
         1. This ceremony was during his time with Nancy
         2. He read it a minute after it was sent
         3. For two days he didn’t respond.
         4. He simply showed up with Nancy
         5. She asked him to let her know of his plan for the children’s school events beforehand
            1. Is that unreasonable
            2. Isn’t this co-parenting
   5. Visiting Day at the school for ECMCS
      1. Lucy had a visiting day at East Cooper Montessori Charter School on May 20, 2022
         1. **Exhibit May 23, 2022 OFW** **Visiting Day at the school for ECMCS**
         2. She lets him know at 11:15 on May 5th
         3. She asks him if he can drop off or pick up Lucy
         4. He reads within two minutes
         5. He doesn’t respond
            1. is this co-parenting?)
         6. She asks again at 2:12 p.m. on May 16th how to handle getting Lucy there
         7. He reads within a half hour
         8. Again never responds
            1. (is this co-parenting?)
   6. Undermining Ms. Jones’s Time
      1. Vacation Time with the kids
         1. Told children before their vacation with mom in Summer of 2022 to Cancun Mexico that it was dangerous and that they could be kidnapped*.* ***Donald Deposition Pg 88 line 13-15, Pg 89 line 7 -11*** 
            1. why would he say this to children?
            2. Why would he purposely frighten them?
      2. Kidnapping
         1. “Do you see kidnapping as a reasonable fear that your children should have…….is that something they should actually constantly monitor for? A- Every day” Donald **deposition Pg 89 Line 17-22**
         2. “During the times you’ve been coaching the children, have you ever told them they couldn’t play because they missed practices while they were with their mother on vacation? A- That they couldn’t play? Q- couldn’t play. A-No” **Donald Deposition Pg 48 Line 12 - 18**
         3. He told Nancy on the phone during Samantha’s June 2020 vacation that she would not be able to play softball games when she returned because she was missing it due to vacation with mom.
   7. Cancelling Kaleidoscope for summer 2020
      1. In Deposition stated “Ms. Jones wasn’t interested in Kaleidoscope for the afternoon or the summers. She’s – I’ve—we’ve had those discussions and she’s always like that’s not for me, I don’t need it.” **Donald Deposition Pg 37 Line20 to 23**
      2. It’s not true that Ms. Jones didn’t need summer care
      3. **Exhibit 2019 – Nancy after school tax ID – gmail.pdf**
      4. **Exhibit May 7, 2020 discussing kaleidoscope for Lucy**
      5. Cancelled kaleidoscope in 2020 without coordinating with Ms. Jones first **Exhibit 20200609 – Cancelled Kaleidoscope.pdf**
3. Inability for Donald to communicate on topics of the children
   1. On July 5, 2022 Samantha expresses concern that his cousin, Lauryn, was scaring the children about Mexico **Exhibit July 5, 2022 OFW Inappropriate behavior by Lauryn**
      1. His response doesn’t address her concern
   2. In June 21, 2022 OFW string she expresses concerns about him having discussions about custody with Nancy **Exhibit June 21, 2022 OFW custody conversation with Nancy**
      1. He never responds to her concern
   3. On May 15, 2022 she raises concerns about him dressing the children **Exhibit May 15, 2022 OFW Dressing the girls**
      1. He never responds to her concerns
         1. why are you dressing elementary school aged females?,
         2. are you aware they tell Mom it’s weird for them that you put their panties on?
   4. On April 29, 2022, Samantha expresses concerns about him buying the girls bras **Exhibit April 29, 2022 OFW girls wearing bras**
      1. He responds “Everything you always bring up has to do with control and power attempts over me and the girls the best interests of Nancy and Lucy are at the lowest of your priority level as soon as that changes please let me know in the meantime thanks for sharing your thoughts with me.”
      2. Children wearing bras at a young age
         1. Is this appropriate?
         2. Are you aware your girls may be embarrassed that Father is discussing development?
         3. Are you aware they may not even have any knowledge about puberty and development yet*?*
   5. On February 14, 2022 she expresses concerns about the girls sleeping without underwear at his home **Exhibit February 14, 2022 OFW girls – not wearing underwear**
      1. He responds, “I don't pick out what the girls ‘were’ to bed they do I only pick out the clothes for the next day to make sure it's weather and size appropriate for them. Your email seems like it should have been brought up to Ms. Miller. I'm not sure why you waited until after we left her office to send me this email I know this conversation wasn't brought up with the girls then because I was there. (have you considered: maybe she wasn’t discussing @ therapist because it was inappropriate to bring this up in front of children?)But at this time I don't feel comfortable taking any hygiene or safety tips from you until you get your house in order”
   6. On April 2, 2022, she expresses concerns about Lauryn hitting the girls during a visitation **Exhibit April 2, 2022 OFW Lauryn hitting the girls?**
      1. He responds “If you believe someone is hurting Nancy and Lucy in any way then it's your job and responsibility as their mother to call your local PD and make a report.”
      2. Would you really have wanted Samantha to call the police on your cousin rather than giving you a chance to address the concern with Lauren?
   7. In fall 2022 Samantha was attempting, at the school’s suggestion, trying to get outside tutoring for Nancy **Exhibit December 1, 2022 OFW message OG Tutors – south Carolina**
      1. His response was whether this would count as an extracurricular activity
         1. Was that an attempt to get final decision making on tutoring?
      2. His response also made a dig at whether she believed they needed tutoring or not
   8. Medical issues
      1. Nancy Pneumonia
         1. Communicated to Ms. Jones that daughter” was being treated as if she had pneumonia because they weren’t clear if she has it or not”
            1. **Donald Deposition Pg 45 Line 1-2**
         2. She was diagnosed on November 16, 2022 and was to be out of school until November 21, 2022 **Exhibit Doctor Notes**
         3. Despite that his wife took her to an event at the aquarium the next day .
            1. if your daughter is medically homebound, is it reasonable to take her to the aquarium?
            2. **Donald Deposition Pg 45 Line 3 – 19**
      2. The weekend prior to November 8, 2021, Lucy’s spacer fell out during his weekend **Exhibit November 8, 2021 OFW Lucy dental issue**
         1. Why didn’t he informed Samantha that Lucy’s spacer had fallen out
      3. Shortly before February 1, 2021 Lucy bit her mouth so bad during his visitation time that she needed Novocain and prescription mouthwash **Exhibit February 2, 2021 Lucy’s cheek**
         1. Per email string Lucy bit her cheek really badly Thursday
         2. Samantha got Lucy back Monday
         3. He didn’t think to tell Samantha of Lucy’s injury when it happened
         4. Despite “her cheek was completely swollen like a golf ball” on Thursday?
      4. His father’s Death
         1. When his father died Samantha offered to bring the girls to meet together so they could have both parents with them when they learned about it. **Exhibit May 21, 2021 email My dad**
      5. House Fire
         1. He had a total loss house fire that occurred on Aug 4. 2022
         2. He posted a go fund me link on August 6, 2022
         3. He didn’t inform Ms. Jones
         4. He didn’t inform the school
            1. Didn’t he say it was important for the school to know what was going on in his daughters’ lives
         5. Samantha learned about it from their daughters
            1. A few possessions were saved from it

**Donald Deposition Pg 84 Line 16 to 19**

* + - 1. Ms. Jones was never informed of house fire by Mr. Smith, only that his address was changing on Aug 11, 2022.
      2. Children never learned that their cats died – were told they ran away
         1. **Donald Deposition Pg 85 Line 1-7**
      3. Children had “nothing in particular” that they were really sad to see lost
         1. **Donald Deposition Pg. 85 Line 12.**
    1. Marriage
       1. Donald was married on Sept 3, 2022
       2. Informed Ms. Jones of the marriage on Sept 12, 2022 after informing the children
          1. **Exhibit September 13, 2022 OFW Existing news**
       3. He didn’t inform the school beforehand
          1. Didn’t he say it was important for the school to know what was going on in his daughters’ lives
    2. Not reading emails of importance
    3. **Exhibit – No Read emails of importance.**

1. Children left home alone
   1. Samantha first expressed concerns about girls being left home alone in January 2019 **Exhibit January 22, 2019 email Concerned girls being left alone unattended**
      1. He responds, “Call the cops or take me to court.”
      2. In his September 25, 2020 affidavit (filed September 28, 2020) he writes, “Plaintiff has not ever indicated to me personally she is concerned about the children being unsupervised while in my care.”
         1. That’s obviously not true
         2. She took you to court and then you complained she’s never warned you
      3. The Gizmo watches were being turned off at his house on August 27, September 3, September 5, and September 17, 2020 **Exhibit Gizmo records**
   2. Claim he “Left them once every time they stayed with me” 4 times a month **Donald Deposition Pg 15 lines 8-19**
   3. Girls called their maternal grandmother on September 11, 2020 because they were home alone
   4. In April 2020 he told Samantha he was moving in October 2020 **Exhibit April 27. 2020 email Moving?**
   5. On May 12, 2020 he signed lease for 17 Meeting Street beginning May 19, 2020 **Exhibit Romney lease**
   6. At same time he was leasing residence at 2500 North Boulevard in North Charleston through September 2020 **Exhibit Morris lease**
   7. Samantha asked you on August 7, 2020 where you were living **Exhibit August 7, 2020 email address where are the girls**
      1. You didn’t respond
   8. Samantha asked again on August 18, 2020 **Exhibit August 18, 2020 email Addresses?**
      1. You responded that she had your primary address
   9. You had two addresses at that time
   10. Samantha first learned of the Meeting Street address on September 21, 2020 **Exhibit Defendant’s responses to Plaintiff’s supplemental interrogatories**
       1. On August 18, 2020 she didn’t know of the Meeting Street address
       2. In May 2020 you changed your primary address with SCFCU from 4900 Daniel Crossing in North Charleston to 17 MeetingStreet **Exhibit SCFCU bank statements**
       3. You weren’t even claiming to live at 4900 Daniel Crossing during this time?
       4. From May through September, 2020, how would Samantha know which address you were actually using when you had the girls
   11. Samantha asked you again on August 23, 2020 for your address **Exhibit September 11, 2020 email new address**
       1. You provided an incomplete address on 3500 Ladson Road
       2. Didn’t provide full address with apartment number until September 11, 2020
       3. That address wasn’t an address you had previously provided Samantha
   12. “Did either of your daughters have a phone at the time? No. Did you have a home phone at the time? No” **Donald Deposition Pg 15 lines 24-25**
   13. “Were they ever asleep when you left? Yeah sometimes” **Donald Deposition Pg 15 lines 21-23**
   14. “When you are on call- when you get called on call on weekends or evenings, how long does it – how long are you typically working? A- It all depends. Five minutes. Thirty minutes. Q- Never more than an hour or two? A- no” **Donald Deposition Pg 59 Line 9 to 13**
   15. “Q- Which family member lives close enough by that they come watch your daughters when you get called in on a call? A- I guess what I was answering is, I leave them with a trusted adult family member” **Donald Deposition Pg 59 Line 16 to 23**
   16. “My next of kin would be Myrtle Beach. But they wouldn’t come just because I got a call” **Donald deposition Pg 59 Line 19-20**
   17. “The first job was where I’m currently working at now, and I worked there for two and half years and I just got burnt out. Was just never – always on call, and just seems like it was always something” **Donald deposition Pg 52 Lines 19-22**
2. Instability of House
   1. Housing
      1. 8 apartments since 2017
         1. **Donald Deposition Pg 13 line:8**
      2. His wife owns 2 bedroom house in Nexton, Summerville
         1. **Donald Deposition Pg 21 line 17 - 19**
      3. He rents 2 bedroom apartment in West Ashley
         1. **Donald Deposition Pg 21**
      4. Spends the night in Summerville most Friday and Saturday nights he has children
      5. Maria and her daughter spend the night Thursday and Sunday at his apartment when he has the children.
      6. The beds in Summerville is a bunk bed with full on bottom and twin on the top
         1. Who sleeps in the full? (Lucy and step daughter)
         2. Was that done immediately after marriage?
         3. Why didn’t they put his two daughters together?
         4. Why didn’t they get three different beds for the children?
   2. Jobs
      1. Has had 5 jobs since 2017 **Donald Deposition Pg 52 Line 13**
      2. Current job is M-F 8 to 5am **Donald Deposition Pg 54 Line 5-6**
      3. Required to be on call 24/7 as maintenance supervisor **Donald Deposition Pg 54 Line 9-10**.
      4. “Q- Are you on call when you had your daughters? A – “There’s always an opportunity where I might have to be on call with my daughters; yes.” **Donald Deposition Pg 55 Line 23 to 24**
      5. “Q- How often do you have your daughters on Thursdays are you also on a call? A-sometimes, never. Sometimes, every Thursday that month” **Donald Deposition Pg 56 Line 12 to 17**
3. Education
   1. In September of 2020 Nancy was identified by her school, as a candidate for additional support in reading and writing Reading. **Exhibit email November 9, 2020 Nancy’s Reading club**
      1. Her teacher at the time also requested that Nancy log into Lexia and Dreambox two times a week for 15 minute sessions and read 10 minutes a night. **Exhibit email November 10, 2020 Nancy’s reading club grace.** 
         1. Do you know what “Lexia is in the context of your kids school? A- I do not” **Donald Deposition Pg 32 Line 7 -9**
      2. Her MAP test scores continued to not improve across the year even with specialized reading support.
         1. In January of 2021 her reading interventionist teacher told us to “ You may want to start thinking of a summer plan to keep her reading. “ **Exhibit email March 4, 2021 Nancy Smith**
         2. In April of 2021 the reading interventist sent out a list of reading programs, camps and tutors **Exhibit email April 29, 2021 Summer Reading and Tutor List**
         3. Ms. Jones emailed him asking about tutoring for the girls in the summer time and his response was “The reason why I said to do it in house is at this age tutors are a great idea for parents who don't want to put in the work and make it other people's responsibilities. We have to stay ahead of things and keep the responsibilities on us. It's not the school fault the girls are behind and it's not the dentist's fault the girls have a mouthful of cavities.” **Exhibit email April 29, 2021 Discussion with Educators**
         4. “Was tutoring suggested for Nancy for summer of 2021? A- it was. Q- And were you for or against tutoring at that time? A- I was for tutoring Always for tutoring” **Donald Deposition Pg 34 Line 22-25 and Page 35 Line 1-4**
         5. The reading interventionist sent home a reading log and calendar to track reading progress over the summer. **Exhibit email May 27, 2021 Summer Checkout**
            1. Teacher also sends summer homework which includes reading assignments and tracking books through the Charleston County Public Library Summer Reading Program **Exhibit email June 18, 2021 We did it**

She forwarded that to him

* + - * 1. Ms. Jones made copies of both reading log and calendar documents and sent with girls to his house in order to track. Even sent stickers to help fill in the calendar.
        2. Mr. Smith did not submit any completed reading logs into the school after the summer. Ms. Jones was the only one who did. **EXHIBIT email November 21, 2021 reading over summer log – Nancy Smith**
        3. “Q- so you wouldn’t have tracked reading during those two summers [2021 and 2022], correct? A-We don’t track her reading at all” **Donald Deposition Page 34 Line 12 to 14.**

He did not submit any logs or reading for the library program

Ms. Jones did

Nancy ended up being the 1st place winner at her local library.

* + 1. In September 2021 Nancy was again identified by her school as a candidate for additional reading support in reading. **Exhibit email September 14, 2021 Ms Lynn’s Reading Club.**
    2. In April 2022 Nancy met the criteria for Specified Learning Disability in the area of reading and was given an IEP through Charleston County School District. **Exhibit Evaluation Results** 
       1. Ms. Jones tried to coordinate new reading plan with him with no response to email. **Exhibit OFW January 27, 2022 Nancy reading plan**
       2. Ms. Jones tried again to coordinate reading plan with no response and he never viewed the email. **Exhibit June 16, 2022 OFW reading this summer**

1. Lack of homework/schoolwork help
   1. IReady
      1. “Q-Does “i-ready” mean anything to you in the context of your kids’ school assignments or school work? A- Yes. Q- And what is “i-ready”? A-I believe it is a similar platform as Dreambox” **Donald Deposition Page 32 Line 13 to 19.**
         1. I-ready is a ELA/reading/comprehension program online through the Charleston county school district website. (dreambox is math).
         2. Donald did not login one time during the 2021-2022 school year even though Nancy was with a reading interventionist and put on IEP for reading during the same school year.
         3. I-ready call logs for the first half of the year of 2021. **Exhibit 2021 – 2022 Nancy Iready report.pdf**
         4. “A- So they’re actually- the platform that the school stopped using this school year… Q-And which platform is that? A-so i-ready is what they’re-they’ve been using.” **Donald Deposition Pg33 Line 1 to 4.**
            1. Based on his deposition believes that they discontinue Dreambox and children are using I-ready this season. Truth is they discontinued I-ready for the 2022-2023 school year and have no ELA online application for the children to use at this time.
   2. What is Dreambox
      1. It is an online math program through Charleston county school district web portal. .
      2. To finish the assignment can take approximately 5 to 15 minutes a night depending on difficulty.
      3. “Q- How often would you say they log onto Dreambox on your Thursdays? A-Everytime except for special occasions, holidays” **Donald Deposition Pg 31 Line 13** to 16.
      4. “Q- I would assume there are not special events 20 percent of your Thursdays, or are there? A- Yeah. We keep things pretty special because we’re such short time.” **Donald Deposition Pg 32 Line 3-6**
      5. “Q- Which platform did they stop using this school year? A- Dreambox” **Donald deposition Pg 33 Line 8 to 10**
         1. Nancy and Lucy are both have homework in dreambox everynight for their teachers.
            1. They only have to log into one platform this year for homework and it is dreambox.
            2. Dreambox logs showing homework was only completed at his house 1 time at the beginning of the school year**. Exhibits Dreambox 2023 Nancy *and* Dreambox 2023 Lucy**
   3. E-learning day
      1. Mr. Smith sometimes has children on elearning days
      2. “Q-Do the children complete their homework on e-learning days when they’re at your home?A-To the best of their ability. Q-What do you mean “the the best of their ability? A- Well, when they’re sick they don’t want to do anything. And with young children, it just all depends on how much you’re going to get them to do.” **Deposition, p. 24, lines 8-15**
      3. did not finish e-learning assignment with Nancy when on his time.
      4. Did not inform Ms. Jones
      5. She had to learn about it from her daughter
      6. On November 8, 2021 Samantha sent him an OFW message about Nancy not completing her assignments **Exhibit November 8, 202 OFW message Incomplete Elearning Assignment** 
         1. He didn’t read it for 2 ½ months
   4. Historical Characters Project 2022
      1. During 1st, 2nd and third grade the students have to do a multi week report on a historical character. Each week’s assignment builds on the last culminating in an oral presentation by each student to the parents. Each child also dresses the part of the characters
         1. In 2022 Nancy was given this homework assignment and packet.
         2. Both he and Samantha were on email from the teacher with link to packet. Packet also came home with child to fill out and submit weekly. **Exhibit February 22, 2022 email from Stephanie Forsythe**
         3. Assignments are due Mondays.
         4. First assignment was due Monday after Mr. Smith weekend. He did not help her complete the rest of the assignment. When brought up in an email his response was “I can't remember the last time Nancy had homework on a weekend and you had two nights to have this done with her. . . . I love the fact that you have started communicating with me recently it shows maybe you will start Co-parenting again but can you please make sure you're including the girl's day-day things as well and not just your thoughts and feelings on how I should be a father I think it will bemore beneficial for everyone if you start to focus more on you. Since we're on the topic of school can you please make sure that you're including me in all the emails with both schools, please? It's not the school's responsibility to keep both parents informed.” **Exhibit OFW March 10, 2022 Nancy Report for School Incomplete**
         5. Later in the project after Mr. Smith did not help complete any piece of it, Ms Jones asked if he would help her come up with a costume.
            1. He was unable to help with costume **Exhibit March 28, 2022 Nancy’s school project**
         6. Nancy and Lucy are both doing the historical character project at school this year. To date he has not helped on any part of it. They just submitted week 3 assignments.
   5. Jungle Diarama Help
      1. Nancy had a Jungle Diarama project in 2020
      2. He did not help with any part of that
   6. Valentines Card for Lucy Classmates
      1. He sent Lucy to school without Valentine’s day cards in 2022 **Exhibit February 14, 2022 OFW no valentines cards for Lucy**
   7. Red Folder Missing
      1. Red Folders is the way that all school communication is sent back and forth between the classroom and the children’s home.
      2. When it goes missing it skips the children’s folder, then they are unprepared and the process the school uses is disrupted.
         1. Went missing at dad’s house during his custody time.
         2. Both children informed Ms. Jones that they were at Mr. Smith’s house.
         3. She first asked about it on September 1, 2022 **Exhibit September 13, 2022 OFW School Red Folders**
         4. He responded that “both girls didn’t come home with the red folder this past weekend. I hope this information helps”
         5. Two weeks later the folders were found at his house.
         6. During this time Lucy was very anxious about not having her folder for the teacher.
   8. Nancy 2022 Birthday Celebration
      1. Nancy has a school celebration this year where the parents are asked by the teacher to submit pictures for the celebration as well as she can bring a snack to share.
         1. Very big day for the child because they can bring whatever snack they want to share (usually junk food) and they get to show off pictures to their classmates of them throughout the years.
            1. Samantha tried to coordinate with him to do together
            2. Mr. Smith responded as if he would help but then did not send any pictures or discuss snack.
            3. **“A-The teacher asked if there were any pictures that we wanted to provide; yes. Q- Did you provide any pictures? A-I did not” Donald Deposition Pg 26 Line 5 to 10.**
   9. In reference to the children’s current school –charter school. Do you volunteer at the children’s school?
      1. “I do not” **Donald deposition answers Pg 22 Line 15**
2. Ms. Jones regularly informs him of and invited to school functions?
   * 1. Donuts for grownups
        1. **Exhibit 20220402 Donuts for Grownups – OFW Message.pdf**
     2. Hursey School Parade
        1. **Exhibit – Parade tomorrow**
     3. Ms. Jones regularly informs you of what happens at your daughter’s medical appointments if you cannot make them?
   1. Ms. Jones regularly informs you of your daughters’ academic progress?
   2. Ms. Jones regularly informs you of your daughters’ school applications and school lottery results and enrollment?
   3. Ms. Jones regularly coordinates school conference times with you
   4. Do you contend that Ms. Jones prevents you from receiving emails from your children’s schools?” If he says yes, then these would be exhibits to use (make them one exhibit
   5. This past year is Ms. Jones good about the children communicate with you via phone during times the children are with her? **Exhibit gizmo call logs**
   6. Samantha has had frequent complaints about not getting calls from the girls during his time
3. Inattentive to Children’s needs
   1. Importance of friendships to children
      1. No overnights with friends **Donald Deposition Pg. 74 Line 4**
      2. No playdates at his house with children’s friends **Donald Deposition answer Pg. 73 Line 24 to 25**
      3. No playing with friends at their house **Donald Deposition Pg 74 Line 21 to 24**
      4. Does not socialize with any of children’s friends outside of controlled – like school function **Donald Deposition Pg 76 Line 6 to 7**
   2. Counseling for Children
      1. Did not have any issues with children going to Ms. Ella Miller initially **Donald Deposition Pg 63 Line 16**
      2. Ms Miller asked him to participate and he said he did **Donald Deposition Pg 63 Line 16 to 19**
         1. He only came to 5 of 63 sessions.
      3. He doesn’t know if daughters found the counseling with Ms. Miller to be helpful **Donald Deposition Pg 67 Line 10 to 12**
      4. “Q- It is my understanding that you did have discussions with the kids about whether they were enjoying the counseling. A- no” **Donald Deposition pg 68 Line 16 to 19**
      5. Submitted complaints against Ms. Miller to the licensing board and federal branch for HIPAA violations **Donald Deposition pg. 64 Line 22**
      6. Ms Miller stopped seeing the children due to Mr. Smiths actions and that she was scared of him.
         1. **Exhibit July 24, 2022 Email – the Smith children**
      7. Believes they need to see a counselor now **Donald Deposition Pg 68 Line 23 to 25.**
         1. But he is too busy to be able to bring them **Exhibit October 25, 2022 OFW – Lucy and Nancy counseling**