

1 You hear it from the grandmother. I mean,
2 she's got an interest here. She's -- I mean, at -- at the
3 -- she's being deprived of -- of an element of her family.
4 And everyone from the beginning has wanted to have
5 appropriate compliance. Ms. Miller has created this
6 situation, has put everyone in this -- in this
7 circumstance, and there's no assurance out of it. And
8 with coming here, just on the last year alone, I mean,
9 there's three very specific orders in the last year, none
10 of which have been -- have resulted in any time, January
11 2009 and then the orders after that, noncompliance; three
12 very specific orders including the -- the summons.

13 So I -- well, I'm going to review the --
14 some of the documents that have been submitted, but I
15 -- I just -- if there was a proposal on -- from the
16 plaintiff as to what type of assurances -- but we've heard
17 this before.

18 MR. CRAMPTON: Well, I have nothing
19 further, Your Honor.

20 THE COURT: Okay.

21 Ms. Kenny?

22 MS. KENNY: Thank you, Your Honor.

23 Well, as the Court knows, I, you know,
24 represent the interests of the -- Isabella at this point
25 and her wants and desires. And it's -- it's been the --

1 the position of Isabella is clear to the Court, and that
2 is, you know, she wants to stay where she is. I -- I
3 don't think that Isabella would say anything different.

4 But the -- the points that I'd like to make
5 known to the Court are the obvious issues, that, you know,
6 Ms. Miller has known all along the consequences of what
7 her actions might lead to and that's troubling for all of
8 us.

9 I think we have to remember that it is
10 Isabella at the center of this storm, and it's really not
11 about, necessarily, Lisa or Janet, but it's really about
12 Isabella and her well-being. All parties, I think, agreed
13 to it today, that in all avenues that Isabella is doing
14 wonderfully with the exception of not allowing contact
15 between Isabella and Janet, and she's thriving and she's a
16 happy-go-lucky kid.

17 And at the same time, even as counsel for
18 Isabella, I'm greatly troubled by Lisa's inability to
19 comply with this Court's orders. And you know, as her
20 counsel, I can't recommend to the Court that, you know,
21 her -- her mother is jailed or any other thing, but I
22 certainly can extend to the Court that Isabella's doing
23 well, that she does want to stay where she's at.

24 And at the same time, as I have expressed
25 in the past, Janet has a right to a relationship with

1 Isabella that she's being denied. So with that said, Your
2 Honor, I -- you know, the position of my client is that
3 Virginia is her home and she wants to stay there, and I
4 suppose that's really all the assistance I can give to the
5 Court.

6 THE COURT: And -- and your -- your reading
7 of -- have you reviewed the Sundstrom v. Sundstrom?

8 MS. KENNY: I have, Your Honor.

9 THE COURT: And the -- the other case of --
10 which is Bell against Squires, which are the two cases in
11 the Vermont Supreme Court which --

12 MS. KENNY: I'm sorry, Your Honor. I'm not
13 recalling Bell.

14 THE COURT: Bell was the original case on
15 --

16 MS. KENNY: Okay.

17 THE COURT: -- where the Court found
18 pervasive alienation and changed custody. And the Supreme
19 Court affirmed that, saying that if there was -- there is
20 a sufficient basis for the change of custody and --

21 MS. KENNY: I guess -- I guess, you know,
22 my reading of the case law is -- is similar to the
23 Court's. My -- my biggest concern and what -- what was
24 evidenced today by Dr. Tyler, is from my perspective, the
25 biggest concern that this -- that -- that a tran- -- a

1 full transfer with either the psychological therapy for
2 the family or what have you is going to have an adverse
3 reaction.

4 And I think that's probably a concern of
5 the Court, and I would certainly hope it's a concern of
6 all parties that this doesn't go as well as the parties
7 may otherwise be suggesting. I mean, we are talking about
8 a complete change in Isabella's life, and she's seven
9 years old. I'm certainly no expert in the field, but
10 based on what I've heard from Dr. Tyler, there's very
11 little conclusive evidence either way.

12 And I don't know that that provides any
13 assistance to the Court as to whether the transfer
14 happens. You know, blocking of a -- a child from their
15 parent for six years, I don't know that anybody could
16 assign that as anything but alienation, based on what Dr.
17 Tyler testified to is alienation. And yet, at the center
18 of the storm -- which is appropriate for today -- I think
19 that the -- the biggest concern I have is the reaction
20 that Isabella may have. The problem is, nobody knows.

21 And -- but that's -- that's a real risk
22 that we have, turning her world upside down and changing,
23 you know, Virginia to Vermont and new schools and new
24 friends, and I -- I think that's obvious to the Court. I
25 don't think we need to argue about what kind of life that

1 would change for her. But it's a major issue and there
2 are risk factors, and I'm not sure there's been any
3 conclusive data that it's going to assist the Court to say
4 this is -- this is a really good avenue and it's going to
5 solve the problem or not.

6 THE COURT: The only conclusive evidence --
7 I mean, the only conclusive issue is that -- that the --
8 if present, that the trial court does have the authority
9 to -- to change the -- the custody. And --

10 Ms. Devine, you've been the guardian ad
11 litem. You can give your view of what you heard within
12 the Court today as to the issues that have been presented.
13 I think that your statements are limited to what you've
14 heard today.

15 MS. DEVINE: Yes, Your Honor. As far as
16 what I understand as well, I can use the -- the record; is
17 that correct?

18 THE COURT: You can utilize the record.
19 It's been --

20 MS. DEVINE: And I -- I've been given quite
21 a bit of the record from everybody and had the opportunity
22 to read the affidavit, et cetera, of Lisa Miller. And I
23 -- I would like to just start out by saying, yes, I'm in
24 this six-year-old case and in a very short time, but I'm
25 not coming in as a -- as a complete, you know, newborn, so