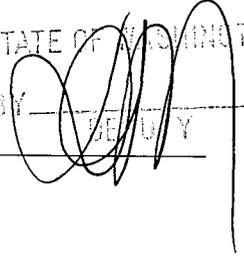


FILED
COURT OF APPEALS
DIVISION II

2014 JAN 17 PM 3:20

STATE OF WASHINGTON

BY  JENY

NO. 45342-8-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

P.L. a single male, and S.B. a married but separated female,

Appellants,

v.

WASHINGTON STATE DEPARTMENT OF SOCIAL AND HEALTH
SERVICES,

Respondent.

APPELLANTS' REPLY BRIEF

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I. REPLY

DSHS's argument keeps changing. At the trial court level, DSHS argued that the connection to "a" singular injury tolls the statute of limitations. In that regard, Assistant Attorney General Thomas Knoll repeatedly misled the trial court, stating: *what the standard is, if it's a sex abuse claim brought by a child, when the child makes a connection between the prior abuse and current injuries, that's when the accrual period starts. And the plaintiffs don't have to make a connection to all of their injuries they relate to abuse at one time. All that is required to start the clock is that they related at least **one** instance of abuse to – or one injury to an instance of abuse.*¹ Judge Wickham accepted this faulty legal argument and dismissed this case on the inaccurate word Mr. Knoll, with Judge Wickham explaining: *"There has been some awareness clearly, and I think that the defense has presented a record that shows an awareness by these victims of the abuse and its implications such that a jury could not reach a different result."*² On appeal, and in violation of RAP 2.5(a), DSHS has now attempted to infuse an entirely new argument before this Court in a thinly veiled attempt to try and fool everyone into

¹ CP 500-502

² *Id.*

believing that what occurred at the oral argument hearing on August 30, 2013 did not actually occur.

In DSHS's response brief on appeal, for the first time ever during this case, DSHS now cites to *Carollo v. Dahl*, 157 Wn.App. 796, 240 P.3d 1172 (2010) as controlling authority. To be clear, DSHS *never* cited or mentioned *Carollo* until these appellate proceedings. On appeal, for the first time ever, DSHS has tried to morph its legal and factual argument to comport with the wrongful dismissal by the trial court. DSHS now tries to argue that all of the injuries suffered by S.B. and P.L. are permutations of the same injury, sub-symptoms of PTSD. The record does not support this argument. Just as importantly, this is not and was not the argument that DSHS advanced before Judge Wickham. The new argument is just something that DSHS's counsel, Mr. Knoll, made up on appeal to try and justify what happened before the trial court. Under any version of DSHS's argument, the trial court's ruling dismissing S.B. and P.L.'s claim cannot stand.

DSHS's own expert witness, Dr. Vandenbelt, opined that neither S.B. or P.L. have connect their injuries to the childhood sex abuse in such a way as would toll the statute of limitation. When deposed, Dr. Vandenbelt opined:

Q. But you don't see a comprehensive point in the record wherein Mr. Lewis identifies understanding all the injuries that you've attributed to him?

MR. KNOLL: Object to form.

A. No.³

* * *

Q. And it's not your impression that with regard to the injuries you've identified that she's had an opportunity do that yet?

MR. KNOLL: Object to form.

A. Well, asking if she's had an opportunity to do it --

Q. (By Mr. Beauregard) Has she done it yet?

A. **She hasn't done it.** But that could be different that whether she had the opportunity to do so or the possibility of doing so.⁴

On appeal, DSHS does no even deal with these facts or admissions on he part of DSHS's own expert witness.

Moreover, the record is completely devoid of admissible evidence establishing that either S.B. or P.L. connected any of their injuries for which this claim is brought more than three (3) years prior to the filing of this claim. At the trial court level, DSHS did not even bother to cite to the record in its original pleadings and moving papers and indicate what evidence submitted dismissal. Instead, DSHS employed the unethical

³ CP 448-473

⁴ CP 448-473

litigation strategy of just submitting reams of disorganized exhibits before Judge Wickham and arguing in generalities that S.B. and P.L.'s statute of limitations had lapsed. As a result, the trial court was unable to refer to any point in the record and/or evidence that supporting dismissal: "*I don't think that I need to show that. I'm looking at the record as a whole, and there's numerous points where you could conclude that the statute had run, I don't want to pick a specific date because I'm looking more comprehensively at the entire record than that.*"⁵ The trial court's ruling was a result of DSHS's failure to specify what evidence supported its argument.

On appeal, DSHS has now been forced to cite to specific portions of the Clerk's Papers that purportedly support dismissal and demonstrate the purported lapsing of S.B. and P.L.'s claims. DSHS has failed completely to cite supportive evidence. Within this brief is a complete inventorying of every Clerk's Paper upon which DSHS is relying. As is now clearly revealed on appeal, DSHS's argument and evidence is just a big shell game that was not challenged or verified by Judge Wickham. From the transcribed record of the hearing that occurred on August 30, 2013, it is clear that there was really no effort to scrutinize the evidentiary record and/or to hold DSHS to its proof. This entire appeal would have

⁵ *Id.*

been avoided if the real law had not been misrepresented by Mr. Knoll before Judge Wickham on August 30, 2013 at the summary judgment hearing and DSHS had been compelled to come up with actual probative evidence. As a result of this scrutiny of DSHS's argument and factual record not having occurred sooner, on appeal, the trial court's ruling must be reversed.

II. ARGUMENT

A. DSHS failed to cite to anywhere within the evidentiary record that supports the conclusion that S.B. and P.L. connected their injuries for which the claim is brought to the childhood sexual abuse at issue; the Clerk's Papers that were cited are devoid of such evidence.

DSHS has failed to meet its burden of proof with respect to the tolling provisions under RCW 4.16.340. It should be noted at the trial court level DSHS originally submitted briefing and argument with very little specific reference to the evidentiary record. DSHS just argued, in a general sense, S.B. and P.L.'s claims had tolled. On appeal before this Court, DSHS is unable to be that vague and has now been compelled to pin-cite to the Clerk's Papers and demonstrate what evidence purportedly supports the dismissal of S.B. and P.L.'s claims. As is demonstrated herein, DSHS has basically no (0) evidence supporting its position. These

claims never should have been dismissed. The particular Clerk's Papers that DSHS cited in the briefing on appeal that, according to DSHS's appellate briefing, purportedly support dismissal are inventoried and distinguished below.

1. DSHS's citations to the Clerk's Papers pertaining to S.B.:

With regard to S.B., DSHS cites to the evidentiary record of Clerk's Papers 105, 116, 183, 195, 203, 204, 205, 214, 215, 471, and 472 as purportedly supportive of dismissal.⁶ For this Court's ease of reference, these particular Clerk's Papers are attached as an Appendix to the briefing. Proper scrutiny of each evidentiary reference reveals that DSHS has cited no (0) evidence to support the tolling of the statute of limitations.

Clerk's Paper 105 is a one page reference to an excerpt of the deposition transcript of S.B. Substantively, the deposition excerpt does not refer to S.B. making any connection between adulthood injuries correspondingly to childhood sexual abuse. Instead, the deposition excerpt focuses upon S.B.'s fears of disclosing the abuse that was occurring at the time that she was a child: *"I was a kid. I didn't know and I was scared. I had just lost my whole family, thrown into a place with*

⁶ The referenced Clerk's Papers were cited by DSHS on pages 29-34 when arguing the particulars about the tolling of S.B.'s claim.

strangers. Had no one. Lot my family for telling the truth.” Id. Clerk’s Paper 105 does not support DSHS’s tolling argument.

Clerk’s Paper 106 is another one page excerpted reference to the deposition transcript of S.B. In that portion of S.B.’s deposition, she admits to having had a PTSD diagnosis approximately two (2) years prior to being deposed and also to receiving Social Security benefits as a result. However, the deposition transcript makes no reference to childhood sexual abuse. The transcript also does not prove that S.B. had any understanding of the cause of the PTSD diagnosis, *e.g.* childhood sexual abuse. The deposition transcript also does not prove any connection pre-dating three years pre-filing of the lawsuit. In relation to the corresponding receipt of Social Security benefits, Robert Wynne, Ph.D. opined:

None of the previous psychological evaluations which reference the PTSD diagnosis for Ms. Buck or Mr. Lewis took the next step of articulating the corresponding cause of the symptoms or diagnosis. For example, to the extent the Social Security Administration has determined that both Ms. Buck and Mr. Lewis have mental disabilities qualifying them for benefits, the underlying evaluations do not also analyze or determine the cause of the corresponding mental illness and/or PTSD diagnosis. It is typically the role of the Social Security Administration to determine whether or not someone is disabled versus necessarily exploring the cause of the disability.⁷

Clerk’s Paper 106 does not support DSHS’s tolling argument.

⁷ CP 325

Clerk's Paper 195 refers to a one page excerpt of the deposition of S.B. Within the excerpt, S.B. acknowledged being diagnosed with depression "*all my life.*" S.B. also notes that the depression diagnosis was from "*My abuse.*" However, the line of questioning did not inquire when S.B. recognized that there was a connection between the depression diagnosis and the abuse. The deposition excerpt proves that on the day that S.B. was deposed, she recognized that she had been previously been diagnosed with depression as a result of being abuse. Moreover, the deposition excerpt does not specify what form of abuse or even mention sexual abuse. Clerk's Paper 195 does not support DSHS's tolling argument.

Clerk's Papers 203-205 is a reference to a psychiatric examination from 1998 by Jan Loeken, M.D. The record does not demonstrate that S.B. personally made any sort of connection between the childhood sexual abuse and the injuries for which this claim is brought. At best, the record documents that Dr. Loeken was informed that S.B. had been molested by her step-father and that S.B. struggled with the consequences ever since: "*She states that after that experience she trusted no one and consequently did not talk much in therapy.*" *Id.* The actual record focuses mostly upon the psychological consequences S.B. has experienced as a result of being

in a tragic automobile accident. Clerk's Papers 203-204 do not support DSHS's tolling argument.

Clerk's Paper 214 is another excerpt of S.B.'s deposition transcript. In that one page excerpt, S.B. testified to experiencing depression, generally, during her entire lifetime:

Q. And I think you already said you've had depression all your life?

A. Yes.

The deposition transcript and line of questioning makes no reference to childhood sexual abuse and/or S.B.'s awareness as to the cause of the depression. It should be noted that DSHS relies heavily upon this particular excerpt though it proves nothing about the nexus between the corresponding childhood sexual abuse. All this deposition excerpt proves is that S.B. has been depressed over her lifetime. Clerk's Paper 214 does not support DSHS's tolling argument.

Clerk's Paper 214-215 is another excerpt of S.B.'s deposition transcript. Within that deposition excerpt, S.B. testifies that she has cut herself on many occasions as a consequence of the childhood sexual abuse. However, the deposition excerpt does not specify temporally when S.B. made such a connection:

Q. Okay. So in 2007 it all came back up again?

A. No. In 2007 it was just – I just had a low part, was really depressed and everything. This one where I slit that, was just this January.

Q. Okay.

A. That's from all this, just...

Q. But when you cut on yourself –

A. Did it before.

Q. – it's a result of your history, sex abuse?

A. Yes.

The line of questioning indicates that S.B. had connected the cutting to childhood sexual abuse at the time of being deposed, but perhaps not sooner. Clerk's paper 215 does not support DSHS's tolling argument.⁸

Clerk's Papers 471-472 is a reference to the deposition transcript of Dr. Vandenberg. The deposition excerpts do not illustrate S.B. making any connection between childhood sexual abuse and the injuries for which this lawsuit was filed. By contrast, the deposition transcript *does* highlight Dr. Vandenberg's opinion that S.B. had never made such a connection:

⁸ And even if Clerk's Paper 215 does illustrate some sort of self-cutting and childhood sexual abuse, it still does not demonstrate that S.B. made a full connection to all of her injuries. On the issue of cutting, S.B. did testify that on "January 20, 2013, I attempted suicide...I began counseling...Prior to these counseling sessions, I have not been able to work with a professional to explore the impact of the childhood sexual abuse at the hands of Mr. Towns upon my life." CP 437.

“*She hasn’t done it.*” Clerk’s Papers 471-472 do no support DSHS’s tolling argument.

2. DSHS’s citations to the Clerk’s Papers pertaining to P.L.:

With regard to P.L., DSHS cited Clerk’s Papers 128, 132, 135, 251, 261, 265, 551, and 552 as purportedly supportive of the tolling arguments before the Court.⁹ These Clerk’s Papers too are attached as an Appendix. Again, these evidentiary citations do not establish a comprehensive connection on the part of P.L. to the injuries for which this claim is brought.

Clerk’s Paper 128, 132, and 135 are excerpts of a psychological examination by Dwight Bushue, ARNP that took place in 1999. The record reflects that P.L. had “*developed depressive symptoms early in his adolescence, which led to suicidal ideation and multiple suicide attempts.*” CP 128. Within the chart note, Dr. Bushue recognized generally that being placed in an abusive foster home “*caused him to eventually become involved with substance abuse and now he finds himself suffering from chronic depression with suicidal ideation.*”¹⁰

⁹ The referenced Clerk’s Papers were cited by DSHS on pages 34-36 when arguing the particulars about the tolling of P.L.’s claim.

¹⁰ CP 132

However, the record does not even mention childhood sexual abuse and/or prove that P.L. himself had drawn any connections about the cause of his injuries for which this lawsuit was filed. The record proves that P.L. was suffering and suicidal as a result of being abused and in need of counseling to understand why and to get better. Clerk's Papers 128 and 132 actually support P.L.'s arguments in favor of preserving the statute of limitations. P.L. has suffered for years without truly understanding and/or connecting the cause of his very serious injuries.¹¹ In this regard, P.L. explained that the "*counseling session that I just described never went anywhere because we were never able to get to the details of what occurred and discuss how it impacted me.*"¹²

Clerk's Paper 251 is a reference to a psychological examination dated July 12, 2013 authored by the defense expert, Dr. Vandendbelt. Needless to say that DSHS's own expert report is hearsay and not admissible evidence. *See* ER 801-3. Moreover, even the report were treated as admissible evidence, the record does not even mention childhood sexual abuse. However, the record does mention that a suicide attempt during his childhood was "*because of his abuse in foster care,*

¹¹ Even if Dr. Bushue's chart note were deemed probative, it would be contrary to *Hollmann v. Corcoran*, 89 Wash. App. 323, 949 P.2d 386 (1997) consider that chart note evidence of tolling. The pertinent question is not what Dr. Bushue believed but, instead, what P.L. understood about his psychological injuries.

¹² CP 442

though he did not want to disclose these details to his parents because he had just gone back to live with them.” Id. Even if the reliance upon the defense’s report were proper for tolling the statute of limitations, this record only demonstrates that as of July 12, 2013, P.L. had made the connection between being suicidal and some form of abuse, not specifically childhood sexual abuse.¹³ Clerk’s Paper 251 does not support DSHS’s tolling argument.

Clerk’s Paper 261 is a document that summarizes that P.L. has been submitted to multiple psychological examinations over many years. The record does not establish the substance of those many evaluations and/or that P.L. ever even disclosed being raped at Deshutes during any of them. P.L. explains that “*I do not even recall being provided copies of the examination reports, and if I was, I did not read and/or understand them.*”¹⁴ The record is devoid of any evidence that P.L. connected his childhood sexual abuse to the injuries for which this claim is brought. Clerk’s Paper 261 does not support DSHS’s tolling argument.

Clerk’s Paper 265 is a record documenting that P.L. suffers from PTSD and assorted other mental health maladies. The document does not

¹³ Accepting the word of a defense expert about what is going on inside P.L.’s head would also require a credibility determination of the expert’s recall about what occurred during an IME.

¹⁴ CP 442

reference childhood sexual abuse and/or P.L. connecting injuries thereto. Clerk's Paper 265 does no support DSHS's tolling argument.

And finally, Clerk's Papers 551-552 are two pages of a declaration dated June 26, 2013 from the DSHS social worker, Audrey Turley, and was drafted in support of DSHS's moving brief. Ms. Turley is the social worker that S.B. and P.L. accuse of causing them to be molested. Within the declaration, Ms. Turley mentions that S.B. and P.L. were placed into counseling as children for the childhood sexual abuse. Ms. Turley cannot and did not offer any testimony proving that S.B. and/or P.L. made connections any injuries, as fearful children at the time being mentioned. Ms. Turley's declaration is not capable of proving what is in S.B. and P.L.'s minds and does not prove that they made any connections to their injuries. Clerk's Papers 551-552 do not support DSHS's tolling argument.

3. DSHS's argument suffers from a complete lack of proof:

Based upon this failure of proof on the part of DSHS, the trial court's ruling must be reversed. DSHS has been unable to cite to evidence establishing the tolling of the statute of limitations under RCW 4.16.340. On appeal, given this lack of evidence, S.B. and P.L. submit that the trial court should be reversed. Additionally, it would be proper to completely dismiss DSHS's tolling arguments as there is no evidence to support a

jury's finding in otherwise. DSHS has failed to meet its burden of proof and by and through this appeal, S.B. and P.L. move to have the statute of limitations defense dismissed as illustrated in *Korst v. McMahon*, 136 Wash. App. 202, 208 148 P.3d 1081 (2006), it would be error to submit this matter to the jury for a decision. *Id.*

B. DSHS's arguments violate RAP 2.5(a) in that they are newly raised arguments that were never presented before the trial court.

DSHS's citation to and reliance upon *Carollo v. Dahl*, 157 Wn.App. 796, 240 P.3d 1172 (2010) and the corresponding arguments are all issues that have been raised for the first time on appeal in violation of RAP 2.5(a) ("appellate court need not consider a claim raised for the first time on appeal"). Originally, at the trial court level, DSHS offered oral argument consistent with what is overturned case law. During the motion for reconsideration, DSHS conceded reliance upon *Raymond v. Ingram*, 47 Wn.App. 781, 737 P.2d 314 (1987), which has been overturned by RCW 4.16.340 and case law, *Miller v. Campbell*, 137 Wash. App. 762, 767, 155 P.3d 154 (2007) ("the case the legislature expressly intended to reverse"). In accord with RAP 2.5(a), this Court should not consider this newly fashioned argument. This new argument was raised because DSHS realized that Mr. Knoll's argument before the trial court would never pass

muster before the scrutiny of this appellate court. DSHS is trying to subdue the fact that Mr. Knoll offered argument based upon expressly overruled case law before the trial court by violating RAP 2.5(a) with an entirely new argument on appeal.

In the event that this Court entertains DSHS's new *Carollo* based argument on appeal, that argument too insufficient to support Judge Wickham's ruling. Based upon *Carollo*, DSHS seems to be arguing that S.B. and P.L. were both diagnosed with PTSD long ago, and that all of their subsequent injuries are sub-groups thereof. At a fundamental level, DSHS's argument fails to meet the heightened evidentiary proof that P.L. or S.B. "actually knew" or "in fact discovers" the causal connection between the injuries and the claim

This Court has long held, "[i]n the context of this statute of limitation, the [Defendant] needed to prove that [Plaintiff] **actually knew** that the sexual abuse caused her symptoms and that she failed to bring her claim before the statute of limitation had expired." *Korst*, 136 Wn. App. 202, 208 (2006). [Emphasis added]. "The statute of limitation is tolled until the victim of childhood sex abuse **in fact** discovers the causal connection between the defendant's act and the injuries for which the claim is brought." *Hollman v. Corcoran*, 89 Wn. App. 323 (1997). [Emphasis added]. DSHS has not cited a single record and/or Clerk's

Paper demonstrating that either S.B. and/or P.L. ever “connected” their PTSD diagnosis to the childhood sexual abuse at issue to meet this heightened burden.

There is no citation to the evidentiary record to establish this key proposition. As illustrated by the inventory of the Clerk’s Papers that were cited by DSHS, such a record and/or evidentiary support establishing when and how S.B. and/or P.L. connected the PTSD diagnosis and their childhood sexual abuse does not exist. Just as importantly, both S.B. and P.L. deny ever having been provided an opportunity to understand that cause of their PTSD diagnosis. P.L. testified that *“I have never been told, until the pendency of this lawsuit that nay of my diagnosis such as PTSD was caused by the childhood sexual assaults.”*¹⁵ S.B. explained that *“I have never reviewed any mental health professional’s evaluations that were focused upon determining the impact of the abuse by Mr. Towns.”*¹⁶ Dr. Wynne opined that *“to the extent that other health care professionals may have diagnosed PTSD, or example, it is evident that there has been no meaningful dialogue with Ms. Buck or Mr. Lewis about the cause of the diagnosis or corresponding symptoms.”*¹⁷ Absent such a connection,

¹⁵ CP 442

¹⁶ CP 437

¹⁷ CP 326

DSHS's "qualitative" based argument stemming from the PTSD diagnosis fails.

By contrast, *Carollo* is distinguishable from this case on its facts. The sex abuse perpetrated against Mr. Carollo was committed against him when he was 16-19 year old. Around the time the abuse ended Mr. Carollo sought counseling was actually told by his counselor that Mr. Dahl's "molestation was likely the source of his psychological difficulties." *Id.* at 798. Mr. Carollo then went on to college and became a child counselor himself and counseled children who had been sexually abused. Lastly, there was "no allegation that Mr. Carollo did not connect his emotional harms to the abuse until recently. Rather, Carollo [was] claiming that the severity of his most recent symptoms should entitle him to the more lenient provisions of the discovery of harm provision in the statute." *Id.* at 802.

Unlike Mr. Carollo, S.B. and P.L., were young victims. P.L. was 12 years old and S.B. was between the ages of 11 and 14 when they were sexually abused. Neither went to college and neither sought to revisit the past. While they underwent psychological evaluations to obtain disability benefits, they were never told that their injuries were caused by the sex abuse that formed the bases of their claims. In fact, there is no evidence that they were told of their mental health diagnosis, let alone that their

injuries were caused by the abuse they suffered. Most importantly, unlike Mr. Carollo who stated he had connected his injuries to sex abuse, P.L. and S.B. both deny having come to any sort of true understanding about the connections between and impacts of the childhood sexual abuse that they suffered. Therefore, *Carollo* is not analogous and not controlling authority.

DSHS has failed to identify and point in time which S.B. connected her extensive injuries that include: (1) her aggravated pre-existing traumatized state, (2) continuing shame, (3) continuing guilt, (3) continuing rage, (4) feelings of being dirty, (5) lack of interpersonal trust, (6) reenactment of situations involving betrayal and violence, (7) avoidant traits, (8) social isolation, (9) chronic anxiety, (10) sexual dysfunction, (11) self cutting, (12) PTSD, (13) and substance abuse, and (14) lack of employability.¹⁸ And DSHS has similarly failed with regard to P.L. and his injuries that include: (1) sexual identity issues, (2) trust issues, (3) homophobia, (4) sleep disturbances, (5) concerns about the ability to care for his children, (6) PTSD, (7) trauma based avoidant character style, (8) vulnerability, (9) impulsivity, (10) self regulatory capacities to manage stress, (11) interpersonal relationship impediments, (12) lack of emotional functioning, (13) lack of academic functioning, and (14) lack of

¹⁸ CP 435-439; 323-396

employability.¹⁹ Even if this Court were to accept DSHS's "qualitative" based injuries argument, both S.B. and P.L. suffer from multiple other injuries that are not related to PTSD. DSHS has failed to demonstrate, as a matter of law, otherwise.

Moreover, this Court should decline DSHS's invitation to draw its own conclusions about the meaning of any particular diagnosis and the provisions of medical literature such as the DSM-5. In this regard, in footnotes 17 and 18 of the response brief, DSHS suggests that this Court should go and find a copy of the DSM-5 and decide, as a matter of law, that all of S.B. and P.L.'s injuries are just sub-parts of a PTSD diagnosis. DSHS would have this Court sit as a medical board and not an appellate court. The questions pertaining to the scope of a PTSD diagnosis are properly left for expert witnesses in accord with ER 701-5. The fact that DSHS is asking this Court to draw conclusions about the scope of a PTSD diagnosis provides further support that these claims never should have been dismissed. This is a debate for the expert witnesses, not a ruling as a matter of law for a trial court.

C. DSHS's argument the seriousness of injuries being relevant to a tolling argument relies upon overturned case law and fails based upon the facts.

¹⁹ CP 440-444; 323-396

On page 24 of the responding brief, DSHS cited and relied upon *Raymond v. Ingram*, 47 Wn.App. 781, 737 P.2d 314 (1987). In relation to this reference to *Raymond*, DSHS offers a less than clear argument about the comparison between “less serious” and “more serious” injuries. DSHS’s reliance upon *Raymond* is misplaced as the corresponding legal premise has been overturned by RCW 4.16.340 and case law, *Miller v. Campbell*, 137 Wash. App. 762, 767, 155 P.3d 154 (2007) (“the case the legislature expressly intended to reverse”). As was attempted before the trial court, DSHS urges this Court to accept as law legal authority which has been rejected and debunked. Just as importantly, it is rudimentary any qualitative distinction between “less serious” and “more serious” injuries could only be determined as a factual question by the jury. *See* CR 56. No court is in a position to decide, as a matter of law, whether stomach aches, sexual dysfunction, a lack of employability, flashbacks, and/or an inability to function in the world are more or less impactful upon a sex abuse victim than another.

S.B and P.L.’s claims are precisely the type that the Legislature intended be preserved. “Legislative findings supporting this statutory discovery rule state the Legislature’s intent ‘that the earlier discovery of less serious injuries should not affect the statute of limitations for injuries that are discovered later.’” *Id.* “The special statute of limitations, RCW

4.16.340, indicates that it is not inconsistent for a victim to be aware for many years that he has been abused, yet not have knowledge of the potential tort claim against his abuser.” *Id.* at 773. “Indeed, as our Legislature has found, childhood sexual abuse, by its very nature, may render the victim unable to understand or make the connection between the childhood abuse and the full extent of the resulting emotional harm until many years later.” *Cloud v. Summers*, 98 Wash. App. 724, 735, 991 P.2d 1169 (1999).

Here, as a result of the negligence of a DSHS social worker, S.B. and P.L. were molested as children thereby compounding their already drastic challenges in life. Prior to these proceedings, and a consultation with Robert Wynne, PhD., the record proves that neither S.B. or P.L. ever had any sort of fruitful opportunity to explore and discharge the drastic impact of being molested as children. P.L. first started pursuing this claim derived by fears that were prompted by his own children being temporarily placed in DSHS’s care: “*I was having immense feelings of guilt when I was around my own children.*”²⁰ P.L. knew that he needed counseling and needed help in order to get better.²¹ As a result of these efforts, P.L.’s sister, S.B., joined in this pursuit to obtain counseling, and

²⁰ CP 443

²¹ *Id.*

to obtain help in getting better: “*upon learning from my brother...that Ms. Turley failed him too, I felt that it was something that I needed to do.*”²² If S.B. and P.L. are able to prevail with their claims, it is their express intent to utilize the proceeds of this claim to try and get counseling, and to be healthier people for themselves and their children. This claim must be allowed to proceed on the merits.

D. An award of Rule 11 sanctions is proper on appeal based upon DSHS and Mr. Knoll’s untenable legal and factual arguments giving rise to and extended during this appeal.

Appellants agree that there is no underlying Rule 11 sanctions order to appeal. However, the unethical representation giving rise to this appeal and then subsequent creation of a new appellant argument in violation of RAP 2.5(a) justifies the imposition of sanctions under Rule 11. *See e.g. Babcock v. St. Joseph’s Hospital*, 1414 Wash. App. 1041 (2007)(awarding Rule 11 sanctions for unethical appellate argument). At the trial court level, Mr. Knoll aggressively misinformed Judge Wickham as to the status of the controlling law. The trial court transcript of August 30, 2013 could not be much clearer. Mr. Knoll violated RPC 3.3(a)(1) and the spirit of Rule 11. On appeal, for the first time ever, Mr. Knoll and DSHS attempt to convince the Court of an entirely new argument based

²² CP 436

upon case law (*Carollo*) that was never cited or even mentioned during the earlier proceedings.

The history of this case reflects that after Appellants submitted their comprehensive response to the underlying motion for summary judgment, by and through Mr. Knoll, DSHS realized that there was no merit to the argument that S.B. and P.L.'s claims could be decided as a matter of law. It should not go unnoticed that DSHS's own expert did not support Mr. Knoll's argument. As a result, rather than conceding the point and allowing this claim to proceed as a question of fact for the jury, Mr. Knoll made up an argument orally at the summary judgment hearing on August 30, 2013 that was not legally or factually accurate or tenable. Rather than quality checking Mr. Knoll's oral argument, the trial court expeditiously dismissed these claims. As noted in *Babcock*, "where attorneys are confronted in court proceedings with unassailable and difficult facts, they should change their position rather than the facts." *Id.* Appellants submit that is what should have occurred here.

III. CONCLUSION

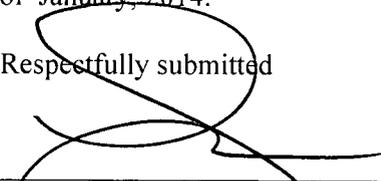
This matter should be reversed. S.B. and P.L.'s claims were dismissed upon a deficient record and inaccurate assertions of law that were offered by Mr. Knoll and not quality checked by the trial court.

DSHS's newly devised appellate argument violates RAP 2.5(a) and does not support dismissal. The new appellate argument suffers the fatal flaw of failing to identify evidence establishing, as a matter of law, that S.B. and P.L. ever connected their extensive injuries, such as the PTSD diagnosis, the childhood sexual abuse that they suffered. At best, DSHS has proven that S.B. and P.L. have suffered for many years. But DSHS has not proven that they understood some sort of casual nexus in such a way that supports dismissal under RCW 4.16.340.

DSHS also argues that a member of the Bar such as Mr. Knoll can just say or do anything during an oral argument as long as Rule 11 is not violated in writing. Mr. Knoll and DSHS have the gall to cite authority establishing that there is no right to oral argument, so what does it matter what representations are made if you get a live hearing? This cannot possibly be an attitude and proposition that is consistent with the expectations of our Courts and/or members of the Bar. The undersigned counsel submits that Courts must be able to rely upon the representations of the lawyers that appear before them, as did Judge Wickham. Here, Mr. Knoll has proven himself unreliable and willing to hide behind that notion that what you say at oral argument does not matter. This cannot be the law.

DATED this 17th day of January, 2014.

Respectfully submitted



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**CLERK'S PAPERS RELEVANT TO
PHILIP LEWIS**

BEHAVIORAL HEALTH RESOURCES

4422 6th Ave. SE Lacey, WA 98503 (360) 704-7170 Fax: (360) 491-0728

Name: P [REDACTED]		Date: January 6, 1999
Service Activity Code: 62	Duration: :90 minutes	Staff: Dwight Bushue, A.R.N.P.

PSYCHIATRIC EVALUATION

IDENTIFYING INFORMATION

The client is referred for psychiatric evaluation by Jamyang Tsultrim, case manager of record.

HISTORY OF PRESENT ILLNESS

The client is a 25-year-old single white male who reports coming from a very dysfunctional background. There were minimal records available in the chart, only an intake evaluation by Jamyang that was used for collaboration. The client was a fairly good historian and was cooperative with the interview. He reports that [REDACTED] was a very abusive alcoholic who physically, emotionally, and sexually abused the client [REDACTED]. P [REDACTED] wound up being placed in a foster care home after the divorce of his parents and spent several years moving about. He reports approximately 48 different foster care homes in a six year period. The client did quite poorly in school, feeling socially isolated and then began utilizing alcohol drugs after dropping out of school. He developed depressive symptoms early in his adolescence, which led to suicidal ideation and multiple suicidal attempts. The client has recently become involved with the legal system, having been arrested on numerous occasions for various charges. He has received some mental health counseling in the past as an adolescent and is currently seeking treatment for counseling and medications.

PAST MEDICAL HISTORY

Allergies: Codeine.

CURRENT MEDICATIONS

Just those prescribed at the clinic, Serzone and Doxepin.

CONFIDENTIAL INFORMATION!! Access should be limited.

03050042

0-000000128

P [REDACTED] L [REDACTED]

IMPRESSION

According to the client's history, he comes from a very dysfunctional, abusive home and was placed in foster homes for a majority of his adolescence. This caused him to eventually become involved with substance abuse and now he finds himself suffering from chronic depression with suicidal ideation. He has developed some antisocial personality traits that have gotten him involved in the legal system and these may be difficult for him to rid himself of these inappropriate coping mechanisms.

DSM-IV DIAGNOSES

- Axis I: 305.7 Amphetamine abuse, in tenuous remission.
309.81 Posttraumatic Stress Disorder.
296.33 Major Depression, severe.
- Axis II: 301.7 Antisocial Personality Disorder.
- Axis III: None noted.
- Axis IV: Employment issues, legal issues, and socialization.
- Axis V: Current GAF: 50.

PLAN

The client has been assigned Jamyang Tsultrim as case manager of record for ongoing therapy. Unfortunately, P [REDACTED] has not connected with Jamyang and is only being seen at the clinic for medication. I think it would be appropriate at this time to have him reconnect with Jamyang to establish some ongoing therapy to help the client deal with his symptoms of depression and PTSD. Unfortunately at this time, he is facing a 90-180 day jail sentence that should begin sometime in the latter part of this month. Following that, he may be transferred to Thurston County Jail where he will receive further incarceration. He was informed to contact the clinic when he gets out of jail should he find that beneficial. Medication wise, he is being maintained on antidepressant medications to help him stabilize and also promote sleep, which has been difficult for him. Employability: Very low at this time as the client is to be incarcerated. However, I believe this should be pursued very actively when and if he returns to the clinic for follow-up. Suicidality: The client has been highly suicidal recently. Fortunately, being incarcerated will definitely decrease the availability. He did not verbalize any increase in suicidal ideation with the thought of impending incarceration.

Dwight Bushue

Dwight Bushue, A.R.N.P.

DB:sjsm

CONFIDENTIAL INFORMATION!! Access should be limited.

03050046

0-000000132

Past evaluations are replete with accounts of Mr. L. [REDACTED] statements about how volatile his anger has been, and those statements were reiterated during the current evaluation. He mentioned how many times (and in how many different contexts) he had been in fights, and he said he had lost only one in his life (at the age of 7 his father had choked him into unconsciousness and Mr. L. [REDACTED] awakened in a ditch; he later went back home, found his father molesting his sister, and beat the father with a baseball bat). He also mentioned how sensitive he was to heat, noting that he always kept his house at 60° or his temper would be too volatile. Interestingly, the interview room was 77° and Mr. L. [REDACTED] was in the room nearly four hours, taking only three short breaks; even so, he cooperated, he demonstrated a quick wit and a good sense of humor, etc. At the end of the evaluation, he commented at how skilled the examiner must be to have kept him so calm during the interview (although this makes little sense as a number of past psychologists who have interviewed him are known to the examiner as kind persons and relatively gentle interviewers).

No doubt Mr. L. [REDACTED] is, and has been, a very angry person. Reasons for this were amply exhibited when he talked about his childhood and the extreme abuse he suffered, particularly at the hands of his father, who died of a coronary two years ago. As suggested earlier, the father was physically as well as sexually abusive; Mr. L. [REDACTED] is not certain whether he was molested, although he saw his sisters being sexually abused. By his report, he spent time in one hundred and twenty-seven different foster homes, and he also gave a number of startling examples of abuse in those settings (indeed, most of his descriptions were quite extreme, and he was never at a loss for examples; he had to be interrupted many times and redirected toward other areas of inquiry during the interview). In spite of all of the horrific things his father did, Mr. L. [REDACTED] said his mother slapped him only once; that was at the age of 3, after Mr. L. [REDACTED] had kicked his brother. As he lives near his mother, he has daily contact with her, although he did not describe their relationship as very close or trusting.

Educationally, Mr. L. [REDACTED] completed 9½ years of school. Although he is clearly an intelligent individual, his grades were quite poor, partly because of abuse and partly because of moving so often. As he was always the "new kid in school" he got into a lot of fights, most of which he started (he said he never lost a fight because he never gave anyone the opportunity to beat him; apparently this meant he would get in the first blow). Although he was never diagnosed with ADHD, a number of pertinent symptoms were mentioned. In the first few grades, he found it very difficult to sit at his desk, and he would find any excuse possible to walk around, to leave the classroom, etc. In the 6th grade, he decided to try harder to sit still and concentrate on subject matter; while he was able to remain at his desk, he still could not maintain focus. His work was always sloppy, smudged, wrinkled, etc., and he usually did not bother with homework. At recess he was always "on the run", and he mentioned a number of examples of reckless behaviors, e.g., climbing on the monkey bars without using his hands, jumping off onto other individuals, etc. He was also a daredevil on his bicycle, jumping recklessly, riding out into traffic, etc.

As noted, antisocial features were mentioned in nearly all past psychological/psychiatric evaluations. Mr. L. [REDACTED] mentioned that he spent 1½ years in a Virginia prison on a charge of breaking and entering, although he said he had never been in Virginia, and he had proof he was in Washington at the time the Virginia crime was committed. However, his identification had been stolen; it was found in a Virginia residence, and that was enough to convict him. He got in very little trouble while in prison and was released early, then he skipped out on his probation, returning to Washington. When Virginia sought to extradite him, the state of Washington looked at the facts of the case, told Virginia they were wrong, and refused the extradition request. However, there

July 12, 2013

Re: PL
Page 11

that his fourth diagnosis was "Explosive Personality Disorder," made through Behavioral Health Resources.

When asked if he received any treatment for these conditions, PL replied that he used medication before he became a father, but that they made him "worse." He commented that, now that he is a father of three beautiful daughters, he "can't be screwed up."

PL recalled prior trials of Thorazine, doxepin, Serzone, BuSpar, lithium, Paxil, fluoxetine (Prozac), Effexor, and, most recently, Lexapro. He denied any prior use of Depakote, Tegretol, Zoloft, Remeron, Pristiq, Seroquel, Zyprexa, Geodon, or Risperdal.

PL reported three prior suicide attempts. He stated that the first occurred at age 17, when he drove a car into a tree, shearing the car in half. PL stated that he sustained no injuries in that accident, however.

PL stated that his second suicide attempt occurred a few weeks later, when he jumped off an overpass in Tumwater, landed on the shoulder of the freeway, and sustained a sprained ankle and a "hurt knee." He commented that, while this was considered a suicide attempt, he considered it "just trying to get away," as his parents were driving him to the hospital after he expressed suicide ideation to his mother. PL stated that the suicide ideation was because of his abuse in foster care, though he did not want to disclose these details to his parents because he had just gone back to live with them.

PL stated that his next suicide attempt was a "scream for help," when he "swallowed a bottle of codeine." However, he stated that he was hoping to die as a result of this action. He explained that he wanted the "thoughts to go away," specifying that this included his sense of shame and embarrassment. When asked how he felt when the attempt was not successful, he replied, "Like crap," and recalled being awakened and having vomiting induced. PL stated that no one discussed the action as a suicide attempt when he was evaluated in the emergency room. He parenthetically noted that he physically felt worse after this attempt than after driving his car into the tree.

PL reported participating in counseling several times since age 18. He recalled attending four sessions in Virginia and that this represented him "reaching out for help because of severe depression." However, PL stated that he did not discuss his experiences in foster care at that time.

PL reported that his second attempt at mental health treatment was at Behavioral Health Resources, where he attended one-hour sessions every other week for a few months. He explained that he sought out this treatment in order to deal with what happened to him when he was younger, but that his therapist did not know what "actually happened" when PL was in foster care. PL recalled that he "danced around the topic" but did not want to discuss it because he did not feel comfortable. He stated that he did not find the

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LIST OF EXHIBITS

Claimant: P [REDACTED] E. I [REDACTED] SSN: [REDACTED]

Exh. Part No. No.	Description	No. of Pages
<u>MEDICAL RECORDS</u>		
1	F Psychological Evaluation dated 3/6/97 by Brett Trowbridge, Ph.D.	4
2	F Psychological Evaluation dated 9/17/97 by Kristine S. Harrison, PsyD	8
3	F Psychological Evaluation dated 2/11/98 by Trevelyan Houck, Ph.D.	6
4	F Psychological Evaluation dated 7/9/98 by Brett Trowbridge, Ph.D.	7
5	F Treatment notes covering the period from 6/18/98 to 8/26/98 by South Sound Mental Health Services	19
6	F Physical Evaluation dated 9/23/98 from Charles N. Buser, M.D.	4
7	F Psychological Evaluation dated 9/29/98 by Terilee Wingate, Ph.D.	6
8	F Psychological Evaluation dated 6/2/00 by Trevelyan Houck, Ph.D.	9
9	F Psychological Evaluation dated 9/19/00 by Trevelyan Houck, Ph.D.	4
10	F Psychological Evaluation dated 11/9/00 by Brett Trowbridge, Ph.D.	8
11	F Emergency Record dated 6/27/01 from Mason General Hospital	11
12	F Emergency Record dated 9/3/01 from Mason General Hospital	5
13	F Psychological Consultative Evaluation dated 9/26/01 by Keith J. Krueger, Ph.D.	12
14	F RFC - Residual Functional Capacity Assessment - Mental (completed by DDS physician) dated 13/29/02	4
15	F Psychiatric Review Technique Form (completed by DDS physician) dated 3/29/02	14
16	F Psychiatric Review Technique, from Dr Lewis, dtd 3/29/02	14
17	F Med Records from Kimberly Wheeler, PhD, dtd 2/27/03	7
18	F Med Records from Keith Krueger, PhD, 12/4/02	6
19	F Med Records from Behavioral Health Resources, 11/19/98 to 5/30/02	6
20	F Med Records from Tim Weber, MD, 10/21/02 + 3/28/03	10

03030016

0-000000261

PRIORITY CODE

(A) Acutely Mentally Ill
 (D) Seriously Disturbed Person

(C) Chronically Mentally Ill Adult
 (E) Severely Emotionally Disturbed Child
 (O) Other

PROVISIONAL DSM-IV DIAGNOSES

Step One: Multiaxial Diagnoses

Step Two: Number boxes below based on priority of treatment focus; i.e., (1) Primary, (2) Secondary, (3) Tertiary, (4) Quaternary.
(Example: If a client's first treatment need is under Axis II, you would put a 1 in the Axis II box)

AXIS I: Clinical Disorders

296.53 BIPOLAR I SEVERE DEPRESSOR

309.81 PTSD

AXIS II: Personality Disorders/ Mental Retardation

301.83 BORDERLINE PD

AXIS III: Medical Conditions

sleep disturbance, appetite problems, weight ↑↓, headaches, allergies

AXIS IV: Stressors: Psychosocial, Environmental

going to be a father, funding provided

AXIS V: GAF

31

Highest Score past year:

31

NA

PLEASE COMPLETE THE UNDERSERVED POPULATION IF SEEKING STATE FUNDING FOR MENTAL HEALTH SERVICES: (Please check items that apply):

Underserved Population? Yes No If yes, then identify: Minority Elderly Disabled Child

SPEND DOWN INFORMATION

Is the client currently on a spend down? Yes No If "No" then proceed to next section as this criteria does not have to be met. If "Yes" then provide the information below.

Amount of Spend Down: \$ Time Period: 3 Month 6 Month

If the time period is 3 months is the spend down < \$250 Yes No

If the time period is 6 months is the spend down < \$500 Yes No

If either question was answered "Yes" then the client meets the spend down criteria for state funded mental health services.

If both questions were answered "No" then the client does not meet the spend down criteria as established by the RSN for state funding.

Client Name

[Redacted Name] P [Redacted Name]
ADULT ASSESSMENT PART B - To be completed by Assessor

8 of 9 Pages

BHR
Behavioral Health Resources
MH413-03.07

00000000265

1 brought against the stepfather and he was sent to prison. Sharla and her brother Jerry were
2 placed in the foster home of Raymond and Georgia Towns, while the other children in the
3 family were split-up between two different foster homes. Philip went to a foster home by
4 himself and his two young sisters, Tressa and Crystal, went to another foster home together.
5 The younger sisters were eventually adopted by their foster parents.
6

7 4. Sharla's brother, Jerry did not like being in the Towns foster home and ran
8 away sometime after his placement. He was never located again by the Department after he
9 ran away.

10 5. After Sharla was placed in the Towns' foster home, I was advised by my
11 supervisor, Linda Kalinowski, that Sharla had made a complaint that she was being sexually
12 abused by her foster dad, Ray Towns. Sharla was immediately removed from the Towns
13 foster home that day and she never went back to them. After her removal, Sharla was placed
14 into a receiving home. Then, she was placed into a different foster home, where she remained
15 until she turned 18 years old, at which point the Department would have terminated her
16 dependency.
17

18 6. The allegations Sharla made against Ray Towns were investigated by both the
19 Grays Harbor County Sheriff's Department and CPS. The allegations were not substantiated.
20 To my knowledge, there were never any other allegations of sexual or physical abuse made by
21 anyone against the Towns.
22

23 7. During the approximately two years that I had the Plaintiffs and their family on
24 my caseload, I was very involved with them. I would transport the children to their counseling
25 sessions twice a week. I felt like I had a good relationship with Sharla. I liked her and
26

Declaration of
Audrey Turley

ATTORNEY GENERAL OF WASHINGTON

Torts Division 0-00000551
7141 Cleanwater Drive SW
PO Box 40126
Olympia, WA 98504-0126

1 believed she was on the right track to improve her life. At no time did Sharla tell me that she
2 was being sexually abused by Ray Towns or any other foster parent.

3 8. As for Plaintiff Philip Lewis, he was placed in a foster home separate from his
4 siblings. He was a likeable young man, but some of his behaviors were difficult for the foster
5 parents. The foster parents informed me that Philip would steal items from them and bury
6 items in the yard. After he had been in the foster home for approximately two years, Philip ran
7 away. During the time he was on the run, I was transferred to a new position in King County,
8 so I never had any more direct contact with Philip. At no time did Sharla ever advise me that
9 Philip was being physically or sexually abused in foster care. Furthermore, during the time
10 Philip remained on my caseload, he never once told me that he was being abused by other
11 boys staying in his foster homes.
12

13
14 I declare under penalty of perjury under the laws of the State of Washington that the
15 above declaration is true and correct to the best of my knowledge.

16 DATED at Marysville Washington this 26 day of June, 2013.

17
18 
19 AUDREY TURLEY

20
21
22
23
24
25
26
Declaration of
Audrey Turley

ATTORNEY GENERAL OF WASHINGTON

Torts Div: 0-000000552
7141 Cleanwater Drive SW
PO Box 40126
Olympia, WA 98504-0126

APPENDIX - B

**CLERK'S PAPERS RELEVANT TO
SHARLA BUCK**

1 Q And you realized that you came from that type of
2 environment. Right?

3 A Correct.

4 Q And now it's, as you're saying, it's happening again in the
5 foster home. Right?

6 A Yes.

7 Q And you already went through the questioning before with
8 your stepdad about what had happened to you in the home.
9 Right?

10 A Yes.

11 Q So my question is: Going to counseling, why didn't, at some
12 point, did you tell the counselor -- whoever it was, man or
13 woman -- this is happening to me, just like --

14 A Because I was a kid.

15 Q -- just like what was happening to me when I was with my
16 stepdad?

17 A I was a kid. I didn't know and I was scared. I had just
18 lost my whole family, thrown into a place with strangers.
19 Had no one. Lost my family for telling the truth.

20 Q Well --

21 A Because I was ashamed. It's embarrassing. Have you ever
22 had it done?

23 Q You knew that it was wrong for that to occur because what
24 happened to you with your stepdad. Right?

25 A Yes.

H. Current Status/Social Summary of Child/Family (and any other pertinent information):

S [REDACTED] long term foster placement broke down when she and another foster child made allegations about the foster father. These allegations were not substantiated but S [REDACTED] continued placement there was no longer possible. She is now in a new home where she is adjusting. S [REDACTED] really wants a family and is doing her best to adjust to this family. S [REDACTED] has serious social and identity problems which relate to the severe sex abuse she suffered. These problems are being dealt with in counseling. S [REDACTED] is doing well academically and not posing any regular discipline problems at school.

1 A I went to counseling before, but it was like over my
2 accident and stuff like that, right after my accident
3 happened.
4 Q Did you tell them about --
5 A No, I didn't.
6 Q -- your family?
7 A We didn't talk about that. It was just about my accident..
8 Q Now, you're on social security. Right?
9 A Disability and SSI.
10 Q And when did that come into play?
11 A Two years ago, I believe.
12 Q All right. And what is the basis for your disability?
13 A PTSD, depression, and some medical.
14 Q All right. And PTSD --
15 A Post-traumatic stress disorder.
16 Q Yeah. That diagnosis came when? We know at least two years
17 ago.
18 A Years ago.
19 Q Years ago?
20 A Yes.
21 Q I mean, how many, would you say?
22 A Three, four.
23 Q From now?
24 A That actually been diagnosed.
25 Q Well, from the time you were awarded, so that would be --

1 A Um-hmm.

2 Q And --

3 A Yeah. I just lost my best friend. I had just been in a car
4 accident, going to prison not even understanding what was
5 going on.

6 Q So you entered your Alford plea without understanding what
7 you were pleading to?

8 A Yeah. I didn't know even know my family's names nor my
9 name, so that Alford plea shouldn't have even been able to
10 held up because I was so drugged up, legal drugs by doctors.

11 Q Did you ever state that your brother killed your stepfather?
12 Did you ever tell a counselor that?

13 A No. I remember saying that my brother had fought with his
14 father and almost killed him.

15 Q Okay. Was your depression only related to your friends
16 dying from the '97 accident?

17 A No.

18 Q What --

19 A I've been diagnosed depression all my life.

20 Q Okay. For what?

21 A My abuse.

22 Q Okay. At some point you got married, didn't you?

23 A Twice. Yes.

24 Q And your first marriage was with Mr. Woodson?

25 A Yes.

CONFIDENTIAL MEDICAL INFORMATION

THIS INITIAL PSYCHIATRIC EVALUATION IS A MEDICAL EXAMINATION PERFORMED FOR DIAGNOSTIC AND TREATMENT PURPOSES. DOC POLICY 640.020 REQUIRES THAT THIS REPORT BE CONSIDERED CONFIDENTIAL AND PART OF THE MEDICAL RECORD WITH ACCESS CONTROLLED BY THE HEALTH AUTHORITY. THIS REPORT MAY NOT BE RELEASED TO OTHERS WITHOUT THE WRITTEN CONSENT OF THE OFFENDER AND THE EXAMINING PSYCHIATRIST, OR IN RESPONSE TO A COURT ORDER, OR OTHER APPROPRIATE LEGAL ACTION, LAW, OR STATUTE.

WASHINGTON CORRECTIONS CENTER FOR WOMEN
PSYCHIATRIC EVALUATION

W [REDACTED] S [REDACTED] M.

775114

1/13/98

IDENTIFYING DATA

Ms. S [REDACTED] W [REDACTED] is a 24-year-old, divorced, white female who was admitted to Washington Corrections Center for Women (WCCW) on 12/31/97 and who has a history of depression and post traumatic stress disorder following a motor vehicle accident in 8/97.

PRESENTING PROBLEM

Ms. W [REDACTED] first contact with the mental health system occurred at age 11, when she was in counseling weekly for two years following the resolution of a kidnapping by her stepfather. She states her stepfather sexually molested her from the time she was age 2 until she was age 9, when he moved to Alaska. A year and a half later, he returned and kidnapped her and her siblings for six months and continued to molest her. She states after that experience she trusted no one and consequently did not talk much in therapy. She describes her mood then as depressed, and she dealt with the trauma by withdrawal.

In 1995, at age 22, Ms. W [REDACTED] says she wanted to divorce her husband, as he had been unfaithful. At his request, she agreed to participate in couple's counseling. However, even with the counseling, she states she continued with her commitment to a divorce, as she did not want her son to be raised by unhappy parents.

Ms. W [REDACTED] next contact with the mental health system occurred after she was the driver in a motor vehicle accident which killed her best friend of twelve years. The accident occurred on 8/16/97, but she did not know until 10/97 that her friend had died. The medical staff did not want her to have this news because of the precariousness of her medical condition. After she learned of her best friend's death, Ms. W [REDACTED] says she wanted to die to be with her best friend. Because of the extent of her suicidal ideation and depression, she again was in counseling from 10/97 until her incarceration at the end of 12/97.

While she was in counseling, Ms. W [REDACTED] was referred to a psychiatrist, who placed her on Amitriptyline 10 mg per day and gradually increased it to 40 mg per day. She has been on this medication for two and a half months and says it has improved her mood somewhat and that she sleeps better but is still quite depressed. However, she denies suicidal ideation, and there is no history of psychosis or mania. Her energy is markedly diminished, and she continues to have crying spells and withdrawal.

In addition to her symptoms of depression, Ms. W [REDACTED] also gives symptoms consistent with post traumatic stress disorder. She says she is very edgy whenever there is any noise, and she has nightmares which she cannot quite recall. She says she became very petrified of cars and sirens, has had diminished interest in usual activities, and feels very detached. She is also hypervigilant. Ms. W [REDACTED] said she and her mother were involved in another motor vehicle accident on 10/28/97, and this also exacerbated her

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symptoms. She states she was with her mother, who was driving. While they were stopped, they were hit by a truck going 40 mph.

SOCIAL HISTORY

Ms. W ██████ was born in Chehalis and is the second of two born to her biological parents. She says her biological father became involved with her mother while he was married to another woman. He then left his wife and fathered her and her brother. At age two, her father left her mother and went back to his wife. Her mother then married her stepfather, who sexually abused her from ages 2 until 9.

Ms. W ██████ mother and stepfather had four children, one of whom died at 17 days of age.

Ms. W ██████ says her mother did not know about the abuse and that her mother left her stepfather when she was age 9 because of his alcoholism and physical abuse to her mother. It was after the stepfather left that Ms. W ██████ told her mother about the sexual abuse. With that, Ms. W ██████'s mother "packed up and moved" so the stepfather could not find them. However, he did find them a year later and kidnapped her and her siblings for six months, holding them captive for a period of time in a truck. After her stepfather was caught and arrested, she was then in foster care, as she states her mother had been having "hard times" and was unable to care for her children. Ms. W ██████ was in foster care until age 18, and in the first foster home was again sexually molested. She states her last foster care was very good, and she was with these foster parents for two years. She still has contact with them. Ms. W ██████ has also had contact with her biological father but says she did not trust him until about four years ago. Consequently, his support is important to her. She describes her mother as "my world" and says she receives considerable support from her. She has not seen her half-sisters since being placed in foster care, but she has had contact with her foster brothers.

Ms. W ██████ got her GED at age 16 and says her first foster parents took her out of school in order to make her work and help support their drug habit. She married at age 18 and has a 4-year-old son.

Ms. W ██████ says this was a good marriage except that her husband was unfaithful because she had no interest in their sexual relationship. She and her husband divorced, and Ms. W ██████ says they are "good friends now." After her arrest, she gave temporary custody of their 4-year-old son to her exhusband. Ms. W ██████ has been with her fiancé for the past two years and states he is very supportive and is a sergeant in the National Guard.

SUBSTANCE USE HISTORY

Ms. W ██████'s drug history is her use of methamphetamine on several occasions the week prior to the motor vehicle accident.

LEGAL HISTORY

Ms. W ██████ incarcerated on charges of Vehicular Homicide, and her early release date is 10/9/01.

Ms. W ██████ says she has no memory of the accident but has been told she was not speeding but pulled out to pass a car and hit a truck head on. She states she was charged with Vehicular Homicide because she and her best friend had been introduced to methamphetamine use in the week prior to the accident and, having used crank three days before the accident, she still had methamphetamines in her blood. She consequently was charged with Vehicular Homicide. She says she took the alpha plea on the advice of her attorney because she had no memory of what happened. Ms. W ██████ also says the judge told her he was setting an example about drug use and thus gave her the maximum sentence. There is no other prior legal history, and she was only in jail one night prior to her incarceration here at WCCW.

FAMILY PSYCHIATRIC HISTORY

Ms. W [REDACTED] half-brother is a drug addict and has depression.

MEDICAL HISTORY

Ms. W [REDACTED] says she died "seven times" after the motor vehicle accident in which she had head trauma necessitating neurological surgery, reconstructive facial surgery, a fracture of her right shoulder blade, open reduction and internal fixation of her left arm and left ankle, right leg fracture, and a splenectomy. She has had cervical dysplasia treated with cryotherapy and is allergic to Doxycycline.

INTERVIEW OBSERVATIONS

Ms. W [REDACTED] is an average-sized woman who is tearful during most of the interview. She has a slight speech defect, possibly secondary to her head trauma and/or fracture of her front teeth. However, her speech is well organized, and with the exception of loss of memory related to the details of the motor vehicle accident, her memory appears grossly intact. There is no evidence of thought disturbance. She is not suicidal.

INITIAL DIAGNOSTIC IMPRESSION DSM 4

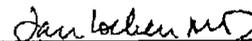
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|---------|--------|---|
| Axis 1: | 296.22 | Major depressive disorder, single episode, moderate. |
| | 309.81 | Post traumatic stress disorder. |
| Axis 2: | 799.09 | Deferred. |
| Axis 3: | | History of motor vehicle accident with head trauma, splenectomy, open reduction and internal fixation of her left arm and left ankle, history of cervical dysplasia and allergy to Doxycycline. |

IMPRESSION

Ms. W [REDACTED] is a 24-year-old woman whose life has certainly had many tragic circumstances. There is an early history of severe sexual abuse and then loss of her home life and contact with her mother, along with abuse in foster placements. It is to her credit that she had established for herself, prior to her accident, as stable a life as she did. It is equally tragic that her reported only use of drugs has resulted in her being charged with Vehicular Homicide after the accident which killed her best friend, certainly a punishment in itself. She is not an individual whose past experiences have prepared her for the kind of adjustment needed to incarceration and thus the past few weeks have been very difficult for her. She continues to experience symptoms of depression. Paxil will be started if a pregnancy test is negative (menses are late).

PLAN

- #1: Pregnancy test.
- #2: If pregnancy test is negative, begin Paxil 10 mg p.o.q. a.m. or noon for 1 week, then Paxil 20 mg p.o.q. a.m. or noon.
- #3: Continue Amitriptyline 40 mg p.o. q.h.s.
- #4: Follow-up with Linda Lawrence, ARNP, on 2/30/98.


Jan Loeken, M.D.
Psychiatrist

JL:jew

1 A No. A couple years from -- about a year before, two years
2 before.

3 Q Okay. So two years ago you got SSI, and two years before
4 that --

5 A Well, say longer than that because it took 43 months to get
6 my SSI.

7 Q Okay. All right. So we're talking --

8 A Years.

9 Q -- early 2000s?

10 A Um-hmm -- yes.

11 Q And I think you already said you've had depression all your
12 life?

13 A Yes.

14 Q How many total foster homes would you say you were put into
15 before you were emancipated?

16 A Five.

17 Q Okay. And the only home where you were suing over abuse is
18 the Towns' home?

19 A Yes.

20 Q I see in your record that you've cut your wrists before?

21 A Yes.

22 Q When did that occur?

23 A When I was -- 2007, 2008, and then just this last January I
24 slit my wrist.

25 Q And what was the reason for that?

1 A Bringing all this stuff back up.

2 Q Okay. So in 2007 it all came back up again?

3 A No. In 2007 it was just -- I just had a low part, was
4 really depressed and everything. This one where I slit
5 that, was just this January.

6 Q Okay.

7 A That's from all this, just . . .

8 Q But when you cut on yourself --

9 A Did it before.

10 Q -- it's a result of your history, sex abuse?

11 A Yes.

12 Q I'm going to ask you a couple -- several, not a couple,
13 several follow-up or clarification questions in your
14 discovery responses you supplied to me, and I'm looking at
15 first interrogatory and request for production. I'll show
16 it to you, if you want to, but I'm just going to see if you
17 can answer it without looking more closely.

18 Your mother doesn't have a college education, does she?

19 A She's done college.

20 Q I mean, has she completed a degree?

21 A I don't know.

22 Q And your stepdad, did he ever?

23 A No.

24 Q No. And you received your GED in 1991?

25 A Um-hmm -- yes. September of '91.

Byers & Anderson Court Reporters/Video/Videoconferencing
Seattle/Tacoma, Washington

1 Q How many times did he insert his finger into her
2 vagina?
3 A That I don't know.
4 Q Okay. Do you think if he did that a dozen times it
5 might have less impact than if he did it 30 times?
6 A Are you talking about a dozen times in a single
7 episode or are you talking about over time?
8 Q Let's say that he physically penetrated her above the
9 knuckle over a dozen times versus less; which one is
10 going to impact her more?
11 A Are you talking about a single episode or over the
12 span of all the episodes?
13 Q Over the span.
14 A I don't think a dozen or 30 makes that much more
15 difference.
16 MR. BEAUREGARD: I think those are
17 all the questions I have.
18
19 EXAMINATION
20 BY MR. KNOLL:
21 Q Dr. Vandenberg, Thomas Knoll for DSHS. I have a few
22 questions for you.
23 You were asked by Mr. Beauregard several times have
24 you seen in, quote, "the record."
25 When you answered the question about have you seen

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1 in the record, what record are you referring to when
2 you make your answer?
3 A Well, the records that I was provided.
4 Q Okay. So do you know if you were provided all of the
5 records in Philip and Sharla's case?
6 A I don't know if I was provided all of them. I just
7 know the ones that I had.
8 Q Okay. And I heard you answer the question about
9 following through with treatment for Philip.
10 What about for Sharla; do you have an opinion with
11 regard to whether or not she would follow through with
12 any type of future treatments?
13 A Well, my understanding is that her prior experiences
14 with treatment have not been really positive, and my
15 sense is that she's not someone who would readily
16 engage in treatment if her understanding was that she
17 was going to have to rehash a lot of things that had
18 happened to her; that she'd be more likely to if her
19 understanding was that the person was going to go
20 forward with her and talk about things that are
21 happening in her life now and then how her history
22 might have impacted that but not require her to dredge
23 up a lot of things that are probably painful for her
24 to think about.
25 Q Okay. And do you recall saying in your report that she

Page 63

1 seemed somewhat ambivalent about future treatment?
2 A Yeah.
3 Q And Mr. Beauregard asked you -- this is about as good
4 of a quote as I can give you: Do you have any major
5 points of disagreement with Dr. Nguyen's report. And
6 he asked you several times about do you have any major
7 points of disagreement.
8 How do you interpret the phrase points of -- or
9 "major points of disagreement"?
10 A Well, that would be with regard to what her diagnosis
11 is at this point. I don't think that how I view her
12 diagnostically in terms of what she has is really very
13 different than what he does. We probably differ
14 somewhat in how much importance we assign to one event
15 or one circumstance than another, but I think we're in
16 general agreement on what her condition is now.
17 Q All right. What about the question about have you seen
18 in the record Sharla acknowledging that she has
19 recognized her injury after sexual abuse to the events
20 years ago. You were asked have you seen Sharla admit
21 that in the records. Do you remember a question
22 similar to that?
23 A Right.
24 Q In Dr. Nguyen's report, do you remember reading on Page
25 6 of his report where Sharla says she endorsed

Page 64

1 homicidal ideation in relation to Audrey Turley, in
2 particular from age 14 to 20: I had that thought every
3 day. The time period coincided with her first suicide
4 attempt at age 15. Do you remember reading that
5 statement?
6 A Well, I had read Dr. Nguyen's report in its entirety
7 prior to generating my report. And we looked at that
8 during the break and I remember seeing that.
9 Q All right. And is that an acknowledgment, at least
10 from age 14 to 20, that Sharla connected her sex abuse
11 to her current injury or state in life?
12 MR. BEAUREGARD: Objection; form.
13 A Well, to me it says that she's feeling emotionally
14 distressed about what's happening to her and she would
15 like to exact some sort of retribution on the person
16 who she thinks is responsible for putting her in that
17 position.
18 Q (By Mr. Knoll) Okay. And in this case, you understand
19 Ms. Turley was her assigned case worker; is that right?
20 A I believe that's right, yeah.
21 Q And is it your understanding that Sharla is suing
22 Department of Social and Health Services because Ms.
23 Turley left Sharla in the Towns home and she claims to
24 be sexually abused in the home, right?
25 A That's my general understanding, yeah.

0-000000471

17 (Pages 62 to 65)

Byers & Anderson Court Reporters/Video/Videoconferencing
Seattle/Tacoma, Washington

1 Q Have you had an opportunity to read the depositions of
2 Sharla and Philip in this case?
3 A I did, yeah.
4 Q So would their depositions include the records you
5 would have reviewed that Mr. Beauregard has asked you
6 about?
7 A Yes.
8 Q So do you recall reading in Sharla's deposition on Page
9 56, I asked the question, Was your depression only
10 related to your friend dying from the 1997 accident?
11 And her response is no. And I say, What. And her
12 response is, I've been diagnosed depression all my
13 life. And I say, Okay, for what? And her response is,
14 My abuse.
15 Do you remember that exchange?
16 A I remember -- I remember reading that in the record,
17 yeah.
18 Q Okay. So is that statement by Ms. Buck an
19 acknowledgment that she has acknowledged the injury she
20 has sustained from abuse, being depression in this case
21 to her abuse?
22 MR. BEAUREGARD: I'm going to object
23 to the form of your question. You didn't specify what
24 abuse. Go ahead.
25 A Well, my understanding from that interchange is that

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1 she understands her depression to be related to abuse
2 that she's experienced in her life.
3 Q (By Mr. Knoll) Okay. All right. And I believe you
4 answered this question from Mr. Beauregard, but you do
5 disagree with Dr. Nguyen's apparent life care plan for
6 both of these plaintiffs?
7 A Yes.
8 MR. KNOLL: Those are my questions.
9
10 FURTHER EXAMINATION
11 BY MR. BEAUREGARD:
12 Q One follow-up question, Dr. Vandenberg.
13 Mr. Knoll read you a question that he'd asked Ms.
14 Buck where he asked her, You relate abuse to
15 depression, right?
16 A I think that paraphrases it, yeah.
17 Q Yeah. Mr. Knoll's question didn't say anything
18 specifically about the abuse by Mr. Towns, right?
19 A I think it was a broader statement about abuse.
20 Q Okay. So Sharla could have meant the abuse in her
21 first home, right?
22 A She -- it could have been that she was referring to
23 just that, or it could have been that she was
24 referring to a broader set of abuse.
25 Q Yeah. Mr. Knoll's question, it didn't pinpoint

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1 anything at all, did it?
2 A Well, the question, as I read it, was a global one
3 about abuse that she had experienced.
4 Q Okay. Would you override your earlier opinions about
5 the degree to which Ms. Lewis has connected in her mind
6 her injuries, the injuries you described, based upon
7 Mr. Knoll's ambiguous question about abuse and
8 depression?
9 MR. KNOLL: Object to form.
10 Q (By Mr. Beauregard) For example, are you changing any
11 of the things you told me earlier in this deposition?
12 A Well, not so much based on that particular question,
13 but having looked at, again, the statement regarding
14 feeling homicidal toward Ms. Turley contemporaneous
15 with when she was in the Towns home and feeling angry
16 about the abuse that she was experiencing there and
17 wishing to get retribution on Ms. Turley as a result.
18 So that to me says she's aware that it's a bad
19 situation. She's being abused, and she wants to take
20 it out on somebody.
21 Q Okay. But are you changing your earlier opinion you
22 offered to me in spite of -- in contrast to the
23 testimony Mr. Knoll highlighted for you?
24 A Well, my recollection of what I said earlier was that
25 I didn't see something in the record that tied her

Page 68

1 emotional distress to the abuse she was experiencing
2 in the Towns home earlier in her life. But the
3 statement that she made to Dr. Nguyen, as noted in his
4 report, does contradict that. So I -- in having
5 looked at that again, it's now my understanding that
6 she understood that she was having an emotional and
7 psychological effect earlier in her life.
8 Q I see.
9 A Contemporaneous with when it was happening.
10 Q Okay. So now Mr. Knoll has walked you through some
11 different parts of the records, and are you saying
12 you're changing your opinions?
13 A I had not recalled seeing that in Dr. Nguyen's report.
14 And when we looked at it again, then I remembered
15 seeing that, and so that changed it, yeah.
16 Q Okay. So now will you be able to offer an opinion that
17 earlier in Ms. Buck's life she realized all of her
18 injuries that stemmed from being abused in the Towns
19 home?
20 A I don't know that she understood all of her injuries,
21 but I think that she understood that she was being
22 emotionally affected by what was happening to her.
23 MR. BEAUREGARD: Okay. All right.
24 (Signature reserved.
25 (Deposition concluded at 3:03 p.m.)

0-000000472

APPENDIX - C

**DECLARATION OF
ROBERT WYNNE, PH.D.**

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SUPERIOR COURT
THURSTON COUNTY, WA
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SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THURSTON COUNTY

P.L. a single male, and S.B. a married
but separated female,
Plaintiffs,

v.

WASHINGTON STATE DEPARTMENT OF
SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12-2-00680-3

**DECLARATION OF ROBERT WYNNE,
PhD**

Robert Wynne, PhD declares as follows:

1. I am a licensed Marriage and Family Therapist with a Ph.D. in clinical psychology, retained by lawyers representing Sharla Buck and Phillip Lewis for the purpose conducting forensic examinations as relates to the abuse that each suffered while under DSHS's care. I have extensive education, experience, and practical application history in the field of treating and evaluating sex abuse victims. My full CV is attached as Exhibit 1.

2. Earlier in 2013, I conducted forensic examinations of Ms. Buck and Mr. Lewis. Those examinations included extended one-on-one interviews, psychological testing, and comprehensive forensic workups for the purpose of evaluating the impact of the reported sexual abuse upon Ms. Buck and Mr. Lewis. Complete and comprehensive reports regarding both Ms. Buck and Mr. Lewis are included with this declaration. Copies of those reports are

ORIGINAL

1 attached as exhibits 2 and 3 and are submitted under penalty of perjury in accord with the
2 laws of the State of Washington with respect to my opinions and conclusions contained
3 therein.

4 3. After my extensive forensic evaluation of both Ms. Buck and Mr. Lewis, I
5 was able to offer opinions as attached in exhibits 2 and 3 that each suffered severe
6 psychological impacts as a result of the abuse. The details of my opinions are contained in
7 each report. It should be noted that for both Ms. Lewis and Mr. Buck, the childhood sexual
8 abuse contributed to their PTSD symptoms and diagnosis. Ms. Buck and Mr. Lewis suffered
9 other damages as well.

10 4. With regard to Ms. Buck it is my opinion that "*[a]t a minimum the Towns*
11 *home placement represented a lost opportunity to provide Sharla a corrective emotional*
12 *experience. Much more probable is that it actually provided a destructive experience of*
13 *sexual molestations, which launched a career of learned helplessness and posttraumatic*
14 *disorder.*"¹ Adverse Childhood Experiences (ACE) research has shown that recurring
15 exposure to severe stressors is more than additive, but that there tends to be a magnification of
16 trauma symptoms. It is also my opinion that "*[d]espite the need for care, and despite her*
17 *complaints of being molested by her foster father, the subsequent reoccurring molestation by*
18 *her foster father significantly and irreparably aggravated the plaintiff's pre-existing*
19 *traumatized state. Prospects to right her developmental course were permanently derailed.*
20 *Lack of protective investigation and protective response by DSHS represented yet another*
21 *betrayal by adult caregivers, and served to intensify Sharla's rage, mistrust, and*
22

23 _____
¹ Wynne Report, Page 22

1 *disillusionment.”² My report also indicates that “She is haunted by shame, guilt and rage. She*
2 *feels ‘dirty.’ Sharla lacks interpersonal trust and inadvertently reenacts reoccurring*
3 *relational conflict involving acts of betrayal and violence. She is avoidant, socially isolated*
4 *and experiences chronic anxiety. She experiences longstanding sexual dysfunction. She*
5 *presents with a recurring depression, self destructive behaviors (e.g. self cutting), and*
6 *suicidality and homicidal ideation. There have been periods of substance abuse.”³*

7 5. And further, Mr. Lewis has incurred (1) “sexual identity issues”, (2) “trust
8 issues”, (3) homophobia, (4) sleep disturbances, (5) self injurious behaviors, (6) concerns
9 about his ability to care for his children, (7) Post Traumatic Stress Disorder, and that the
10 abuse caused (8) “a trauma-based, avoidant, antisocial character style that has wrought
11 instability within virtually every arena of functioning. He is exceptionally vulnerable,
12 guarded, and impulsive individual who lacks adaptive, self regulatory capacities to manage
13 situations stress in his daily life...Areas of damage include severe longstanding impairments
14 in interpersonal relationships, emotional, academic and vocational functioning, parenting
15 skills and diminished overall quality of life.”

16 6. In the course of conducting my evaluations, I also had an opportunity to
17 review the extensive historical record upon both Ms. Buck and Mr. Lewis. Both Ms. Buck and
18 Mr. Lewis have received multiple mental health evaluations in the past, such as with the
19 Social Security Administration. It is my understanding that DSHS has loosely referenced
20 some of those evaluations in a pending summary judgment hearing.

21

22

23

² Wynne Report, Page 24

³ *Id.* at 24-25

1 7. None of the previous psychological evaluations were intended to address
2 causation. Rather they address disability. Some of the prior evaluations referenced the PTSD
3 diagnosis for Ms. Buck or Mr. Lewis, but none took the next step of articulating the
4 corresponding *cause* of the symptoms or diagnosis. For example, to the extent the Social
5 Security Administration has determined that both Ms. Buck and Mr. Lewis have mental
6 disabilities qualifying them for benefits, the underlying evaluations do not also analyze or
7 determine the *cause* of the corresponding mental illness and/or PTSD diagnosis. It is typically
8 the role of the Social Security Administration to determine whether or not someone is
9 disabled versus necessarily exploring the *cause* of the disability.

10 8. My role in this litigation was to assist to offering opinions as to the damages
11 caused by the childhood sexual abuse that was suffered by Ms. Buck and Mr. Lewis. From
12 my evaluations, I am also able to offer the opinion that neither Ms. Buck nor Mr. Lewis have
13 previously had an opportunity in a counseling environment to properly explore the impact of
14 their childhood sexual abuses upon each of them. Dr. Krueger's report from 2001 does not
15 mention Mr. Lewis disclosed he was sexually abused as a child. While Ms. Buck's
16 psychological evaluations expounded on the sex abuse her step-father inflicted upon her, they
17 do not connect the sex abuse she suffered at the hands of Ray Towns to her injuries.
18 Moreover, to the extent that other health care professionals may have diagnosed PTSD, for
19 example, it is evident that there has been no meaningful dialogue with Ms. Buck or Mr. Lewis
20 about the cause of the diagnosis or corresponding symptoms.

21 9. I believe my opinions are in keeping with the mainstream of professional
22 mental health practitioners, and reflect a review of relevant psychological literature, and meet
23

1 the standards of clinical probability and compliance with scientific evidence about similar
2 experiences.

3 10. Both Ms. Buck and Mr. Lewis need extensive counseling as recommended
4 in my reports to help them understand the connections between their suffering and the
5 childhood sexual abuse. Only after they come to understand the full impact upon them will
6 they be able to take the next step towards healing, to the extent possible, from the preventable
7 abuses that are at issue in this lawsuit.

8

9

10 I declare under penalty of perjury under the laws of the State of Washington that the
11 foregoing is true and accurate to the best of my knowledge.

12

DATED this 16 day of August, 2013.

13



14

ROBERT WYNNE, PhD

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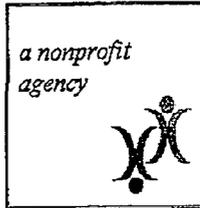
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EXHIBIT 1

0-000000328



The Children's Psychological Health Center, Inc.

2105 Divisadero Street, San Francisco, California 94115 USA

(Ph)415-292-7119 (fax) 415 749-2802

www.childrenspsychological.org

Curriculum Vitae

Robert L. Wynne, Ph.D., MFT

Lic. #MFC 27612

Education

- 2002 California Institute of Integral Studies, San Francisco, CA
Ph.D. Clinical Psychology
- 1985 California Institute of Integral Studies
M.A., Counseling Psychology
- 1977 University of Connecticut, Storrs, CT
B.A., Psychology

Clinical Positions and Experience

- 1990 - Present Private Practice, San Francisco and Novato, CA:
Licensed Marriage and Family Therapist: Long-term and brief psychotherapy for adults, adolescents and children.
- 1999 - Present Survivors International, San Francisco, CA:
Conduct psychological evaluations and individual psychotherapy for individuals seeking political asylum and/or victims of political torture and persecution.
- 1994 - Present Preventive Psychiatry Associates, San Francisco, CA:
Forensic Psychology: Assist Gilbert Kliman, M.D., in conducting forensic evaluations: patient interviews, document review, administering psychometric tests, formulating and writing psychological assessments, expert witness testimony.
- 1994 - 1998 RISE Institute, San Francisco, CA:
Child Therapist: Individual and group psychotherapy for severely emotionally disturbed children and adolescents, within a special education school setting.
- 1994 - 1995 Kid's Turn, San Francisco, CA:
Child Psychotherapist/Group leader: Conduct psychoeducational groups for children and adolescents whose parents were recently divorced or separated.
- 1991 -1993 California Pacific Medical Center, Department of Psychiatry, S.F., CA:
Psychology Intern: Long term and supportive psychoanalytic psychotherapy with neurotic, character disordered, and psychotic adults and children. Intake assessments, crisis on-call duties, and inpatient consultation. Intensive two-year course of training including four hours individual supervision and 10-12 hours training seminars, weekly.

0-000000329

APPENDIX - A

- 1991 - 1992 The Family Therapy Center, San Francisco, CA:
Psychology intern in Saturday Center program: Short-term and long-term psychodynamic and family systems psychotherapy with adults, children, families, and couples representing a varied diagnostic population.
- 1991 - 1992 Jewish Family and Children's Services, Belmont CA:
Psychotherapist: Time limited psychotherapy for individual adults and couples representing a broad range of diagnoses.
- 1990 - 1992 New Perspectives - The Gateway Project, Richmond, CA:
Child Psychotherapist: School-based, time limited and long-term individual, group and family therapy for children of alcoholic parents. Provided in-service training for teaching staff.
- 1990 - 1992 The Grief Counseling Project of Suicide Prevention, Berkeley, CA:
Psychology Trainee: Short-term supportive psychotherapy for adults, adolescents, families and groups with a focus upon bereavement issues.
- 1987 - 1989 Edgewood Children's Center, San Francisco, CA:
School Coordinator/Senior Counselor: Crisis support and therapy for severely emotionally disturbed children within a residential, special education school setting. Supervised child care workers and participated with multi-disciplinary treatment team review and planning.
- 1984 - 1985 Integral Counseling Center, San Francisco, CA:
Intern: Long-term psychotherapy for individuals, adults and couples.
- 1980 - 1981 American Red Cross, Disaster Relief Counselor, New Haven, CT:
Crisis Counselor (Volunteer): Provided crisis counseling to disaster victims and facilitated placement in emergency shelters.
- 1979 - 1980 Whalley Prison, Thresholds Program, New Haven, CT:
Prison Counselor (Volunteer): Provided brief individual counseling and taught decision making skills and values clarification for prisoners nearing discharge.
- 1977 - 1978 Mansfield Training Center, Mansfield, CT:
Counselor: Milieu treatment for severe to profoundly retarded adults and children.

Supervisory Experience

- 2005- Present California Pacific Medical Center, Outpatient Psychiatry Department, San Francisco, CA:
Clinical supervisor: Supervise pre-doctoral and post-doctoral psychology interns.
- 1999 - 2005 New College of California, San Francisco, CA:
Group supervisor: Weekly child case conference for post Masters level interns.
- 1998 - 2002 New College, San Francisco, CA:
Clinical Supervisor: Supervise Masters level interns for psychotherapy of children and adults.
- 1993 - 1999 Crisis Support Services of Alameda County, Berkeley, CA:
Clinical Supervisor: Supervise Master's and Doctoral level interns in brief psychotherapy for bereaved children, adolescents and adults. Assist in teaching of training seminars.

Presentations and Teaching Experience

0-000000330

- Spring 1999 Save Our Youth Conference: Provided two hour seminar on Community Violence, Trauma and Adolescent Development, to mental health professionals at Samuel Merritt College in Oakland, CA.
- Spring 1998 Psychological Trauma Center Seminar: Workshop for legal professionals concerning my forensic evaluation of Eskimos located in remote Alaskan villages.
- Spring 1996 Psychological Trauma Center Seminar: Workshop for legal professionals concerning assessment on the interaction of trauma and grief reactions.
- Fall 1995 Training workshop at Crisis Support Services: Assessing Posttraumatic Stress Disorder, provided to Master's and Doctoral interns.

Research

Doctoral Dissertation: "Adolescents' Exposure to Community Violence: Living as If There Is No Tomorrow."

Professional Memberships

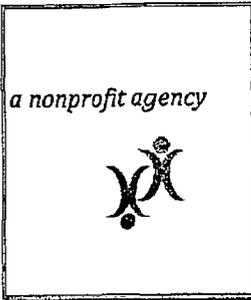
California Association for Marriage and Child Therapists

Friends of the San Francisco Psychoanalytic Institute

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EXHIBIT 2

0-000000332



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PRELIMINARY PSYCHOLOGICAL OPINION

ROBERT WYNNE, PhD, MFT

REGARDING: SHARLA BUCK

DATE OF BIRTH: 01-21-73

DATES OF EXAMINATION: 02-15-13; 05-13-13

DATE OF REPORT: 05-17-13

BACKGROUND

Sharla Buck is a plaintiff in civil litigation against the defendant, the state of Washington's Department of Social and Health Services (DSHS). The plaintiff's attorney, Lincoln Beauregard, from the Connelly Law Offices in Tacoma, Washington contacted The Children's Psychological Health Center (CPHC) and requested a forensic psychological evaluation. At the behest of Gilbert Kliman, M.D., Medical Director of CPHC, I was asked to assess the plaintiff's psychological status. Sharla Buck's brother, Phillip Lewis is also a plaintiff.

The Plaintiff's Complaint indicates that while Sharla was a minor under the care of the Defendant Department of Social and Health Services that she told her caseworker, Audrey Turley (heretofore Turley) (an employee of DSHS), that she was being sexually molested by her foster father, Ray Towns. The complaint states that "Turley knew, or with reasonable care should have known that Ray Towns was regularly and frequently molesting Sharla. The complaint states that due to Turley's negligence that Sharla suffered ongoing and frequent sexual fondling of her breasts and vaginal areas by Ray Towns.

In her interrogatory, Sharla reports that she was repeatedly molested by Ray Towns. She states that she reported the abuse to her DSHS caseworker, Audrey Turley:

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"I told Audrey Turley about being abused after she asked me what was wrong with me after I had been in foster care with Georgina and Ray Towns for seven months, give or take. I was in foster care with the Towns for several (sic). This conversation occurred in Turley's SUV during a drive to Aberdeen on the way to a visit to see my mother. Specifically, I recall telling Turley that I wanted to tell her something but I did not want to get into trouble. I informed her that Ray Towns had been touching my breasts and putting his hands in my pants. I was about age 10 or 11. Turley told me that she did not believe what was happening and that if I thought this was the way to get my mom back, I was wrong. She said that I needed to give it up and that she was going to tell my foster father what I was saying. After that I stopped trying to tell her things.

"Months later, I ran away to my father's house. The Towns found me and came to get me. Turley showed up the next day I believe at the Towne's house. She wanted to know why I was running away and what was happening. Did my mom put me up to this? I said no, I ran away because of what Ray Towns had been doing to me. Turley told me that no one was going to believe me anymore. And, she said that accusing Ray Towns was not going to get my mom back and that she knew that was why I was doing this. Eventually, after years in the Towns home, I was picked up one day at school and never returned. During the time that I was in foster care with Towns, I was constantly molested. It typically occurred at least once a week while he was driving me to counseling. He would touch my breasts, put his hand in my pants, and make me touch his penis. These are the sorts of behaviors that I told Turley about. I also told Turley about being beaten in the Towns home." (Interrogatory)

PROCEDURES

The evaluation was conducted on February 15, 2013 at the Connelly Law offices in Tacoma, Washington. The plaintiff was informed regarding the forensic purpose and process of the evaluation. She was advised of the limited confidentiality and potential forensic uses of the information obtained during the evaluation. Given the plaintiff's verbal understanding and signed consent to videotape, the evaluation was conducted. The day-long assessment included my face-to-face, videotaped interview with Sharla, and the administration of psychometric tests and psychosocial history questionnaires. An approximately 45-minute telephone interview was conducted on May 13, 2013. The opinions formulated in this report are based upon my review of interview notes, videotapes, a review of test results, questionnaires and computerized psychometric assessments listed in the inventory, and a review of the documents made available by Mr. Beauregard's law office (see inventory attached). The records received and reviewed are summarized in an attached 85-page chronology.

The intention of this report is to address the validity and nature of the alleged sexual assault while in foster care and the plaintiff's reporting of the assaults to the DSHS caseworker; the nature and severity of the damages that the plaintiff suffered from the assaults; implications for past, present and future functioning; and to provide treatment recommendations based upon damages that have been found.

QUALIFICATIONS TO CONDUCT THIS EVALUATION

See my curriculum vitae.

DOCUMENTS REVIEWED

See inventory of documents received.

SUMMARY OF RELEVANT RECORDS RECEIVED

Summary of DSHS records (see timeline for detailed review)

Sharla Marie Warfield was born in Chehalis, Washington, the daughter of Lona Lewis and Edward Lindholm. When Sharla was around age one the parents separated. The mother then remarried Roy Lewis. Sharla has two brothers, Phillip and Jerry and two sisters, Crystal and Tressa. In April 1984 when Sharla was 11 years of age, CPS determined that Roy Lewis had been molesting her for several years. Mr. Lewis was arrested and incarcerated. In addition to the molestation, Sharla's early home environment included neglect, physical abuse and malnutrition. The parents had criminal involvement and abused drugs and alcohol. At the time of Roy Lewis's arrest, Lona Lewis was already in jail for burglary charges. Apparently, the mother had been aware of the molestation for some time (Sharla Buck DSHS, 1).

Sharla and her brother Jerry were placed for a brief time with the natural father, Edward, and his wife, Deanna Lindholm. Pre-pubescent, Sharla was described as openly provocative and hostile. Deanna could not tolerate the children's behavior and they were placed elsewhere. Dependency Court records noted the following recommendation: "In the long run, the emotional problems of both children will require in-depth psychological treatment for incest." A stable, long-term home was recommended, as "an unstable, rejecting environment will only serve to exacerbate the problems" (4 Dependency Court Records, Buck, 2).

In June 1987, Sharla was placed in the foster home of Georgina and Ray Towns. She was 13 years of age. Records note allegations that one of the foster parents' children "harassed Sharla

and coerced her into questionable activities against her will." Sharla's placement ended after she and another foster child alleged abuse by the foster father.

DSHS records indicated that despite the serious psychological concerns that Sharla was able to compartmentalize these challenges and perform well in the school setting: "Sharla has serious social and identity problems which relates to the severe sex abuse she suffered. These problems are being dealt with in counseling. Sharla is doing well academically and not posing any discipline problems at school." Sharla attended Yelm Middle School, then Yelm High School from 1990-91. She completed 11 years of school and earned her GED at age 16 in 1991 from South Puget Sound Community College (Interrogatory). Sharla was married in 1991 and in April 1993, her son, Rick Travis Woodson, was born (Interrogatory). She was divorced in November 1994.

In August 1997, at 24 years of age, Sharla was in a horrific motor vehicle accident whereby three of her friends were killed. Reportedly, she was asked to drive the car by the friends because she had not been drinking. Sharla was in a coma and on life support for a few weeks after the accident (Sharla Buck DSHS, 24) (2 Behavioral Health Resources, Buck, 4). She was charged with vehicular homicide and incarcerated from 1997 to 2001 (2 Behavioral Health Resources, Buck, 9).

In 2002 at about age 29, Sharla was married a second time. Her husband was physically abusive and they separated in November 2007. In August 2008, Sharla was kidnapped and assaulted by a man she considered a close friend. She suffered numerous contusions, chest wall injury and a fractured spine (Interrogatory, 5)(1 DSHS records Buck, 20)(1 DSHS records Buck, 21)(2 Behavioral Health Resources, Buck, 11-13).

A July 2009 psychological evaluation by Terilee Wingate, Ph.D. indicated that Sharla had constant intrusive thoughts of the August 2008 assault by a friend and "childhood abuse." She was hypervigilant, panicky and had nightmares. She was diagnosed with PTSD and Major Depressive Disorder, recurrent, severe. Her father died a year before the evaluation (Sharla Buck DSHS, 53; 60).

A July 2010 psychological evaluation by Jack Norris, Ph.D. also indicated PTSD and a Major Depressive Disorder diagnoses. At the time, Sharla was self-cutting (Sharla Buck DSHS, 36-38). GAF was listed at 35 (Sharla Buck DSHS, 39, 41). Notable trauma history included the following: raped by stepfather; molested by foster father; sexually assaulted multiple times; witnessed death; suffered domestic violence throughout her five years long second marriage.

Medical concerns included osteoporosis, spinal pain and elevated white blood cell count. She was forgetful and had word-finding problems since the motor vehicle accident in 1997. Medications included Lexapro, Seroquel, Lorazepam, Ambien, Premarin, Propanolol and Naproxyn pm. She reported that her mental status was worse than a year ago due to having to address issues she had been "trying to ignore," such as pending trial of man who assaulted her in 2008 (Sharla Buck DSHS, 45-46).

A July 7, 2011 psychological evaluation was administered by Tasmyn Bowes. Sharla reported three to four suicide attempts. The first attempt at age 15 resulted in a two month psychiatric hospitalization. The last self-harm attempt occurred nine months prior to the evaluation. Trauma history noted sexual assaults throughout childhood and foster care; several rapes as an adult; kidnapped from her mother by her stepfather as a child; kidnapped and raped as an adult and five year abusive relationship. Sharla remained troubled by intrusive day time memories, nightmares; avoidance symptoms triggered by crowds, loud noises and sounds and isolating. "I just want to be alone all the time." She expressed difficulty trusting people, extreme hypervigilance, startle response; irritability and emotional instability. Depression, panic attacks, a history of cutting, emotional instability, turbulent relationships, identity disturbance and impulsivity were noted (Sharla Buck DSHS, 22-23). Sharla had been seeing a counselor for two years "doing trauma work and felt she was making progress" (Sharla Buck DSHS, 24). DSM diagnoses included PTSD and Major Depressive Disorder, recurrent, severe, without psychotic features (Sharla Buck DSHS, 25, 26).

Memorandum from Troy Locati, CLI regarding Georgia Mae Towns

On April 5, 2013 Mr. Locati interviewed Georgia, who is 83 years of age, at her home outside of Oakville. Apparently, this home was a different location from when Sharla lived with the Towns family. Over the years, Georgia and Ray had over 30 foster children in their home. Georgia remembered Sharla and her family. She was unable to recall the dates that Sharla lived with them but believed that she was attending Elma Middle School when removed from the home by DSHS. Georgia could not remember whether Sharla had ever run away from the home. She thought that Sharla as well behaved and happy until near the end of her stay with the Towns. She heard that Sharla became pretty wild after leaving their home. Reportedly, Audrey Turley told them that after Sharla was removed from the home that she wanted to return. Reportedly, Georgia and her stepfather stopped by the home the Christmas after Sharla was removed.

Georgia spoke of the “emotional turmoil” that surfaced after another girl accused Ray of “trying to kiss her.” Mr. Locati notes that he “had the sense that the allegation was more serious than that, but Georgia could not or did not want to describe the allegation more precisely.”

Georgia could not recall the date that the “nightmare” began. She states that it started with the arrival of a younger girl approximately Sharla’s age. Reportedly, Georgia overheard the girl tell Sharla that if she wanted to get her half-sisters removed from their home, Sharla should accuse her stepfather of molesting her. Georgia states that she called Ms. Turley that Sharla might accuse him of abuse. Not long after, the young girl accused Ray of trying to kiss her while Georgia was in town. DSHS immediately removed the girls to other homes. Georgia could not or would not provide details regarding the investigation into the allegations against her husband. She states that no charges were filed. Georgia confirmed that Ray drove Sharla to Aberdeen (35 miles away) for her counseling sessions. She denies that she ever heard of allegations from Sharla that Ray made unwelcomed advances or touched the children inappropriately during those trips (Memo Troy Locati, p. 1-6).

SUMMARY OF PSYCHOLOGICAL EVALUATION

(Examiner’s note: The facts, impressions and events described in the ensuing sections, unless otherwise noted are as reported by Sharla Buck.)

Identifying information and behavioral observations

The plaintiff was punctual for the evaluation. Sharla lives in Rochester, Washington where she rents a room in her mother’s four bedroom house. The mother, Lona Elaine Hutto, and her husband Kenneth Hutto, also reside in the home. Sharla has been this location for just over a year. She is currently unemployed and supported by social security disability. Sharla is of average height and perhaps a tad overweight. Her casual attire included jeans and a grey hooded sweat shirt. The plaintiff was cooperative and compliant throughout the evaluation. She showed diligence in efforts to complete the questionnaires and test materials presented. Her communication and speech were reasonably clear, organized, coherent and informative. She appeared fully oriented and displayed no indications of a thought disorder – with the exceptions of being sensitive to odors others do not sense. While she spoke of short-term memory problems, Sharla showed adequate retention during the course of the examination. Evidence of frustration, anger, sadness, and anxiety were particularly apparent when discussing her history of abuse. Previous attempts at self harm and suicidal ideation were acknowledged, but she denied current intentions. She endorsed homicidal ideation in relation to Audrey Turley in particular from age 14 to twenty. “I had that thought every day.” This time period coincided with her first suicide

attempt at age fifteen. Sharla insists that she would not act on the impulse, but has “fantasized and thought about it for many years.” Sharla adds that “What is done is done.” She never had a plan. Insight and judgment were fair.

Relevant pre-foster placement developmental history

The biological mother, Lona Elaine Warfield, was 17 years of age when she gave birth to Sharla. The biological father, Edward Garther Lindholm, was 38 years old. Edward was already married to another woman and with children. Reportedly, Lona had been a babysitter for Edward and his mentally retarded child. Edward was still married when Sharla was born. Two years before when Lona was 15 years old, she had given birth to Sharla’s older brother, Jerry. Edward was also the father. Lona lived with her parents until shortly after Sharla was born. When Sharla was two years of age, Lona married an “army guy” named Roy Lewis. They produced four more children: Phillip, Travis, Tressa and Crystal. For reasons that were never clear, Travis died at 17 days old on Mother’s Day in Lona’s. (Edward died four years ago from cancer. Sharla “got to know him two weeks before he died.”)

Sharla was exposed to ongoing domestic abuse. Roy would “bust batteries and coffee cups” over Lona’s head and engaged in vicious physical abuse of her brothers. Once when Phillip was about six years old, Roy grabbed him by the neck and swung him “like a rag doll.” For years there was no CPS or police involvement. Sharla was around nine when Roy took work on a fishing boat in Alaska. While he was away, Lona secretly moved the children to another location. In Roy’s absence, Lona abused drugs and alcohol. Roy showed up a year later, put a gun to Lona’s head and “kidnapped” the children in his Jeep SUV. They had mechanical problems, got stuck in the snow and lived off of pickled eggs for about a week. “It was hell.”

Though she has no conscious memory, Sharla believes that Roy began molesting her as a toddler. From age four he made her touch his genitals. She became teary when recalling how the abuse “happened very day.” He would set her on the counter and fondle her vaginal area. “It just got worse as I got older.” The abuse included mutual oral sex and he eventually attempted intercourse.

It was not until after the kidnapping when Sharla was 10 years old that CPS showed up at her elementary school and the molestation was disclosed. Sharla initially denied the abuse due to fear of reprisal by Roy. Social workers convinced her that if she told the truth that they would keep the family together. However, she felt betrayed as the family was then broken up. After a short-

lived placement with her biological father and his wife in Oakville, Sharla was placed in foster care.

Sharla attended kindergarten to about third grade at Tanaska Okanogan on the Oakville Indian Reservation. Due to frequent moves, she attended a few other schools including Rochester (fourth grade), and Westside Olympia (fifth grade). School provided some relief and she recalls largely earning A's and B's. Sharla later attended Yelum Middle School and then Yelum High School. She dropped out in the 11th grade but at age 16 earned her GED.

Summary of foster placement with Georgia and Ray Towns

Sharla and her brother, Jerry, were placed in the foster home of Georgia and Ray Towns who were located in Porter. Sharla was in the sixth grade. Also in the home were the Towns' daughter and a 13-14 year old Native American foster sister. After a short time, Jerry was reunited with his mother. Beforehand, Ray drove Sharla and Jerry to Aberdeen for weekly counseling. Sharla states that the molestation began before Jerry was removed from the home. She cannot remember the name of her therapist who was a woman. Sharla had not been in therapy prior to this treatment.

Sharla described Ray Towns as a "big, burly disgusting man and a pushover to his wife." He had grey hair and was "sweaty and stinky." She believes he worked at a grocery store in Aberdeen. She described Georgia as obese, emotionally cold, controlling, often angry and at times physically abusive toward Jerry. The Towns raised and butchered animals on their farm. Sharla deemed the home "unfit for foster children."

The first incident of inappropriate touching began approximately a month after Sharla arrived at the Towns home. Initially, Sharla perceived Ray brushing against her breast as inadvertent. But then the contact happened again and Sharla realized that the touching was "deliberate." When asked of her reaction, Sharla reports that she physically froze and did not say anything.

The molestation took place exclusively in Ray's four door sedan. Sharla sat in front while en route to and from evening counseling sessions. The abuse occurred when they were parked as well as when driving. Ray put his hands in her pants and eventually digitally penetrated her vagina. On several occasions, he tried to engage Sharla in French kissing. Ray also made her touch his genital area over his pants. As to what Ray might say, Sharla recalled comments such as, "Doesn't that feel good?" He told her not to tell anyone. After molesting her, Ray typically

stopped at a gas station and bought her candy bars as a "prize." The molestation was ongoing for about one year.

Disclosure of abuse to caseworker

Not long after the onset of the molestation, Sharla told her case worker, Audrey Turley. She believes the disclosure was made within a few months of arriving at the Towns. As noted in the interrogatory, Sharla also estimated that she told Turley about seven months into the placement. Sharla recalls explicitly telling the caseworker about the abuse while they travelled in her car to see Sharla's mother who was incarcerated for robbery. She told Turley "exactly" what Ray was doing to her: French kissing and touching her genitals. At first Sharla feared repercussions from the disclosure. "I was scared...I did not know what would happen." Sharla's worst fear was realized when Ms. Turley's responded by accusing Sharla of "making stuff up." Turley assumed that the child's allegation was just a means to be with her sisters. Turley warned that if Sharla continued to do this that no one will want her. Characteristic of child victims of sexual abuse, she felt ashamed and blamed herself for allowing the contact. She felt "dirty." Sharla also feared that if she told the truth again that she would be punished. "I felt I was doing something wrong." Consequently, Sharla kept the molestation a secret and never told her therapist until another foster girl came forward.

About one year into the placement, Sharla ran away to her biological father's home. She told Audrey Turley that she did not want to live in the Town's home any longer. This incident took place a "long time" after she had disclosed the abuse. Another foster girl (Sharla does not remember her name) who was in the Towns home claims that she was also abused by Ray. Both the girls disclosed the abuse to a counselor at school. Sharla retains a clear memory of the school secretary, Mary Bower, calling the Elma Police Department, who took their reports of being molested by Ray Towns. Sharla does not know if he was arrested or prosecuted. At the time of disclosure, she was a seventh grader at Elma junior high. She earned A's and B's and was not a behavior problem.

Summary of history following placement with the Towns

Following disclosure of the abuse, Sharla was removed from the Towns home and placed with Connie and Verne Schmitt for a few months. They were very Christian and nice to her. She was then placed with Donna and Joe Jach for a year and a half to two years. Mrs. Jach was like a friend to Sharla and her foster sister, Laura Hanson. However, after they moved from Elma to Olympia, Sharla observed the foster parents using drugs and believes that they "became cocaine

addicts." Sharla was 15-16 years old. When the examiner asked about records suggesting that the foster parents' children harassed and coerced her into questionable activities, Sharla was unaware of this incident. After the Jach home she was admitted to Pacific Gateway due a suicide attempt. She was then temporarily placed with the PACT Agency (parent and child togetherness). From age 16-18 Sharla was placed with Pat and Wilma Pincham, which she referred as the "the best thing that ever happened to me." Sharla had finally "found what a real father is supposed to be like and what family, love and honesty are supposed to be." She still sees "Papa Pat" on occasion. He once worked at Deschutes Boys Home as a counselor. In 1989, Sharla attended a Beauty School for seven months. At a later date, she also attended Business Computer Training for medical billing for nine months. She earned a licensed for installation of office building furniture and was a lead installer in 1999, albeit, while in prison.

Adult relationships / marriage / parenthood

Sharla's first consensual sexual experience was on her wedding night at age eighteen. At age twenty, despite birth control, Sharla became pregnant with her son, Rick. When Sharla was 24 years old, she and her 26 year old husband, Duane Woodson were divorced in part due to her inability to be sexual. "I just could not be intimate. I would get sick, cry, and just left and filed for divorce." During this time, mother helped with parenting. Sharla described the experience of motherhood as a "gift." She denies significant conflict or challenges associated with parenting. She was never abusive or even spanked her son. Rick currently lives in Olympia, is employed in logging and lives with his girl friend. "He is doing awesome." In 2002, Sharla was married to Robert Buck. However, Robert's drug problem resulted in his eventually returning to prison. They are now legally separated but good friends. Sharla has had a total of four consensual sexual partners.

Vocational history

From age 18 to 24, she worked in retail sales at Mervyns and Fred Meyers. She stopped working after the car accident in 1997 (see below). Sharla worked as a cashier in a restaurant from November 2001 to March 2003. She was then employed at Little Creek Casino from March 2003 to 2005 in Environmental Services. She ensured that chairs were pushed in and machines were clean. From 2005-2007, she also worked at the casino as a security guard. She left the position when her husband's substance abuse was out of control and she needed to care for her son. Beginning in March 2006, she worked as an apartment complex manager in Port Orchard.

Additional trauma exposure

Sharla was 16 years of age on July 18, 1989 when riding in a car with friends. One of the friends in another vehicle was decapitated after he stuck his head out the sunroof. Then on her 22nd birthday, Sharla witnessed a close friend named Eric pull the trigger with a shot gun in his mouth after catching his girl friend in bed with another guy. Sharla has no conscious memory of the tragic 1997 motor vehicle accident in which she was the driver and whereby three friends and the driver of another car were killed. The head-on collision left her in a coma for three weeks. In addition to head trauma, her shoulder blades were shattered, both wrists broke she ruptured organs, and required re-constructive surgery. "I just know that at my hands, my best friend is gone." Following the accident, she experienced short term memory loss and word-finding difficulty. She was incarcerated for 4.5 years. Prison was scary but she was unharmed as lifers took her under their wing. She incurred a "life time of paying debts." She has paid over \$13,000 and owes \$14,000 in interest. In a tragic twist of fate, her son is marrying her deceased friend's daughter.

In August 2008, Sharla was kidnapped and repeatedly assaulted by a man named Daniel. He had strong feelings for Sharla, which were not reciprocated. She was held captive in the woods and assaulted over a 36-hour period. She was punched, kicked and he tried to run her over in his truck. She escaped by jumping out of the vehicle while still moving. Sharla suffered cracked ribs and was hospitalized. Daniel was arrested and incarcerated, though she is uncertain what charges were brought against him. He was also served with a five year restraining order. Since the assault, she became afraid of the dark. She states, "That incident pretty much broke me." She is now supported by SSI and SSDI.

Psychiatric history

In 2007-08, Sharla participated in psychotherapy at Safe Place, a child abuse and rape crisis center. Regarding her history of molestation, Sharla states that she was "not able to talk about these issues. I was always on the run." She was also in weekly individual therapy at Cascade Mental Health from 2008 and was prescribed antidepressants. After cutting her wrist in January 2013, Sharla also attended therapy at Behavioral Health Resources for a couple of months. She has returned to weekly sessions with Peggy Dequette, MHP, LNHT, MA.

Summary of current functioning

Sharla experiences "anxiety attacks" particularly when exposed to loud noise and crowds. She becomes panicky (e.g., heart palpitations, trouble catching her breath) when in enclosed spaces

such as elevators or not being able to see what is around her. Her sleep is disturbed and she has troubling dreams. A typical night includes awakening at midnight and helping her stepfather (Kenneth) ready newspapers for delivery. She returns home and sleeps for a couple hours, then awakens at 3:00 to 4:00 a.m. five to seven nights a week. She feels safer when sleeping during the day. "I can see that nothing can get me." Otherwise, Sharla passes time writing in her journal, communicating with her son, and doing arts and crafts.

As to how the molestation by Ray Towns affected her, Sharla states that "the pain will never go away." She "always feels dirty." Sharla compulsively cleans "whether dirty or not." She believes that the molestation affected her ability to trust and be intimate in relationships, as well as the type of men she has chosen. Sharla feels that the molestation by Ray Towns also damaged opportunities to get to know her birth father. After being abused by both her step father and foster father, she feared that he too was a "child molester." Sharla was revolved to "never give him a chance."

Sharla is severely depressed. On January 20, 2013, she sliced her wrist. "I was trying to kill myself." She became teary while explaining: "It just seemed like everything was going on in my head and I could not pin point it, and all these years of holding it in and I just broke." She last attempted to harm herself three and a half years ago with a razor. She denies current intentions of self harm, but that she has no desire to live. Additional relevant history includes a 45 day hospitalization in 1989 at Pacific Gateway in Portland, Oregon after swallowing a large quantity of sleeping pills.

Sharla had been in a relationship with Russell Lipsey for four years. However, seven months ago he moved to Texas to attend school. Overall, the relationship was stable, but Russell feared she was cheating on him. He was suspicious because she was not sexual and accused Sharla of being secretive about her past. She eventually told him more details about her molestation history after he insisted that she take a lie detector test to prove she was telling the truth.

Somatic concerns are prominent. She receives disability insurance due to a blood disorder which impacts her immune system. In addition, she has extensive osteoporosis and degenerative disk disease. Due to head trauma from the 1997 car accident, Sharla takes medication for daily migraines. On occasion, she smells things that others do not smell, such as the scent of plastic burning. Current medications include Neurontin, Lexapro 20 mg, methacarbonal 750 mg x 3/day (a muscle relaxer), Caltrate (for bones) and Calcium 2100 mg. She smokes 7-8 cigarettes a day. She denies recreational drug use or abusing prescription medication. Sharla experimented with marijuana at age sixteen. In the mid 1990's she experimented with methamphetamine, then again

in 2006. Since that time she has used meth about three times. She began drinking at age 16 but did not drink to excess until when married. She estimates that over the past six months she has consumed ten drinks and was intoxicated once in the past year.

Sharla's religious affiliation is Christian. She attended church regularly until about a year ago due to feeling increasingly anxious. Sexual relationships have remained problematic. The act of sex has always felt an obligation and she prefers "not being touched – period." Sharla denies concerns regarding her own sexual impulses with regard to abusing others. She has a current driver's license and incurred no other moving violations or had other problems with the law. Prior to the accident she had never been incarcerated, let alone had a traffic ticket.

Sharla's brother, Jerry, is in prison for drugs, forgery and ID theft (third time). Her brother, Phillip, is caring for his three young children. She views Phillip as "messed up." She states that he is on SSI due to suffering from Borderline personality disorder, antisocial behaviors and schizophrenia. They have never gotten along. In the past he abused drugs. Sharla's sister, Crystal, has a disabling genetic disorder called Prader-Willi Syndrome and lives in an adult nursing home. Tressa is married with three young children.

When asked about her reasons for litigation at this time, Sharla recalled driving her brother, Phillip, to an appointment with his attorney. He informed her of his abuse history in foster care. Initially, Sharla had no intention of sharing her history, but realized that she had never gotten over feeling betrayed by DSHS, who was there to "protect us." Sharla added, "I am not going to allow this happening to others...I kept my mouth shut too long...I am struggling with difficult feelings, like why I want to die so bad... Why can't I be in a normal relationship and be like others?"

SUMMARY OF PSYCHOMETRIC TESTING

Posttraumatic Stress Diagnostic Scale (PDS)

The PDS is designed to aid in the diagnosis of Posttraumatic Stress Disorder. Sharla's response profile is consistent with a diagnosis of PTSD. Results indicate a symptom rating of "moderate-severe," and level of impairment in functioning as "severe." She endorsed exposure to multiple traumatic incidents, including sexual assault by a stranger; imprisonment; a non-sexual assault by a family member or someone she knows; a sexual assault by a family member or someone she knows; sexual contact when she was younger than 18 with someone who was five or more years older; and a traumatic event that she described as "brother blowing head off." The event that bothered her most at the time of testing was a sexual assault by a family member or someone she

knows. All six diagnostic categories were fulfilled: Exposure to a traumatic event; Reexperiencing symptoms; Avoidance symptoms; Arousal symptoms; Symptom duration of one month or more; Distress or impairment in functioning.

Reexperiencing symptoms: DSM-IV requires one or more "reexperiencing" symptoms to be endorsed. Sharla endorsed five possible symptoms:

- Having upsetting thoughts or images about the traumatic event that came into your head when you didn't want them to; two to four times a week/half the time.
- Having bad dreams or nightmares about the traumatic event; Once a week or less/once in a while
- Reliving the traumatic event, acting or feeling as if it was happening again; Once a week or less/once in a while
- Feeling emotionally upset when you were reminded of the traumatic event (for example, feeling scared, angry, sad, guilty, etc.); 2 to 4 times a week/half the time
- Experiencing physical reactions when you were reminded of the traumatic event (for example, breaking out in a sweat, heart beating fast); 2 to 4 times a week/half the time

Avoidance Symptoms: DSM-IV requires three or more "avoidance" symptoms to be endorsed. Sharla endorsed 6 of the 7 possible symptoms:

- Trying not to think about, talk about, or have feelings about the traumatic event; 5 or more times a week/almost always
- Trying to avoid activities, people, or places that remind you of the traumatic event; 2 to 4 times a week/half the time
- Not being able to remember an important part of the traumatic event; 2 to 4 times a week/half the time
- Having much less interest or participating much less often in important activities; 5 or more times a week/almost always
- Feeling distant or cut off from people around you; 5 or more times a week/almost always
- Feeling as if your future plans or hopes will not come true (for example, you will not have a career, marriage, children, or a long life); Once a week or less/once in a while

Arousal Symptoms: DSM-IV requires two or more "arousal" symptoms to be endorsed. Sharla endorsed all 5 possible symptoms:

- Having trouble falling or staying asleep; 2 to 4 times a week/half the time
- Feeling irritable or having fits of anger; Once a week or less/once in a while
- Having trouble concentrating (for example, drifting in and out of conversations, losing track of a story on television, forgetting what you read); Once a week or less/once in a while
- Being overly alert (for example, checking to see who is around you, being uncomfortable with your back to a door, etc.); Once a week or less/once in a while
- Being jumpy or easily startled (for example, when someone walks up behind you); 2 to 4 times a week/half the time

Symptom Checklist 90-R (SCL-90-R)

The SCL-90-R is a self-report measure designed to aid in the identification of symptom patterns and diagnosis. Sharla's profile is indicative of her suffering symptoms and level of distress in the clinical range.

Sharla endorsed "Extremely" distressed for the following:

- 5. Loss of sexual interest or pleasure.
- 18. Feeling that most people cannot be trusted.
- 19. Poor appetite.
- 20. Crying easily.

Sharla endorsed "Quite a Bit" distressed for the following:

- 1. Headaches.
- 3. Repeated unpleasant thoughts that won't leave your mind.
- 13. Feeling afraid in open spaces or on the streets.
- 14. Feeling low in energy or slowed down.
- 15. Thoughts of ending your life.
- 26. Blaming yourself for things.
- 27. Pains in lower back.
- 54. Feeling hopeless about the future.
- 59. Thoughts of death or dying.
- 66. Sleep that is restless or disturbed.
- 70. Feeling uneasy in crowds, such as shopping or at a movie.
- 83. Feeling that people will take advantage of you if you let them.
- 87. The idea that something serious is wrong with your body.
- 90. The idea that something is wrong with your mind.

Davidson Trauma Scale

The DTS is a diagnostic screening tool for PTSD. Severity ratings range from not all distressed to extremely distress.

Sharla endorsed the following symptoms associated with having suffered traumatic experiences:

Painful images, memories or thoughts about the event (She endorsed a frequency of “two to three times” and severity as “markedly” distressing)

Distress from dreams of the event (She endorsed a frequency of “two to three times” and severity as “extremely” distressed)

Felt that this was recurring – as if you were reliving it (She endorsed a frequency of “once only” and severity as “extremely” distressed)

Upset by something that reminds you of the event (She endorsed a frequency of “once only” and severity as extremely distressed)

Physically upset by reminders? (She endorsed a frequency of “once only” and severity as “extremely” distressing)

Avoiding any thoughts or feelings about the event (She endorsed a frequency of “every day” and severity as “extremely” distressing)

Avoiding things or going into situations that remind you of the event (She endorsed a frequency of “every day” and severity as “extremely” distressing)

Found yourself unable to recall important parts of the event (She endorsed “two to three times” and severity as “extremely” distressing)

Had difficulty enjoying things (She endorsed a frequency of “every day” and severity as “extremely” distressing)

Felt distant or cut off from people (She endorsed a frequency of “every day” and severity as “extremely” distressing)

Unable to have sad or loving feelings (She endorsed a frequency of “two to three times” and severity as “extremely” distressing)

Hard to imagine having a long life and fulfilling goals (She endorsed a frequency of "two to three times" and severity as "extremely" distressing)

Trouble falling asleep or staying asleep (She endorsed a frequency of "two to three times" and severity as "extremely" distressing)

Irritable or outburst of anger (She endorsed a frequency of "two to three times" and severity as "markedly" distressing)

Difficulty concentrating (She endorsed a frequency of "two to three times" and severity as "markedly" distressing)

On edge, easily distracted and on guard (She endorsed a frequency of "four to six times" and severity as "markedly" distressing)

Jumpy and easily startled (She endorsed a frequency of "four to six times" and severity as "markedly" distressing)

Adult Behavior Checklist

Sharla's mother, Lona Elaine Hutto, completed the checklist and endorsed the following regarding Sharla: She has osteoporosis, depression, PTSD, abandonment issues, and is obsessive about certain things. Concerns include the following: that she will hurt herself, withdraw further into herself, let men control her or hurt them back and end up in prison, can be very vindictive and secretive. The best things about her: beautiful, helpful, funny, loves animals and nature.

Ms. Hutto endorsed the following to be "*very true/often true*" of Sharla: Argues a lot, works up to ability, can't concentrate/pay attention for long, can't get mind off certain thoughts, obsessions: cats, cleaning her room, too dependent on others, cries a lot, is pretty honest, daydreams or gets lost in her thoughts, deliberately harms self or attempts suicide, worries about her future, doesn't eat well, fears certain animals, situations, or places: groups of people, the dark, being around most males, fears she might think or do something bad, feels worthless or inferior, gets hurt a lot, accident prone, would rather be alone than with others, nervous, high strung, or tense, lacks self-confidence, can do certain things better than others, too fearful or anxious, feels dizzy or lightheaded, feels tired without good reason, mood swings between elation and depression, has physical problems without known medical reasons: aches and pains, headaches, nausea, feels sick, rashes or skin problems, stomachaches, vomiting, throwing up, picks scabs – says the pain feels good, there is little she enjoys, poorly coordinated or clumsy, repeats certain acts over and over, compulsions: picks scabs, possibly cuts, pukes, secretive, worries about her family, meets responsibilities to her family, has trouble making decisions,

speech problem: can't find correct words, very changeable behavior, talks about killing self, passive or lacks initiative, threatens to hurt people, has trouble sleeping, underactive, slow moving, lacks energy, unhappy, sad, depressed, tries to be fair to others, feels she can't succeed, tends to lose things, withdrawn, doesn't get involved with others, worries, gets upset too easily.

She estimates that in the past six months Sharla has used tobacco 10-20 times a day, was drunk/had drinks on 10 days, and doesn't think that she used drugs (for non-medical purposes).

Adult Self-report

Sharla's partner moved to Texas seven months ago. She has poor relationships with her brothers; and no contact with her two sisters.

Sharla endorsed the following to be "*very true/often true*" of herself: makes good use of opportunities, pretty honest, doesn't eat well, aches and pains (not stomach or headache), headaches, secretive or keeps things to self, unhappy, sad or depressed, keeps from getting involved with others.

Sharla endorsed the following to be "*somewhat or sometimes true*" of herself: is too forgetful, argues a lot, works up to ability, has used drugs/meth, can't concentrate/pay attention for long, can't get mind off certain thoughts – says the way the family is towards her, trouble sitting still, lonely, confused or in a fog, cries a lot, mean to others, deliberately tries to hurt or kill herself, worries about her future, breaks rules, doesn't get along with other people, doesn't feel guilty after doing something she shouldn't, jealous of others, gets along badly with family, fears certain animals, situations, or places: darkness, alone with people, woods, being lost, poor relationship with opposite sex, fears she might think or do something bad, feels that she has to be perfect, feels that no one loves her, fears others are out to get her, feels worthless or inferior, gets hurt a lot, accident prone, hears sounds and voices that other people think aren't there, would rather be alone than with others, nervous, lacks self-confidence, can do certain things better than others, too fearful or anxious, feels dizzy or lightheaded, has trouble planning for the future, feels tired without good reason, mood swings between elation and depression, nausea, feels sick, stomachaches, vomiting, throwing up, numbness or tingling in body parts, physically attacks people, fails to finish things, there is little that she enjoys, would rather be with older people than with peers, refuses to talk, repeats certain acts over and over: shutting others out, cleaning, self-conscious or easily embarrassed, worries about her family, has trouble making decisions, stands up for her rights, does things that others think are strange: take care of stray cats, has thoughts that others would think are strange: care more for animals than people, thinks about killing self,

likes to help others, has trouble sleeping: thoughts are in a merry-go-round, lacks energy, tries to be fair to others, likes to try new things, worries, restless or fidgety.

Sharla states that in the past six months she used tobacco eight times per day, was drunk one time, and used drugs for nonmedical purposes once.

Adult Sentence Completion Form

The following responses (in italics) underscore Sharla's trauma-induced depression, social alienation, shame, foreshortened future, and rage.

The happiest time in my life was the day I gave birth to my son.
I want to know why my mom left me and why she did not protect me.
I regret the life I have had to live.
At bedtime I find myself praying not to wake up.
Boys have only one thing on their minds at all times.
My greatest fear is not getting over the demons from the past.
I feel lost, uncertain and confused.
I can't trust or let others close to me.
When I was younger I wanted to die.
My nerves are completely shot.
I suffer every day inside.
I failed at every intimate relationship I tried.
My mind always seems to be going fast and I can't pinpoint one thing.
The future doesn't mean anything to me.
Sometimes I find myself crying and I don't know why.
I hate DSHS, Foster Care, Audrey Turley.
I secretly just wanna die.
I hurt so bad inside and just want it to stop.

Minnesota Multiphasic Personality Inventory-2 (MMPI-2)

As with all psychometric tests, the results of the MMPI-2 must be interpreted while considering the framework of the entire evaluation. The MMPI-2 validity scales indicate that Sharla had a tendency to endorse a variety of psychological symptoms and problem behaviors (elevated F scales). This pattern of response is found for many reasons, including inconsistent responding, reading problems, heightened stress, disorientation, a tendency to exaggerate symptoms for personal gain (attention, finances), and/or serious psychopathology. Indications that Sharla responded in a sufficiently consistent manner are shown by scores on the VRIN and TRIN scales (Groth-Marnet, Handbook of Psychological Assessment, 2003). In light of her disrupted

education it is possible that elevated F scales are due to reading problems. Heightened stress could also add to difficulties concentrating. And, given that this evaluation was undertaken in the context of a civil suit it is reasonable to question whether Sharla is exaggerating symptoms for personal gain. Although this possibility cannot be entirely ruled out, it is my professional opinion that the core reason for the elevated F scales is due to Sharla's history of cumulative trauma and the resulting psychopathology. Given the deeply troubling experiences she has suffered, it is understandable that she might endorse a variety of symptoms indicative of severe and widespread adjustment problems. What is more, Sharla's trauma-based symptom organization is likely to distort her capacity to accurately discern self-attributions and expectations; to adaptively discriminate between real and imagined threats; or in effect, differentiate between symptoms that trigger significant reactivity versus those representing only minor difficulties. In sum, despite showing elevated F scales, Sharla's profile appears valid, interpretable and consistent with the symptom picture presented in the overall evaluation.

The MMPI-2 clinical profile suggests a pattern of chronic psychological maladjustment associated with intense anxiety, somatic distress, agitation, and anger. Depressive trends are shown by a meager capacity to experience pleasure in life. She is interpersonally wary and her relationships appear disturbed. She is inhibited, avoidant, quiet, submissive and lacks self-confidence. Marital breakup is not uncommon with this profile. She experiences strange ideas about her body and may use physical symptoms as a means to manipulate others. Heterosexual problems and sex-role identification problems are typical with her profile. Her profile is consistent with those that have a history of disturbed family and parental relationships.

Beck Depression Inventory

I am sad all the time and can't snap out of it.
I feel I have nothing to look forward to.
I feel I have failed more than the average person.
I don't enjoy things the way I used to.
I am disappointed in myself.
I am critical of myself for my weakness.
I have thoughts of killing myself but I would not carry them out.
I cry more than I used to.
I get annoyed or irritated more easily than I used to.
I am less interested in other people than I used to be.
I put off making decisions more than I used to.
I am worried that I am looking old or unattractive.

It takes an extra effort to get started to do something.
I don't sleep as well as I used to.
I get tired more easily than I used to.
My appetite is not as good as it used to be.
I have lost interest in sex completely

DIAGNOSTIC IMPRESSIONS

The following diagnostic impressions are based upon observations derived from clinical interviews with Sharla, self report interview data, psychological test data and a review of available records. The diagnosis is offered within a reasonable degree of psychological certainty:

- Axis I: Posttraumatic Stress Disorder, Chronic and Severe (with self-destructive, behavioral enactments, and depressive features)
Major Depressive Disorder, Recurrent, Severe, without Psychotic Features, secondary to severe traumatization
- Axis II: Avoidant and Dependent features
- Axis III: Osteoporosis, history of head trauma, headaches
- Axis IV: History of childhood and subsequent sexual assault; motor vehicle accidents; loss; abusive relationships; process of litigation
- Axis V: GAF = 45-50 (Current: time of evaluation)

OPINION REGARDING IMPACT OF SEXUAL ASSAULT IN FOSTER CARE ON SHARLA BUCK

Overview

Sharla Buck is 40 years old, divorced, unemployed, and the mother of a 19 year old son. She presented as cooperative and candid, albeit guarded and anguished. The plaintiff struggles with chronic emotional fragility due to a lifespan that has been burdened by cumulative exposure to physical, sexual and psychological trauma. Sharla has yet to come to terms with the impact of the molestation by her foster parent, neglect and failure of her social worker to investigate her complaints of molestation, and she harbors considerable anger and sadness over these events.

The plaintiff provided a credible, coherent, matter-of-fact description of suffering sexual abuse by her foster father while in a foster home placement. Her account of the abuse incidents was

generally consistent, logical, contextually well-embedded and detail rich. Her description included aspects which meet Raskin's criterion-based content analysis for assessment of the validity of an allegation of sexual assault – such as description of her state of mind, self-blaming and attribution of the perpetrator's state of mind (see Raskin's chapter in Doris' work on "Child as Witness," American Psychological Association Press, 2000). Minor discrepancies in the Sharla's recollection of events that occurred almost 30 years ago are expected. Dissociative tendencies and memory problems are common when associated with cumulative trauma and the onset of abuse is at an early age (Trickett, Noll, Putnam; 2011).

It is my professional opinion, within a reasonable degree of psychological certainty that Sharla's account of the sexual assault by her foster father is psychologically credible. It is also my professional opinion, within a reasonable degree of psychological certainty that Sharla has suffered severe and long-term damages in a wide range of areas as a direct and proximate result of the molestation by her foster father. The damages are amplified as the perpetrator was in a caretaking position of special trust; and as a ward of the state she felt additionally betrayed by the limited response of her social service case manager who was also in a caretaking position of special trust, power and authority.

Developmental adversity prior to foster care placement with Ray Towns

The plaintiff was the product of an out of wedlock, teenage mother and 37 year old biological father who was never part of her life. When Sharla was two, the mother married Roy Lewis. Sharla suffered neglect and was exposed to the physical abuse of her siblings and mother. She also endured ongoing sexual trauma perpetrated by the step-father. The molestation was not discovered by DSHS or CPS until Sharla was 11 years old. After a brief placement with her biological father, DSHS placed Sharla in the home of Georgina and Ray Towns. Records from the Dependency Court were prescient and described Sharla as in great need of treatment. The court document warned that "an unstable, rejecting environment will only serve to exacerbate the problems" that Sharla would face. Numerous studies, including that by the National Institute of Health (NIH) (Widom, Czaja & Dutton, 2008) have documented that children exposed to early childhood sexual trauma are at significantly greater risk for revictimization (Lalor & McElvaney, 2010) (Gladstone et al, 2004) (Noll et al, 2003). At a minimum the Towns home placement represented a lost opportunity to provide Sharla a corrective emotional experience. Much more probable is that it actually provided a destructive experience of sexual molestations which launched a career of learned helplessness and posttraumatic disorder.

Summary of sexual assaults by Ray Towns and disclosure to DSHS

Sharla was in the sixth grade and about 12 years of age when placed with the Towns. Inappropriate touching by the foster father began a short time after her arrival. The molestation took place while traveling in Ray Towns' four-door sedan en route to and from counseling sessions. What seemed as inadvertent brushing against her breasts progressed to definitive acts of abuse. The molestation included his fondling her breasts over the clothes; hands in her pants touching and penetrating her genitals; attempts to engage in French kissing; and having Sharla touch his genital area over his pants. Towns told her not to tell anyone.

Sharla disclosed the abuse to her case worker, Audrey Turley, a short time after the onset of the molestation. They were in Turley's SUV when the disclosure took place. Sharla felt ashamed and "dirty" and culpable. She blamed herself and feared that she was doing something wrong and would be punished (Filipas, Ullman, 2006). Still, Sharla explicitly told Turley that Ray Towns had been fondling her breasts and genital area. Turley doubted the veracity of her allegations, suspecting that Sharla only wanted to be placed with her sisters. After this incident, Sharla stopped trying to tell Turley about the abuse. There are only minor inconsistencies in Sharla's reports. One involves the timing of when she told Audrey Turley about the abuse. She indicated here that she told Turley within a few months after the onset of the molestation that Ray made her engage in French kissing and that he was touching her genitals. In her interrogatory, Sharla stated that the disclosure took place seven months after being in foster care with Georgina and Ray Towns and she did not mention the French kissing.

The interview with the elderly Georgia Mae Towns by Troy Locati, CLI confirmed that there were allegations Ray Towns tried to kiss at least one of the foster children. While Georgia did not disclose more, Mr. Locati sensed that the allegation had been far more serious. Georgia also confirmed that Ray drove Sharla to Aberdeen (35 miles away) for counseling sessions. Georgia contends that she overheard another foster sister suggest that Sharla should accuse the stepfather of molesting her as a means to reunite with her sisters.

Relevant history following placement in the Towns home

Records indicate deterioration in Sharla's psychological functioning continued following removal from the Towns home. She presented significant social and identity problems. At age 15-16 she required psychiatric hospitalization due to a suicide attempt. That same year she witnessed a horrific motor vehicle accident scene involving a friend being decapitated. Despite being bright, Sharla never completed high school, and never secured substantial vocational training or attended college. Sharla was married as a teenager, age 18 and pregnant a short time

later. On her 22nd birthday, she witnessed a close friend put a shot gun in his mouth. In 1997 she was charged with vehicular homicide following the tragic motor vehicle accident in which several people were killed. She suffered significant injuries and was incarcerated for 4.5 years. In 2002 Sharla was married a second time to a physically abusive husband. And in August 2008, Sharla was kidnapped and repeatedly assaulted during a 36-hour period.

Records from a July 2010 psychological evaluation by Jack Norris, Ph.D. indicate that Sharla's trauma history included the molestation by her foster father. A July 7, 2011 psychological evaluation by Tasmyn Bowes noted Sharla had engaged in three to four suicide attempts. Trauma history noted sexual assaults throughout childhood and foster care.

Impact from the sexual assault

Recurring abuse by her stepfather rendered the pubescent child eminently more vulnerable to be targeted for further traumatization if not placed in well supervised foster care. Despite the need for care, and despite her complaints of being molested by her foster father, the subsequent, recurring molestation by her foster father significantly and irreparably aggravated the plaintiff's pre-existing traumatized state. Prospects to right her developmental course were permanently derailed. Lack of protective investigation and protective response by DSHS represented yet another betrayal by adult caregivers, and served to intensify her Sharla's rage, mistrust and disillusionment. Trauma involving the betrayal of trust by adults in caretaking positions of power and authority is associated with far reaching clinical and behavioral concerns (Edwards, Freyd, Dube, Anda, Felitti, 2012). Betrayal in trauma is also correlated with increased severity and duration of PTSD symptoms (Kelley, Weathers, Mason, Pruneau, 2012).

Based on the records, my observations and testing outcomes of this evaluation, Sharla presents with longstanding symptoms of posttraumatic stress disorder and comorbid Major Depressive Disorder.

Repeated exposure to catastrophic stressors of a magnitude that Sharla has encountered is considered a complex trauma (Cloitre, Stolbach, Herman, van der Kolk, Pynoos, et al, 2009). Cumulative trauma involving sexual abuse is often associated with enduring disturbances in personality and character development (McLean & Gallop, 2003). Areas of chronic dysfunction shown by Sharla include academic and vocational underachievement (see Center for Disease Control study on ACE and unemployment, Liu Y et al, 2013). She is haunted by shame, guilt and rage. She feels "dirty." Sharla lacks interpersonal trust and inadvertently reenacts recurring relational conflict involving acts of betrayal and violence. She is avoidant, socially isolated and

experiences chronic anxiety. She experiences longstanding sexual dysfunction. She presents with a recurring depression, self destructive behaviors (e.g., self cutting), and suicidality and homicidal ideation. There have been periods of substance abuse. As indicated, she has been revictimized on multiple occasions and suffered immeasurably from unfortunate tragedies that resulted in the loss of life.

LONG-TERM TREATMENT RECOMMENDATIONS

A detailed lifetime treatment plan is provided below with estimates of economic costs. The following modalities are recommended:

Individual psychotherapy Phase I: Sharla will benefit from a treatment that includes a recommended frequency of at least two times a week over the next several years. The therapy should be conducted by a therapist experienced in working with cumulative and catastrophic trauma (Schendler, 2010) (Fonagy, Target, 1996).

Individual psychotherapy Phase II: Sharla will require intermittent treatment interventions at stressful junctures throughout the remainder of adulthood.

Group therapy for sexual trauma survivors: Sharla can benefit from a group oriented treatment that targets concerns related to trust and shame.

Couples / Marital counseling: Sharla would benefit from a couple's oriented treatment that focuses on interpersonal trust, communication, relationship conflict and capacities for emotional and sexual intimacy.

Psychotropic consultation and medications: Intermittent evaluation for mood stabilizers, antidepressant and/or anti-anxiety medications over lifetime.

Physical health care needs and costs: Extensive and ongoing research by the Centers for Disease Control and Prevention has shown that chronic stress has a deleterious impact upon physical health. Reciprocally, chronic health problems exacerbate mental health concerns. For this reason physical health care needs and associated health care costs are added to the life care plan. The CDC estimates annual costs for care among those suffering from PTSD will be higher on average than controls for a lifetime, conservatively averaging \$3,000 a year while not allowing for future inflation (Dube, 2003) (Marciniak, et al. (2005).

Psychiatric hospitalization and/or drug and alcohol detoxification and rehabilitation: The plaintiff was only recently engaged in self harm and it is probable that over the course of her life span, during times of heightened stress that Sharla will require inpatient treatment.

Impact on income earning potential over a lifetime: The U.S. Census Bureau data shows significant variation in earning capacities among individuals based upon their level of education. Sharla reportedly was a good student, but chronic emotional symptoms culminated in her dropping out of high school in the eleventh grade. If not for the sexual trauma during foster care, and if she had received appropriate treatment for the sexual trauma, I believe that it is probable that Sharla would have at a minimum graduated from a four year college. Many of her vocational problems pre-dated the automobile injury and subsequent assault in 2008 were present and would have occurred without these events. However, her employment problems have worsened since. A report regarding Census Bureau data, titled "*The Big Payoff: Educational Attainment and Synthetic Estimates of Work-Life Earnings*," reveals that over a female adult's working life, those who are not high school graduates can expect to earn on average, \$.7 million; those women with a bachelor's degree can expect to earn on average, \$1.6 million (Cheeseman Day & Newburger, 2002, p.6, Figure 6) (*Alliance for Excellence in Education*, 2012 report; <http://www.all4ed.org/files/InseparableImperatives.pdf>).

PSYCHOLOGICAL AND PSYCHIATRIC LIFE CARE PLAN FOR SHARLA BUCK

The following life care plan provides estimates regarding the type, duration and cost of recommended treatment.

MODALITY	FREQUENCY AND COST IF NOT SEXUALLY ASSAULTED IN FOSTER CARE	TOTAL	ADDITIONAL FREQUENCY AND COST DUE TO SEXUAL ASSAULT IN FOSTER CARE	TOTAL
INDIVIDUAL OUTPATIENT PSYCHOTHERAPY PHASE I: An intensive treatment over the next several years provided by a trauma-experienced therapist	200 sessions @ \$200/session	\$40,000	400 sessions @ \$200/session	\$80,000
INDIVIDUAL OUTPATIENT PSYCHOTHERAPY PHASE II: Treatment as needed over the course of a lifetime	100 sessions @ \$200/session	\$20,000	300 sessions @ \$200/session	\$60,000
GROUP THERAPY: Supportive group for men targeting anger management and social skills	None	0	100 sessions @ \$75/session	\$7,500
MARITAL THERAPY: Secondary to problems with trust, communication, emotional, physical and sexual intimacy	50 sessions @ \$200/session	\$10,000	200 sessions @ \$200/session	\$40,000
PHYSICAL HEALTH CARE NEEDS: Stress related medical and behavioral concerns	None	0	Increased estimated cost each year over the course of a lifetime (i.e., 80 years of age): 40 years x \$3000 =	\$120,000
PSYCHIATRIC HOSPITALIZATION: Need for inpatient, psychiatric treatment at times of crisis	None	0	Over lifetime: several admissions for 7 days x 3 = 21 days @ \$1,000/day	\$21,000
PSYCHOPHARMACOLOGIC CONSULTATION:	None	0	Consultations over a life time as needed on 20 occasions	\$6,000
PSYCHOTROPIC MEDICATION:	None	0	\$2,400 per year for 40 years	\$96,000
INCOME EARNING POTENTIAL OVER LIFETIME: Difference between 11 th grade education and Bachelor's Degree			Differential of income earned over life span without diploma or two years of community college	\$900,000
TOTAL:		\$70,000		\$1,330,500

PAIN AND SUFFERING

Sharla was significantly traumatized as a result of the molestation by Ray Towns. The abusive treatment culminated in severe and widespread psychological and psychiatric concerns and undermined multiple areas of her development. A jury rather than a mental health professional can best determine economic value to compensate for the pain, suffering and damage she has experienced, and will continue to experience. As a mental health professional, however, I can state that Sharla has endured substantial pain and suffering and that her quality of life has been, and will continue to be negatively affected by the trauma.

PROGNOSIS

Guarded and contingent upon availability of recommended treatment: Sharla is a bright and capable woman, with potentials to find emotional, behavioral and vocational stability. However, lifelong, psychological and physical scars will always be evident. Even with intensive, regular and longstanding therapeutic support, I expect that she will remain at risk for psychiatric decompensation for quite some time.

Sincerely,

Robert Wynne, PhD, MFT

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EXHIBIT 3

0-000000363

a nonprofit agency



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PRELIMINARY PSYCHOLOGICAL OPINION

ROBERT WYNNE, PHD, MFT

REGARDING: PHILLIP LEWIS

DATE OF BIRTH: 04-21-75

DATES OF EXAMINATION: 02-16-13; 03-11-13; 03-14-13

DATE OF REPORT: 04-22-13

BACKGROUND

Phillip Lewis is a plaintiff in civil litigation against the defendant, the state of Washington's Department of Health and Social Services (DSHS). The plaintiff's attorney, Lincoln Beauregard, from the Connelly Law Offices contacted The Children's Psychological Health Center (CPHC) and requested a forensic psychological evaluation. At the behest of Gilbert Kliman, M.D., Medical Director of CPHC, I was asked to assess the plaintiff's psychological status.

Summary of Plaintiff's Complaint: Statement of Facts

"Phillip Lewis and SB were minor children under the care of the Defendant Department of Social and Health Services. The Defendant employed Audrey Turley (heretofore Turley), who was known to Phillip Lewis and SB as their caseworker. Turley was either directly responsible for, or was in the position to effectuate the placement of Phillip Lewis and SB into various foster care and/or group homes.

"During the period of time when Phillip Lewis and SB were under the care of the Defendant, the boy had individual and periodic visits with Turley in her official capacity as their caseworker. During these periodic visits, SB and Phillip Lewis individually, and on more than one occasion, informed Turley that they were being sexually abused at their residences they were placed.

0-000000364

“Phillip Lewis expressly informed Turley that he was being sexually abused by several older boys who lived at the same group/foster homes. Turley either knew or with reasonable care should have known that PL was being sexually abused. Despite having actual and/or constructive notice, Turley neglected to take meaningful steps to prevent further acts of sex abuse from being perpetrated against Phillip Lewis by older boys.

“Turley’s negligence, either by her act of omission to act, resulted in forced oral sex and rape being perpetrated against Phillip Lewis by the older boys. These acts of sex abuse, directly and proximately caused Phillip Lewis considerable psychological, emotional and physical injury and harm. The injury and harm Phillip Lewis suffered, the extent of which is not currently known, will be proven at trial.”

PROCEDURES

The evaluation was conducted on February 16, 2013 at the Connelly Law offices in Tacoma, Washington. The plaintiff was informed regarding the forensic purpose and process of the evaluation. He was advised of the limited confidentiality and potential forensic uses of the information obtained during the evaluation. With the plaintiff’s verbal understanding and signed consent the evaluation was conducted. The day-long assessment included my face-to-face, videotaped interview with Phillip Lewis, and the administration of psychometric tests and psychosocial history questionnaires. In addition, I conducted a follow-up telephone interviews with Phillip March 11 and 14, 2013.

The opinions formulated in this report are based upon a review of interview notes with Phillip, videotapes, a review of test results, questionnaires and computerized psychometric assessments listed in the inventory, and a review of the documents made available by Mr. Beauregard’s law office (see inventory attached). The records received and reviewed are summarized in an attached 100-page chronology.

The intention of this report is to address the following: the validity and nature of the alleged sexual assaults and the plaintiff’s reporting of the assaults to the DSHS caseworker; the nature and severity of the damages that the plaintiff suffered from the assaults; implications for past, present and future functioning; and to provide treatment recommendations based upon damages that have been found.

QUALIFICATIONS TO CONDUCT THIS EVALUATION

See my curriculum vitae.

DOCUMENTS REVIEWED

See inventory of documents received.

SUMMARY OF RELEVANT RECORDS RECEIVED (see timeline for additional history)

Summary of DSHS records prior to placement at Deschutes Children's Center

In April 1984, Child Protection Services (CPS) determined that Phillip's stepfather, Roy F. Lewis had been molesting his sister, Sharla, for several years. There was also concern that the other two sisters, Crystal and Tressa, had also been molested by Mr. Lewis. Phillip and his siblings had suffered severe physical and emotional abuse.

(Examiner's note: there is no mention in early records indicating that Phillip had been molested by his father).

Phillip's behavior included sexual acting out, anger and mutilating small animals (*Examiner's note: Phillip denies any history of cruelty to animals*), destructive play, compulsive lying and stealing (Lewis-Warfield kids, 27). In April 1984, Phillip was placed in foster care. Phillip continued therapy at Skagit Valley Mental Health. In January 1985 he went to the Evergreen Counseling Center (Lewis-Warfield kids, 31).

A January 7, 1985 psychological report by Katherine Day, PhD, noted that Phillip, who was nine years of age, appeared bright though there was no formal assessment of his intelligence. He had no attachments that were meaningful to him. Violent scenes in his play were evident. He was explicit about the abuse and furious when talking about it. He felt at war with the world and everyone in it. Anger permeated virtually all of his utterances. The Rorschach indicated that Phillip had withdrawn from people and that his interior life was more confused and violent than peers. He tended to be impulsive, but also planned his behavior to the exclusion of any spontaneity.

"Phillip also has the image of himself as unworthy. He has more or less given up on the belief that he can be lovable. He rejects all adult authority. There is no tenderness in Phillip, at least as he is portraying himself in the self report measures and projective measures. Phillip is one of the most isolated and angry children that I have seen in my years of practice. The abuse that this child received is only part of the problem. He was almost certainly unable to connect with those who gave him care in the earliest years of his life...The anger laid atop the isolation intensified the unwillingness he has to trust or give to others. It produced the child we see today whose ability to love others is damaged perhaps beyond repair. Without this, he will have little incentive to curb his own aggressive impulses and may become a danger to society. Diagnostically, he is between the cracks in some ways...Conduct Disorder, Undersocialized Aggressive...Phillip

needs completely consistent interactions from others, parents and therapist" (Lewis-Warfield kids, 45-47).

At age 11, Phillip was placed with his paternal grandmother in June 1986. There was hope that a secure placement would stabilize his behavior. However, shortly after his April 1987 birthday (age 12), Phillip began to escalate and trashed his grandmother's home with spray paint, soda and urinating on walls. It was decided that he was not appropriate for foster care and a group home placement was deemed necessary (Phillip Lewis DSHS, p. 7-9) (Lewis-Warfield kids, 22).

Summary of Deschutes Children's Center Records

Deschutes Children's Center (DCC) in Tumwater, Washington was a group home for up to ten youth, ages six to thirteen. Records indicated that DCC was licensed as a residential treatment center from November 1986 to September 1989. The records suggest that Phillip entered the Deschutes in September or October 1987 (P Lewis DSHS, p. 1). Phillip was about 12.5 years of age.

Records indicate that the Deschutes home was a dilapidated and poorly managed facility with staff members who had limited experience and/or were inadequately trained. Multiple reports speak to a chaotic environment in which severely disturbed children engaged sexual and aggressive acting.

In early October 1987 Phillip and another boy were encouraged to drink alcohol by a staff member, Bob Cartier. Both boys had been promised specific rewards including a trip "around the world" or vacations to Disneyland, however the boys gave no indication that there was sexual activity with Bob. One of the staff was aware of Mr. Cartier's actions, including driving while drunk and having been stopped by police while transporting Phillip, but did not report this information to his superior. Other reports of mistreatment by DCC staff were noted: Once incident during a camping trip involved staff having tethered a resident with a belt to a car (Deschutes rec, Lewis, 44-46, 47). December 1987 handwritten records that include Phillip's name indicate that a staff member, Terry Zander, was locking a resident outdoors with no shoes or coat in 20 degree weather (Deschutes rec, Lewis, 29).

Three incidents between June and December 1988 highlighted questionable clinical judgment on the part of Patsy Blackstock, the Director of DCC (Deschutes rec, Lewis, 107-111). The first noted incident in June 1988 indicated was heightened aggression and "sexual acting out in the population." The incident included boys grabbing Ms. Blackstock's breasts and genitals. Apparently, her breasts were exposed. An excerpt of her 06-15-88 letter to Treatment Supervisor, Barbara Gorzinski includes the following:

“The first thing I did was break the carrot into little pieces and then hold them in my hand above my crotch and said to them, ‘Get the magic carrot.’ They dove for the carrot pieces and sat up and chewed them, laughing. A couple of guys took two turns and then they stopped all together going for my crotch. They continued to go for my breasts though and I pulled away, stood up and before they could rush me, pulled my shirt up and down very fast, which brought varied responses such as “Gross,” and “Why did you do that?”

A former staff member at Deschutes, Ms. Mary Jane Klaila, related other incidents which she feels are improper judgment of Ms. Blackstock. Ms. Klaila stated that during one incident that Ms. Blackstock was stroking a tube as one would stroke an erect penis. Ms. Blackstock allowed continued rooming together of two boys who had previously been sexually involved with each other. This was done despite concerns and protests of several staff. On one occasion, three boys were masturbating together in a large closet or pantry. Ms. Blackstock entered the closet/pantry and spent half hour to 45 minutes with the boys discussing masturbation with them. One boy who was last out of the closet was heard saying something suggesting that Ms. Blackstock had touched him, trying to have sex with him, etc., but was dismissed as he appeared to be joking (Deschutes rec, Lewis, 13).

There were also reports that discipline was “non-existent except in extreme cases where a child might be taken to detention for property damage over \$1500 or physically assaultive.” Children under Ms. Blackstock direction were merely restrained until their tantrum subsided. There were no natural consequences within this system for acting out behavior: No effective point system or privilege loss to modify behavior. Ms. Blackstock would often take a child’s word over staff’s word. Ms. Blackstock response when confronted about rooming two boys together that had been sexually acting out was, “So what?” (Deschutes rec, Lewis, 14-15). Ms. Blackstock was terminated as Director in December 1988.

Caseworkers and parents were complaining about the deplorable and hazardous conditions at Deschutes. In February 1989, a caseworker, Rachel Langen, wrote that DCC was dirty, run down and had no heat. In addition, the facility seemed out of control. She was shocked by the behavior of the residents using foul language and blatant disrespect (Deschutes rec, Lewis, 87). The Deschutes log notes reflect numerous incident reports documenting alleged sexual assault.

Summary of September 26, 2001 Psychological Evaluation by Keith Krueger, PhD

Phillip was 26 years of age. Past evaluations indicated a volatile temper, fights and that he lost only one in his life; at age seven his father choked him into unconsciousness and Phillip awakened in a ditch. He later found his father molesting his sister and beat the father with a

baseball bat. A history of physical and possible sexual abuse was noted. "Mr. Lewis is not certain whether he was molested, although he saw his sisters being sexually abused. By his report, he was placed in 127 foster homes and he gave examples of abuse in those settings (indeed, most of his descriptions were quite extreme and he was never at a loss for examples); he lives near his mother and has daily contact with her."

Educationally, Mr. Lewis completed 9.5 years of school. His grades were poor partly due to abuse, and partly due to moving so often. He was always the 'new kid in school' and got into a lot of fights, most of which he started. Though never diagnosed with ADHD, a number of pertinent symptoms were mentioned. Antisocial features were mentioned in past evaluations. He spent 1.5 years in a Virginia prison, though he said he had never been in Virginia and that he had proof he was in Washington at the time of the Virginia crime. However, his ID had been stolen and found in a Virginia residence and that was enough to convict him. He got in little trouble in prison and was released early, but then skipped out on probation. When Virginia tried to extradite him, the state of Washington reviewed the case and told Virginia that they were wrong and refused the extradite request (P Lewis DSHS, p. 48-49).

He had been in jail a number of other times and estimated being arrested at least 13 times for driving with a suspended license. He owed \$5000 in fines. His family had paid \$8,000. There were a number of times he was pulled over by police as well. He bragged that at age 12 he hung his counselor out of the second story window in the Becker Building in Aberdeen, suspending the counselor by an electrical cord. While he has two children (ages 7 and 5.5), he had not seen them in over five years as their mother would not allow contact. He lived by himself but his fiancé occasionally stayed with him. They had been together for four years but broke up at least once a week. While smoking pot he was reasonable and romantic. However, after he stopped the drug use he turned mean. He was placed on Paxil, which he felt made him angry. A psychiatrist in Olympia then switched him to Doxepin and Serazone, which made him sleepy, jumpy and sad. He was then tried on Neurontin and he developed paranoid symptoms. The psychiatrist tried Thorazine and but Phillip felt over-amped. He was on Lithium for three months while in jail which helped him feel less depressed. He did not recall being on other mood stabilizers such as Tegretol or Depakote.

As his father was alcoholic, Phillip was never interested in drinking. He got drunk once, at age sixteen. He said that he tried pot during ages 16-18, though a few minutes earlier he reported using marijuana in his 20's. His drug of choice was methamphetamine, which he started using at age 18 and "it made me like everyone else" (calm, reasonable, able to focus). He was fired from one job due to methamphetamine in his system, found during a random UA. After stopping meth, he wound up throwing his boss on the table and was fired, lost his girl friend and wound up in jail again. He went back to meth and was again productive, in his mind. At one point he took

Ritalin for 12 days. While did not feel as “normal” as he did not Ritalin, he was able to talk to people easily and was less opinionated.

There were a number of suicide attempts – he listed 12 attempts including putting a gun to his head (when he pulled the trigger his brother pulled the gun away), pills, slitting his wrists, hanging from a rope and trying four times to roll cars at high speeds. At one point he purposely ran into a tree at 87 mph, yet was able to walk home in spite of a broken leg and broken shoulder. He mentioned past martial arts training and his ability to control pain. Some paranoid ideation was noted but he denied actual delusions or hallucinations or other clear aspects of a thought disorder.

Memory functioning showed some capability though auditory scores were much better than visual. Personality scores showed extreme aggressiveness and cognitive depression, and suicidal thinking was high. All scores were extreme, though he does not appear susceptible to the influence of others (P Lewis DSHS, p. 50-53). Diagnostic impression: ADHD, Methamphetamine dependence (in remission), Borderline Personality Disorder with antisocial features. GAF =58 (P Lewis DSHS, p. 54-55). Records indicate that Phillip was psychiatrically hospitalized in 2002 and 2003 for suicidal ideation/attempts (P Lewis DSHS, p. 34).

Summary of February 15, 2008 Evaluation at Behavioral Health Resources

Phillip endorsed headaches, difficulty sleeping, appetite, memory and concentration problems. Medications included Citalopram 40 mg for depression and Prazosin 2 mg for hypertension, prescribed by Dr. Walck (P Lewis DSHS, p. 70). The records suggest that he had had severe physical/sexual abuse since age 2.5. Phillip was told by his mother that he had seizure activity, turned purple, held his breath and would pass out. He reported being abused physically until 8.5 years old when he entered foster care. The records also state: “I was sexually abused from 5.5 to 8.5 years of age by my dad before I went to foster care.”

Reportedly, Phillip was placed in foster care and moved from home to home “97 times in five years.” He was prone to being paranoid and frustrated and would leave jobs. He assaulted other employers (P Lewis DSHS, p. 72). In the past year Phillip denied substance or alcohol use. His incarceration started on 12-04-07 and he had an increase in mental health symptoms despite being clean and sober (P Lewis DSHS, p. 73). Symptoms included nightmares, panic, flashbacks, social withdrawal, violence, high risk behavior, anxiety, mood swings, relationship problems (P Lewis DSHS, p. 74-75).

In addition to his father being a severe alcoholic his brother and sister are drug addicts; an uncle is an alcoholic. Phillip reported several attempts at self harm. One attempt involved banging his

head against the wall; another involved slamming his car into telephone pole. He reported 5-8 attempts at suicide, which included drinking charcoal in 2003. Regarding his risk to others/property, he once put a hammer through a wall. He dissociated while discussing his sister. He thought the month was January and needed verbal cues to stay on track. He got paranoid when people were talking and he perceived it was about him. He thought they were making fun of him (P Lewis DSHS, p. 76-77).

The evaluation is noteworthy insofar as Phillip reported the following incidents of sexual abuse:

"I was sexually assaulted in foster care at six different times when I was age twelve. I was physically abused when in foster care. At age six I witnessed my sister being raped by my father. Domestic violence and excessive abuse to all of the kids and mom by dad. I ran away from foster care when I was thirteen. Biological father went to prison when I was eight. Went back to live with mom after running away from foster care. Things were better until maternal grandparents."

(Examiner's note: Phillip does not mention suffering sexual abuse by his father)

Phillip was depressed, had appetite disturbance, no social/leisure activity, sleep disturbance, inappropriate guilt, unable to think/concentrate, with paranoia, anger outbursts, which led to assaultiveness. He had been abused physically and sexually. He avoided talking about abuse history and got teary. He dissociated when telling about his sister who was raped (P Lewis DSHS, p. 78). March 2008 records indicated PTSD and a possible of Bipolar Disorder, NOS (P Lewis DSHS, p. 35-36). Concerns for Borderline Personality Disorder and ADHD were also indicated (P Lewis DSHS, p. 38).

Summary of Interrogatory Statements

Description of abuse

"To the extent that his question is asking who I talked to while in foster care, I told Audrey Turley that the older kids had hurt me. I specifically said that Mike P and the older kids held me down on the bed and stuck something in my rear. She asked me why I had run away. I told her because of the abuse from the other kids. She told me that she would talk to the counselors and that I was "misremembering" the events. I told her that I was afraid that it would happen again. At the time of the conversation, I was in Turley's car and outside of the Deschutes Boys home. I was forced to go back to the group home. One of the staff members, Tim, restrained me to keep me from leaving. He was on top of me. I was told to go upstairs and get my things so that I could move downstairs. At the time that I walked into the room, I witnessed another boy, Sean, being

urinated on. I cannot recall the other boys' name. One of the other boys pinned me up to a wall and Mike P forced his penis into my mouth. When Turley left, I was still being restrained by Tim.

"I also told Turley about being beaten by several boys while I was in foster care at the Lacey's home. About a week and a half later, the best of my recollection, I was sexually assaulted by Animal and Joe. Thereafter, I also told Turley about being sexually assaulted by other boys while I was in Ned and Janette Lacey's home. I also spoke to a DSHS worker named "Tinnerstat" I believe. He picked me up from a foster home, I believe Bill Beckham, and I told him that I would rather die than go to another boys' home. He asked me why and I vaguely told me about what had happened at Deschutes. He indicated that Turley told him that they were going to get me a counselor" (Interrogatory, p. 7).

Parenting

"I have four children who do not live with me. Their names are: Joshua Velazquez, Jacob Velazquez, Alexander Lewis, and Riley. I do not recall their dates of births. I have three children who do live with me and receive my support. Their names are: Anastasia M. Lewis, D.O.B. 8-9-2008; Sebastian Edward Lewis, D.O.B. 12-11-2009; and Natalia Rose Lewis, D.O.B. 8-12-2011." (Interrogatory, p. 3)

Education

"Last grade I attended was the 8th grade. I stopped attending when I ran away from foster care to escape the beatings and rapes. I left to find my mom. I eventually found my way at my grandma's house. I was so worried that I would be caught and sent back to foster care, I rarely left grandma's house until I turned 19 years old." (Interrogatory, p. 3)

Employment

"My last employer was McDonalds in the City of Ocean Shores. I worked there for about 2 months. I quit because I thought people were talking about me. I was paid minimum wage and the name of the supervisor was Kim. I don't remember her last name. No physical examination was required for the job." (Interrogatory, p. 4)

Income

"I received GAU/X benefits at \$340 a month for a year until I started receiving SSI benefits. I started receiving GAU/X benefits when I was around age 20. My mom was my payee. I received these benefits before I got on SSL. I am currently on SSI and receive about \$698 a month."

Legal problems

“Driving While License Suspended on multiple occasions, possibly over a dozen; Assorted convictions. Felony eludes on two occasions in approximately 2008/09; A year in jail was my sentence. Unlawful Bad Check at age 18, three days in jail. Trespassing at age 17, Minimal penalty. Impersonating an Officer 2007/08; Time served of two days.” (Interrogatory, p. 8)

Therapy during foster care

“During foster care, at about age 11, the only health care that I recall was in the Swanson's Building in Aberdeen. I was examined psychologically for about a month. I am currently a patient at the Lighthouse Family Clinic in Ocean Shores, WA for general health. I have previously received mental health counseling in the 1990s at Evergreen Counseling in Tumwater W A for mental health issues. I was a client of Behavioral Health Resources for mental health in approximately 1995 for mental health issues. I have had multiple suicide attempts and ended up in St. Peter's Hospital in Olympia W A. Also, St. Peter's emergency room for primary care. I was a patient of Cascade Mental Health in about 2010.” (Interrogatory, p. 10)

SUMMARY OF PSYCHOLOGICAL EVALUATION

(Examiner's note: In order to avoid the repeated and cumbersome use of referential terms such as 'reportedly' and 'allegedly' as a means to identify their source, the facts, impressions and events described in the ensuing sections, unless otherwise noted, are as reported by Phillip Lewis.)

Identifying Information and Behavioral Observations

Phillip Lewis is 37 years of age. He was casually dressed in a short sleeve shirt and appeared adequately groomed, notwithstanding a five o'clock shadow. Phillip is unemployed and has never been married. He is a heavy-set man, around average height, and his brown hair is cut in an 80's mullet style. Upon arrival, Phillip immediately exerted need for control, requesting adjusting the thermostat to 65 degrees. He worried about feeling warm on this winter morning, even with this temperature.

Throughout the evaluation, the plaintiff worked diligently on questionnaires and psychometric protocol that were administered. While Phillip found these tasks arduous (he complained of a headache), he persevered and demonstrated ample capacities to focus. Conversely, the plaintiff's internally disorganized process was reflected by a pressured, rapid-fire, circumstantial communication style. His tendency to include extraneous detail rendered the process of sifting through developmental history a somewhat circuitous affair.

In addition, speaking to a substantially disoriented, if not dissociated state, Phillips had trouble identifying the date, let alone the day of the week. While he knew the month (February), Phillip thought the day was Tuesday (it was Saturday). He could only guess the date: the 12th, 13th or the 15th, though the correct answer was February 16th. Indications of volatile mood were evident. Phillip was prone to anger and tears particularly when discussing childhood trauma. However, as quickly as Phillip became riled up, he managed to regroup and continued with the evaluation.

Speaking to the plaintiff's exceptionally guarded state and persecutory ideation, he refused to partake in breakfast Danishes or lunch that were offered. The act of eating "in public" has been a problem for as long as he can remember, though he can indulge in front of immediate family. When the examiner stepped out, Phillip ate part of a muffin. Notwithstanding this level of social suspiciousness and anxiety, and a history of fearing that others are talking about him, the plaintiff denied a history of symptoms indicating a formal thought disorder. Records from prior evaluations appear to support this assessment. Despite a history of self harm, Phillip denies any current intention for serious self injury. And, while he has imagined harming his girl friend, he denies any actual intent for violence of any kind.

Phillip resides in a rented three bedroom, two bath home with his three children: Anastasia ("almost 5"); Sebastian ("about 3") and Natalia ("almost 2 years old"). They have lived at this location for about one year. About two weeks two prior to the evaluation, he "kicked out" the children's mother, Jacqueline Reade, who is now incarcerated for possession of methamphetamine. Due to her drug problem, Jacqueline "lost the kids to CPS two years ago." CPS was not involved in the current circumstance. Phillip thought that she was clean and sober until discovering a "pile of drugs." Jacqueline also has a restraining order against returning to the home, and mandated drug and alcohol treatment. Phillip has four other children from another relationship who do not live with him.

As for sleeping arrangements, the girls share a room and the son has his own space. Phillip states that the children have not expressed missing their mother who was "very distant, living her life, existing, soaking up the money like a leech." Phillip believes that the children will fare better without her. At the time of the evaluation, his mother's boyfriend, Kenneth Hutto, cared for the children. Kenneth has been a presence in Phillip's life since he was around 18 years of age and is the "only man I have known to be a dad." His sister, Sharla Buck, is also helping out. Phillip had no plans to contact social services for support. Phillip spends his days taking care of the kids, which reportedly, "is going really well – surprisingly." Phillip expressed trepidation about being the primary caretaker.

When the examiner asked whether it might be wise to contact social services for support, Phillip became quite agitated and flew into a tirade regarding his mistrust of DSHS.

“My complaint is having people that did not know, saying they would make things better for me and keep me safe. I was never sexually touched in my home – in foster care I told Audrey Turley what happened word for word, that the boys held me down and did things with me. I told her what happened and she left me in the home. I told her that I had been violated.”

Phillip denies any current alcohol or substance abuse. He reported last using drugs 1.5 years ago. Currently, he consumes a can of beer or two, a night, about two or three times a month. He has not used methamphetamine for “two years, two months and one week.” He participated for nine months in a year long, outpatient substance abuse treatment program called New Directions in Chehalis, WA. He stopped due to feeling that he did not need help any longer.

Current medication includes Lysin for high cholesterol and high blood pressure. He denies taking any psychotropic medications, though he has been prescribed Doxepin and Serazone. He adds, “They were supposed to help with depression, erratic thoughts, violent outbursts, but they make me worse.”

Phillip denies any history of domestic violence in the home, nor having angry or violent outburst when caring for the children. “I have to keep it cool with the kids.” He claims that when angry he retreats outdoors and “punches trees.” He denies yelling at the children. He felt transformed when his daughter was born. “When I looked into her eyes I felt peace. She is the reason I calmed down. He describes his children as “The center of my world.”

Phillip explained the events that prompted him to come forward and file a lawsuit against DSHS at this time. Two years ago in Centralia, CPS investigated concerns about Jacqueline and Phillip’s drug use and parenting. Phillip acknowledges that both of them were using drugs. As a result of the investigation, Phillip’s daughter was taken out of the home for “45 days and bounced between 4-5 different homes.” The inquiry triggered memories of his childhood contact with DSHS and feeling betrayed by his caseworker. “The blatant lies that CPS tells about people and doing wrong with their children.” Phillip became teary as he added, “This made me start to remember things. Turley told me that my biological father molested me – he never touched me sexually.” After these memories surfaced, Phillip decided to contact Mr. Beauregard.

Summary of Relevant Childhood and Family History

Phillip was born in Tenasket, WA to Lona and Roy Lewis. He was the fourth born among six children: Jerry, Sharla, Travis (died shortly after birth), Phillip and Crystal (born with Prader-Wily Syndrome) and Tressa. Phillip does not know about prenatal history, only that his father,

who worked as a part-time musician, singer and song writer, was abusive and “drunk every day.” He experienced his mother as nurturing and loving. Phillip was exposed to severe, ongoing domestic abuse. His mother was beaten “on a daily basis.” Phillip witnessed violent acts such as Roy “smacking” Lona with a “car battery” and “slamming teacups over her head.”

And, Roy was particularly “violent” toward Phillip and his brother. “He did not seem to like us a lot.” Phillips earliest memory of abuse dates to 4-5 years old. Phillip recalls the father grabbing Jerry “by the balls,” and on another occasion, hanging Phillip upside down with speaker wire. Once, Phillip was “beaten senseless with a fire place poker.” He told people that the cuts and bruises were from falling off a bike.

Phillip knows that the father molested his older sister, Sharla, but does not believe he touched the younger ones (DSHS records suggest otherwise). Phillip witnessed the sexual abuse of Sharla on one occasion: “I walked in...She was on her back, with legs up and he was between her legs.” Phillip believes he was around five years of age and Sharla was eight. Upon seeing the rape, Phillip recalls that he got a broom to hit his father, “but was then ragged dolled and punched in the face.”

Summary of Placements Prior to Deschutes Children’s Center

Phillip estimates being taken out of the home around age eight. He recalls a social worker named Alan Tinnerstat who facilitated the placement. Phillip believes that his first foster home was with an older couple, Harley and Marley Spraggins, and that it lasted for one year. From there he lived for about six months with his biological grandmother, Lorraine Ebert. Phillip is unsure why he was removed but was “told I was a handful.” He was taken to a home in Anacortes, WA “for less than an hour.” After, Phillip ran off to go back to his grandmother’s house.” He reportedly also ran from the next placement in Cordis, WA.

Summary of Sexual Assault at Deschutes Children’s Center

Summary of First Sexual Assault

Phillip estimates that he was 10 years old when placed at Deschutes Children’s Center in Tumwater. He retains “little blips of memories...thinking it was going to be cool place.” Phillip is unsure how long he was at Deschutes. He recalls group sessions designed to “open up about things that supposedly happened to me.” Phillip maintains that he was the only resident who did not have a history of being sexually assaulted. After one group meeting, Phillip went upstairs to his room. He recalls that there were four beds in the room. He believes that it was the summer

and that the room was hot and dark. He is unsure if it was day or nighttime. He believes he had been at Deschutes for about eight months.

Upon entering the room he witnessed another boy named Sean being assaulted. At one point during the evaluation, Phillip indicated that Shawn was being forced to engage in oral copulation with another boy named Michael P, a tall black boy who was older and slightly larger than Phillip. However, during a follow-up phone call, Phillip told the examiner that Michael P was urinating on Sean's face. Phillip cannot remember Michael's last name, only that he was "the prick of the house." There was also a brown haired, stocky white kid helping Michael P.

When Phillip warned that he would tell staff about what they were doing to Sean. Then, Michael P and the white kid grabbed him. The white kid said, "You are not going anywhere." Phillip does not remember anything else that was said. He remembers being pulled down such that he was straddled over the bed. The white boy held him while Michael P took Phillip's pants off. Phillip can now "laugh about it a little" about the shape of Michael's P's penis, which "went out straight and then shot down."

While the white kid held Phillip by his wrists. "Michael P was spitting on his hand, trying to shove his penis in my asshole...He was sticking his dick up my ass." Phillip believes that he screamed, "Stop! Stop! That hurts!" He does not remember anything else being said. Shawn was sitting on the ground watching. When the examiner noted his interrogatory statement that the boy "stuck something in my rear," Phillip expressed no doubt that it was Michael P's penis that was "thrust" into his anus rather than some other body part or object. The incident transpired for about 30 seconds.

While describing the two perpetrators, Phillip became confused whether the white kid who held him down was named Leroy who was his "hero." The examiner asked that since he liked Leroy and later ran away with him, whether incident could have been consensual? Phillip vehemently stated, "No way that it was consensual!" Immediately after the sexual assault, Phillip ran out the front door and hid near a "huge stump to the right of the front door" and remained there for about a half hour. It was near dinner time and staff retrieved him. He pulled himself "back together" and took a shower. Reportedly, Michael P threatened to drown him if he took a bath, so he took a long shower. Phillip described feeling ashamed, dirty and in pain after the assault. He remembers laying in bed that night, his head covered up. "I made myself small. I wanted to go away." His rectum was bleeding and "hurt for days."

After the rape incident, Phillip ran away from Deschutes. For reasons that Phillip cannot recall, Leroy came with him and they followed a trail by a river. They broke into a truck and stole a 30-30 shot gun and a bottle of liquor that "tasted like pine needles." Their plan was to use the gun to

protect themselves should the police come. After perhaps six hours, the police found the boys with the gun under a freeway overpass. Phillip was in Juvenile Hall for an undetermined amount of time and then returned to Deschutes.

Disclosure of Sexual Assault Incident to Audrey Turley

Shortly after returning to Deschutes, Phillip's case worker, Audrey Turley visited the home. Phillip has a distinct memory of her wearing a "white country, flower print dress to her ankles, like LDS women wear." He recalls her asking, "What is going on with you?" Fearing more trouble, Phillip initially denied an assault had taken place but then "told the truth." Her response was that he was "misremembering the events" and that if he had ever been sexually assaulted, it occurred in his home by his father. She also told him that he should never have children as would grow up to be rapist like his father. Ms. Turley said that she had no choice but to leave him in the boys' home, but assured that she would "take care of it" and that he would be safe for the night."

Shortly after disclosing the rape to Ms. Turley, Phillip told a heavy set woman who worked in the kitchen about the rape. "She seemed like she knew something happen. I told her that boys had held me down. She slammed a knife down and said 'This is the last fucking time!...She went to another room, yelling and screaming with the director (name?) and then the lunch lady left. She said sorry and walked out."

Summary of Second Incident of Sexual Assault

After disclosing his return from juvenile hall and the same day he disclosed the abuse to Ms. Turley, Phillip "freaked out." A counselor named Tim had to restrain him on the living room floor for an extended time (Phillip also suggested between 20 minutes and an hour). While describing the scene, Phillip became teary and turned his head away from the examiner.

Word had got around that Phillip "snitched" to staff about the assault. The boys were "pissed." Phillip was confronted by Michael P and two other boys. Michael P "slammed me against the wall and threatened to kill me because they were going to juvenile hall." Phillip was physically assaulted. He was thrown to the ground, kicked the face, chest and crotch. He was then sexually assaulted by Michael P while Leroy and another "out of control bully" held him. "I was scared shitless...they did not have to restrain me too hard." Michael P "stuck his dick down my throat." The examiner noted to Phillip that he had previously reported that he had clenched his teeth. However, Phillip was resolute and stated, "There is no question in my mind. I know what a black dick tastes like." The white kid held his arms while Michael P was "pulling my hair" and "stuck his penis in my mouth a couple of times." He added that they threatened "to slit my throat with a butcher knife." He denies that ejaculation took place.

In addition to the sexual assaults, Phillip reports that "weird stuff" took place at Deschutes involving staff members. One female counselor (evidently, Patsy Blackstock) engaged in sexualized behavior with the boys. "She would grab you by the head and push your face into her boobies, then let go and say, 'You like that don't you?'" The same female staff member would "rest her hand on your crotch and joke about it." Phillip claims that he was not bothered by this physical contact. He recalls an incident that she held a "carrot between her legs, against her crotch and kept it there. I don't know why she did it. She made it look like a penis."

Placement History Following Deschutes Children's Center

Phillip was placed with Bill Beckham on Ferncrest Drive in Tumwater for about one year. Once, he was caught huffing rubber cement with another foster child named Sean (apparently a different child than at DCC). Mr. Beckham's fiancé, Carole, was also in the home. Phillip does not know the reasons he was removed.

At 12-13 years old, Phillip entered a group home in Aberdeen with Ned and Jeanette Lacey. Some boys in the home were 17-18 years old. One of the older residents, Mike Saunders was transitioning out. Also in the home were "Animal" (James was first name), Joe and Aaron Hall. Phillip recalls that an alley-way separated the house from a 7-Eleven. He remained in this home for close to two years.

Physical Assault

The group home parent, Ned Lacey, would lock Phillip outside and make him fight the older boys. "He led us out back and said you are not coming back till I see blood." Phillip was beaten badly twice. "The third one they had to stop me from killing him." A year into the placement, Phillip's behavior was "out of control." In addition to recurring conflict, Phillip stole \$120 from Mrs. Lacey's purse. Phillip was found at a mall and reportedly beaten in the back of the van by Animal, Joe and Aaron. Audrey Turley told Phillip that he "needed to shape up." Phillip threatened to run away and told her that he was afraid to stay there. Following the stealing incident, Phillip states that he was placed in juvenile hall for two weeks.

Sexual Assault

After returning to the Lacey house, Phillip was sexually assaulted by Joe, who was turning 18, had glasses and black hair. The assault took place in the converted garage. They had been playing a game with Animal present. After Animal left, Joe "forced" Phillip to orally copulate him. Phillip recalls that Joe "looked crazy and slammed" him against a wall and "viciously did what

he did." Clearly ashamed, Phillip noted that "Joe ejaculated into my mouth... This is horrible, but there was no real fight in me. I just let it happen." Phillip was almost 14 years old.

While the sequencing of events is confusing, Phillip is certain that he told Ms. Turley about the physical assault by Aaron Hall and the sexual assault by Joe. However, she refused to remove him from the home and told him to "stop making up stories." She threatened that he would be placed in juvenile hall "until I was 18 years of age" due to his recurrent problems. Subsequently, Phillip ran away to his grandmother's home Oakville, WA. However, his grandmother reported him to the police. He was then taken home by his mother and Ken Hutto. Phillip remained with them until he turned 18 years of age.

After moving in with his mother, Phillip dropped out of school. His last year of school was the eighth grade. Phillip maintains that he had done well academically, earning B's and C's. He denies a history of behavior problems in school. While with his mother he never returned to school. He hid in the basement and laundry chutes whenever someone knocked on the door. He did not earn a GED.

Vocational History

The longest Phillip has held a job was during a three month work-release while incarcerated. He last worked at Cardinal Glass in Tumwater 4.5 years ago. Anger issues have resulted in his being fired on more than one occasion. At age 22, he threw his boss on a table.

Legal History

Phillip's first arrest occurred while at Deschutes, after running away and stealing a gun. He was held in juvenile hall for a short time. In 1991, at around age 16, he spent the night in jail for criminal trespassing when playing paintball tag at a rock quarry. He has a "long list" of violations for driving without a license or insurance. "I can't count how many times." He now has a driver's license. Around 1994 he was incarcerated for a year and a half in a Virginia Penitentiary for "something I did not have to do with." He was charged with breaking into a house and stealing a gun and rare coins. He claims innocence and that he was not even in Virginia when the crime was committed.

While in prison he was accused of sexually assaulting his brother's girlfriend's little sister. He claims that he did not know her and "never sexually assaulted anyone." As a result of rumors spreading about the rape charges, Phillip "had to fight a bunch of guys in jail." Also around 1994, he was charged with "unlawful issue of bank checks" and spent one week in jail. He also

received three "felony-allude" charges secondary to high speed chases from the police. He denies having had prison time. He has spent four days in jail due to a "couple of assaults."

In 1992, Phillip was arrested for domestic violence against his girlfriend, Casamita Mabilascas. He recalls the scene: "We were having sex and her mother came in. I went to push the mother out the door." Phillip was jailed but charges were dropped. In 1995 he slapped his girlfriend, Lisa, who fell to the ground after she threw her infant child. He was arrested and jailed overnight and released the next day without a restraining order.

Summary of Traumatic Symptoms and Current Functioning

Phillip is admittedly unsure how he was impacted by the sexual assault incidents, but feels that his capacity to trust was negatively influenced. "I don't rely on anyone. You cannot trust a single person in the world to help you." He does not have friendships with other men for any length of time. "I am just this huge friggin prick. Everyone says I always looked pissed off." Phillip adds, "When you look angry, people do not mess with you." For a time he was racist and disrespectful to black people.

His sexual identity and sexual life were impacted. He became homophobic. He denies homosexual attractions or history of homoerotic contact as an adult. Phillip's first heterosexual experience was at 21 years of age. He has had seven sexual partners and has not incurred a sexually transmitted disease. He denies any level of sexual perversion or that he has ever sexually assaulted anyone (as noted, reportedly at 19 years old, a girl falsely accused him of trying to have sex with her). He enjoys sex with women, but views himself as sexually inhibited and "not adventurous." He has trouble understanding how women can enjoy sex.

Notwithstanding trust issues, Phillip denies ruminative anxiety. He retains upsetting thoughts and images about the rape: "The image of the white kid putting his dick in my mouth." He is left with the "Feeling utter helplessness...I gave up." After the assault, he became more withdrawn, quiet and reclusive. He did not have much to do with anyone anymore.

His sleep is disturbed. He has trouble with sleep onset and often awakens. On average he gets four to five hours a night and never sleeps more than six hours. For the most part he does not remember his dreams.

Leisure time includes working on a '56 Ford in the back yard. He flies kites with his daughter and son at the beach and plays with remote control cars. "Anything that can do to take my mind off everything." His brother, Jerry, is in jail with a ten year sentence for drugs, forgery, ID theft," but could be out next year.

Bouts of depression “come out of the blue, like the rage.” Christmas can be a trigger. The last severe depression was about nine months ago. “I withdraw from everyone.” Phillip engages in self harming behaviors “on a regular basis” and uses physical pain as a means to modulate painful, volatile affects. “I punch trees, inanimate objects to get myself back to normal.” He adds, “Better to hit tree than someone else.” In 1995, at around age 20, he stabbed his arm with a knife. He has also stabbed his hand. “I dealt with pain in my own way. It is easier to hurt on the outside than inside.”

Another extreme example of self-injury took place about 2.5 years ago involved Phillip driving into a tree while “traveling 80 mph.” The incident occurred a week after CPS removed his children from the home. Jacqueline was in the car and Phillip was intent on taking both their lives. He destroyed the car but “told the social worker that someone hit him.” The police were not involved. Phillip states that Jacqueline’s nose was broken from the air bags. While his “leg and back were messed up,” doctors are unable to find a problem despite a half dozen hospital visits. In 1992-93 while driving his 1986 Nissan 280-ZX, Phillip purposely drove into an oak tree. Reportedly, he was “covered in blood and barely able to walk.” He suffered cracked ribs and required surgery on his knee. He denies using drugs at the time.

Phillip’s greatest concern involves his ability to care for the children. He has been haunted by Audrey Turley’s warning that if he ever had daughters, that he would “turn into rapist like my father.” While he is not “attracted” to his daughters, Phillip still worries “that Audrey Turley will be right.” He adds, “I am constantly thinking I am at-risk of raping my kids.” Such concerns left him fearful and unable to bathe his daughter for first two years of life. “That will probably screw up my daughter.” Once Jacqueline was out of the home, “The first thing I did was call my sister and ask her to come.” He adds, “When I change a diaper that memory of Audrey Turley comes back again.” He had his sister supervise his care for the children. He added, “My whole life the feared I would become a rapist.” Phillip is finally clear: “I did not and won’t become one.”

Phillip also has two boys, Joshua and Jacob, who he had with Casey. The boys are turning 18 and 16 years old, respectively. He has no contact with them. (He did not mention two other children indicated in the records) The mother has asked him to stay away. Phillip was incarcerated in Virginia when Joshua was born and back in Washington when Jacob was born.

Four months prior to the evaluation, Phillip was worried about his anger and violence potential. He imagined killing Jacqueline and burying her on the beach. He added, “But, I don’t think would actually take someone’s life.” Phillip’s last physical fight took place “four days ago.” A neighbor who Phillip describes as a meth addict stole a toy from his yard. “I saw it and went to his yard. The guy pushed me and I stomped him into the ground and slammed his face into a rock.” The victim did not police. Phillip speculates that Jacqueline may have sold the toy to him

for methamphetamine. Phillip insists that he had "control of myself the entire time." He repeated the vow: "I will never lose a fight again."

Phillip endorses persecutory concerns. He fears shopping in a store when there more than a couple of people inside. "I am always looking over my shoulder." He worries that people are talking about him. However, he denies any history of hallucinations.

At the time of the evaluation, Phillip weighed 265 pounds. His weight tends to fluctuate 20 pounds either way. Despite being overweight, Phillip views himself as "healthy as an ox." Notwithstanding having not shaven in several days, he is "very meticulous" about hygiene. "People call me OCD."

When asked why he had not mentioned the abuse in prior evaluations, Phillip responded that his shame prevented additional disclosure. He is highly defended against revealing this level of vulnerability, and reluctant to talk about his traumatic past. Phillip added, "You are not such a tough guy if you have been raped. If I did not talk about, I don't have to deal with it." Phillip also qualifies that he disclosed the abuse that took place Deschutes to a Behavioral Health Resources therapist named Voe in 1998. However, after telling of the abuse, Phillip decompensated. He "picked up chair and threw it against the wall...and they asked me to not come back again."

Plaintiff's Response to Contradictory Reports from Records

A February 15, 2008 evaluation at Behavioral Health Resources indicated that Phillip was sexually abused by his father from 5.5 to 8.5 years old. Phillip emphatically states that the record is inaccurate. "That was bullshit. I was never sexually abused by my father." Phillip does not know why this was indicated in the BHR records, but speculates that Ms. Turley "used to say the same thing." Phillip is certain that he never told the evaluator at BHR that he was molested by his father. "That is what Audrey Turley suggested."

Another BHR record suggests that he was sexually abused six different times at age 12 in foster care. Again, Phillip states that there was a misunderstanding. He notes that this was the first time he broached the subject of the abuse, in about 20 years, since speaking with Ms. Turley. "He asked me how many boys were there. There were like six kids in the home. I am not the world's greatest speaker." He adds, "That was the last day I went to counseling as I chucked a chair at the wall." The counselor at BHR "wanted to dive deep into the pool and I said that is not going to happen."

Records suggesting he reported being in 97 foster homes were also inaccurate. Phillip estimates the correct number of placements was in 7-9 foster homes. He listed the following homes: the

Harleys, his grandmother, Cheryl and Tyler, the Anacortes home, Deschutes, Bill Beckham and then the Lacey's house, a hospice and finally he ran away at age thirteen to fourteen.

PSYCHOMETRIC TESTING

Posttraumatic Stress Diagnostic Scale (PDS)

The PDS is designed to aid in the diagnosis of Posttraumatic Stress Disorder. Phillip's response profile is consistent with a diagnosis of PTSD. Results indicate a symptom rating of severe, and level of impairment as severe. All six diagnostic categories were fulfilled: Exposure to a traumatic event; Reexperiencing symptoms; Avoidance symptoms; Arousal symptoms; Symptom duration of 1 month or more; Distress or impairment in functioning

Reexperiencing symptoms: DSM-IV requires one or more "reexperiencing" symptoms to be endorsed. Phillip endorsed all 5 possible symptoms.

- Having upsetting thoughts or images about the traumatic event that came into your head when you didn't want them to; 5 or more times a week/almost always
- Feeling emotionally upset when reminded of the traumatic event (for example, feeling scared, angry, sad, guilty, etc.); 5 or more times a week/almost always
- Experiencing physical reactions when reminded of the traumatic event (for example, breaking out in a sweat, heart beating fast); 5 or more times a week/almost always
- Having bad dreams or nightmares about the traumatic event; 5 or more times a week/almost always
- Reliving the traumatic event, acting or feeling as if it was happening again; 2 to 4 times a week/half the time

Avoidance Symptoms: DSM-IV requires three or more "avoidance" symptoms to be endorsed. Phillip endorsed 6 of the 7 possible symptoms:

- Trying not to think about, talk about, or have feelings about the traumatic event; 5 or more times a week/almost always
- Trying to avoid activities, people, or places that remind you of the traumatic event; 2 to 4 times a week/half the time
- Having much less interest or participating much less often in important activities; 5 or more times a week/almost always
- Feeling distant or cut off from people around you; 5 or more times a week/almost always
- Feeling emotionally numb (for example, being unable to cry or unable to have loving feelings); 5 or more times a week/almost always
- Feeling as if your future plans or hopes will not come true (for example, you will not have a career, marriage, children, or a long life); 5 or more times a week/almost always

Arousal Symptoms: DSM-IV requires two or more "arousal" symptoms to be endorsed. He endorsed all 5 possible symptoms:

- Having trouble falling or staying asleep; 5 or more times a week/almost always
- Feeling irritable or having fits of anger; 5 or more times a week/almost always
- Having trouble concentrating (for example, drifting in and out of conversations, losing track of a story on television, forgetting what you read); 5 or more times a week/almost always
- Being overly alert (for example, checking to see who is around you, being uncomfortable with your back to a door, etc.); 5 or more times a week/almost always
- Being jumpy or easily startled (for example, when someone walks up behind you); 5 or more times a week/almost always

Davidson Trauma Scale

The DTS is a diagnostic screening tool for PTSD. Severity ratings range from not all distressed to extremely distressed. He indicated the trauma most disturbing was "being raped by Michael P at Deschutes Boys Home then no one helping after I said something."

Phillip endorsed the following symptoms associated with having suffered traumatic experiences:

Painful images, memories or thoughts about the event (He endorsed a frequency of "every day" and severity as extremely distressing)

Distress from dreams of the event (He endorsed a frequency of four to six times over the past week and severity as extremely distressed)

Felt that this was recurring – as if you were reliving it (He endorsed a frequency of four to six times over the past week and severity as extremely distressed)

Upset by something that reminds you of the event (He endorsed a frequency of four to six times over the past week and severity as extremely distressed)

Physically upset by reminders? (He endorsed a frequency of "every day" and severity as extremely distressing)

Avoiding any thoughts or feelings about the event (He endorsed a frequency of "every day" and severity as extremely distressing)

Avoiding things or going into situations that remind you of the event (He endorsed a frequency of four to six times over the past week and severity as extremely distressing)

Found yourself unable to recall important parts of the event (He endorsed not at all and not at all distressing)

Had difficulty enjoying things (He endorsed a frequency of "every day" and severity as extremely distressing)

Felt distant or cut off from people (He endorsed a frequency of "every day" and severity as extremely distressing)

Irritable and outbursts of anger (He endorsed a frequency of "every day" and severity as extremely distressing)

Distracted, on edge or felt a need to stay on guard (He endorsed a frequency of "every day" and severity as extremely distressing)

Unable to have sad or loving feelings (He endorsed a frequency of "every day" and severity as extremely distressing)

Hard to imagine having a long life and fulfilling goals (He endorsed a frequency of "every day" and severity as extremely distressing)

Trouble falling asleep or staying asleep (He endorsed a frequency of "every day" and severity as markedly distressing)

Irritable or outburst of anger (He endorsed a frequency of "every day" and severity as extremely distressing)

Difficulty concentrating (He endorsed a frequency of four to six times a week and severity as extremely distressing)

On edge, easily distracted and on guard (He endorsed a frequency of "every day" and severity as extremely distressing)

Jumpy and easily startled He endorsed a frequency of "every day" and severity as extremely distressing)

Symptom Checklist 90-R (SCL-90-R)

The SCL-90-R is a measure designed to aid in the identification of symptom patterns and diagnosis. Phillip's profile shows a range of scores in the clinical range and that he is experiencing significant psychological difficulties, and should be more intensively evaluated.

Phillip endorsed "Extremely" distressed for the following:

5. Loss of sexual interest or pleasure.
9. Trouble remembering things.

10. Worried about sloppiness or carelessness.
27. Pains in lower back.
31. Worrying too much about things.
44. Trouble falling asleep.
49. Hot or cold spells.
51. Your mind going blank.
61. Feeling uneasy when people are watching or talking about you.
64. Awakening in the early morning.
66. Sleep that is restless or disturbed.
70. Feeling uneasy in crowds, such as shopping or at a movie.
73. Feeling uncomfortable about eating or drinking in public.
74. Getting into frequent arguments.
81. Shouting or throwing things.
83. Feeling that people will take advantage of you if you let them.
88. Never feeling close to another person.
90. The idea that something is wrong with your mind.

Phillip endorsed "Quite a Bit" distressed for the following:

2. Nervousness or shakiness inside.
3. Repeated unpleasant thoughts that won't leave your mind.
6. Feeling critical of others.
11. Feeling easily annoyed or irritated.
13. Feeling afraid in open spaces or on the streets.
18. Feeling that most people cannot be trusted.
21. Feeling shy or uneasy with the opposite sex.
24. Temper outbursts that you could not control.
32. Feeling no interest in things.
45. Having to check and double-check what you do.
46. Difficulty making decisions.
57. Feeling tense or keyed up.
67. Having urges to break or smash things.
68. Having ideas or beliefs that others do not share.
77. Feeling lonely even when you are with people.
89. Feelings of guilt.

Adult Behavior Checklist

Phillip's mother, Lona Elaine Hutto, endorsed the following regarding Phillip: He has not close friends. He does not get along with others well. She notes that he has PTSD, abandonment issues, personality disorders, explosive temper, near manic/depressive behavior. Concerns include the following: He can be rather overbearing/controlling; I am concerned he may never trust anyone or their intentions and consequently not succeed in a relationship that allows to make him happy.

The best things about him: Loves his children and truly wants what is best for them in his eyes; extremely intelligent.

Ms. Hutto endorsed the following to be "very true/often true" of Phillip: Is too forgetful, argues a lot, blames others for own problems, can't concentrate/pay attention for long, doesn't get along with other people, does not seem to feel guilty after misbehavior, would rather be alone than with others, can do certain things better than others, feels tired without good reason, mood swings between elation and depression, rashes or skin problems, fails to finish things he should do, there is little he enjoys, has trouble making or keeping friends, self conscious or easily embarrassed, worries about his family, meets responsibilities of his family, sleeps more than most people during the night (can sleep all night, up couple of hours sleep several hours, and go to bed another 8, other times goes to bed 2-3 hours then awake), very changeable behavior, easily bored, stubborn or irritable, sudden changes in mood, rushes into things without considering the risks, drinks too much alcohol or gets drunk, teases a lot temper tantrums, dislikes staying in one place, stays away from job even when not sick and not on vacation, underactive, slow moving, unhappy/sad/depressed, disorganized, tends to lose things, is unusually loud, withdrawn, gets upset too easily, is too impatient, has trouble keeping a job.

She estimates that in the past six months he has used tobacco 20-40 times a day. She is unsure about his alcohol use during that this period. She estimates that he has used drugs (for non-medical purposes) 2-3 times a month.

Adult Sentence Completion Form

The following responses (in italics) underscore Phillip's trauma-induced social alienation, lack of interpersonal trust, and rage.

I like my children.

The happiest time of my life was watching my daughter being born.

I want to know why all this crap happened to me.

I regret not going to continuing counseling.

Men are backstabbing shit.

The best friend I ever had was a dog named Ruff.

People suck.

I can't go through this again at trial.

When I was a child I was hurt deeply.

My nerves can't handle this.

Marriage sucks.

I am best when I am left alone.

Sometimes I smile.

I hate these memories I have.

This place is *pissing me off*.
I am very *tired*.
My father was a *piece of shit but I loved him*.
I *hate myself*.
Most women are *cold emotionally*.

Minnesota Multiphasic Personality Inventory-II (MMPI-II)

The MMPI-2's is a self-report personality inventory. As with all psychometric test results the MMPI-2 must be interpreted in the context of the developmental and clinical information provided in the overall evaluation. According to the computerized report, the results are invalid as the F (P) is equal to or greater than 100. This result suggests that Phillip may have sought to exaggerate his symptoms on the protocol. Certainly, given the context of the lawsuit, the plaintiff may harbor motives for personal gain and thus to "fake bad." However, Phillip's extensive diagnostic history already documents the existence of severe psychopathology. It is noteworthy, according to Groth-Marnet (Handbook of Psychological Assessment, 2003), that when assessing a psychiatric patient that a T score greater than 106 (Phillip scored 106) is needed to potentially establish that there is an exaggeration of symptoms.

DIAGNOSTIC IMPRESSIONS

The following diagnostic impressions are based upon observations derived from clinical interviews with Phillip, self report interview data, psychological test data and a review of available records. The diagnosis is offered within a reasonable degree of psychological certainty:

- Axis I: Posttraumatic Stress Disorder, Chronic and Severe (complex with self-destructive, self-medicating, depressive features).
Rule out Bipolar Disorder
Substance Abuse Disorder
- Axis II: Rule out Borderline Personality Disorder
- Axis III: None
- Axis IV: History of sexual assault; parenting; relationship; process of litigation
- Axis V: GAF = 45-50 (Current: time of evaluation)

OPINION REGARDING IMPACT OF SEXUAL ASSAULTS ON PHILLIP LEWIS

Overview

Phillip Lewis presented as an agitated, volatile, socially isolated 37 year old man who continues to grapple with ramifications from childhood trauma. The plaintiff exhibits strident, avoidant-driven coping defenses that have negatively impacted relationships, education, vocational pursuits and overall quality of life. While never married he has fathered multiple children. Extremely mistrustful of authority figures, he has never sustained employment. He has a history of substance abuse, self-destructive behaviors and an extensive arrest record.

Although anxious, wary and disorganized, Phillip provided credible descriptions of suffering sexual abuse and physical assault while a resident at the Deschutes Children's Center and at a subsequent foster home placement. There were minor variations in the plaintiff's description (e.g., whether forced to orally copulate another boy at DCC versus clenching his teeth) and indications of his capacity for exaggeration. However, the core complaints and depiction of events involving abuse remained coherent and consistent. He provided a contextually well-embedded, detailed account of the abuse incidents. His description of the sexual assaults, if given contemporaneously, would meet Raskin's criterion based content analysis for assessing the validity of allegations of sexual assault – which included Phillip's description of his state of mind, self-blaming and attribution of the perpetrator's state of mind ("Child as Witness," American Psychological Association Press, 2000).

Phillip reports that while a ward of the state he disclosed having been abused to his caseworker, Audrey Turley. He reportedly also told other staff at Deschutes about the sexual assault. Based on the records and Phillip's report, no definitive action was taken to protect him from further harm or provide necessary treatment. The Deschutes building was dilapidated and hazardous. Multiple incident reports, police reports, CPS records, and correspondence among DSHS administrators documented that the milieu was sexually charged, disorganized, chaotic and aggressive. The staff lacked adequate experience or training and there was "near total lack of discipline" in the home. One documented example of the disturbing level of care includes Phillip being provided alcohol by a staff member who was driving the child while intoxicated. The director exhibited questionable clinical judgment. Consistent with Phillip's report, Ms. Blackstock's behaviors spoke to confused and inappropriate boundaries which fueled aggressive, out of control, sexual behaviors.

It is my professional opinion, within a reasonable degree of psychological certainty that Phillip's report that he was sexual assaulted on three occasions while a ward of the state of Washington is psychologically credible; as is his account of the impact that the assaults had upon him. It is also my professional opinion, within a reasonable degree of psychological certainty, that Phillip has suffered severe and long-term damages as a direct result of being sexually abused in foster care. And that the corrosive impact from the molestations was amplified by the lack of response among those who held positions of special trust and authority and were assigned to care for and protect the plaintiff. It is

psychologically more probable than not that if Audrey Turley had actively responded to Phillip's reports of abuse that he would have received the necessary treatment interventions; and with appropriate therapeutic support, it is likely that Phillip's developmental trajectory would have taken a more propitious course (see Fanshel 1980, Kliman, NIMH Monograph 1982 and Manual for use of PLHB 1987). I expect that his behavioral concerns would have sufficiently stabilize that he could have at a minimum, graduated from high school graduation and attained a two year college degree.

Impact of Pre-Abuse Developmental Adversity

The plaintiff was exposed to severe emotional, physical, and sexual abuse perpetrated by his father. Records indicate that one, and probably three sisters were repeatedly molested. DSHS records also suggest that Phillip was exposed to sexual trauma in the home, insofar as he was percipient witness to the father raping his sister. The plaintiff denies suggestion that he was directly molested. Consistent with suffering exposure to abuse, Phillip exhibited compromised capacities for attachment and troubling behaviors that included sexual acting out, anger, mutilating small animals, lying and stealing (As noted, Phillip denies any history of harming animals). Complicating matters, following removal from the home at around age nine, Phillip experienced continued caretaking instability (Lewis et al, 2007, Rubin et al, 2007, 2004).

Summary of Sexual Assaults and Disclosure at Deschutes Children's Center and the Lacey Home

At 12.5 years of age, after multiple placements Phillip landed at Deschutes Children's Center. He was a deeply troubled, pubescent boy who required a tightly structured, nurturing therapeutic placement. Adversities suffered prior to Deschutes magnified the child's risk to be targeted for re-victimization (Center for Disease Control and Prevention, ACE study) (Holt, Buckley, Whelan, 2008). Phillip was in need of a treatment environment that cultivated experiences of safety, trust, impulse control, and nurtured secure attachments with caretakers. The plaintiff was not availed the therapeutic protective factors necessary to prevent further psychological and physical harm. On the contrary, while at Deschutes and then the Lacey home, he suffered multiple incidents of physical and sexual assault:

- At DCC, Phillip witnessed other residents urinate on a boy named Sean.
- At DCC he was anally raped by at least two boys.
- At DCC he disclosed the sexual assault to caseworker Audrey Turley.
- At DCC he was physically assaulted, then forced to engage in oral copulation.
- At DCC he again told Audrey Turley that he had been assaulted.

Physical and sexual assault while in the Lacey home:

- Phillip endured recurring physical assaults in the foster home.
- He was sexually assaulted by a resident named Joe (oral copulation).
- He disclosed the assaults to Audrey Turley.

Impact from the Sexual Assaults at Deschutes Children's Center and the Lacey Home

Phillip exhibits a trauma-based, avoidant, antisocial character style that has wrought instability within virtually every arena of functioning. He is an exceptionally vulnerable, guarded and impulsive individual who lacks adaptive, self regulatory capacities to manage situational stress in his daily life. He presents with substantial anger and aggression that in his words, functions to ward off potential threats, while masking underlying vulnerability. Areas of damage include severe and longstanding impairments in interpersonal relationships, emotional, academic and vocational functioning, parenting skills and diminished overall quality of life. Although bright and engaging, Phillip lacks a high school education or adequate vocational training. He has never sustained a job for more than a few months. He possesses an extensive criminal record and has assaulted authority figures in the work environment. Though never married, he has fathered seven children. At the time of the evaluation, he expressed substantial trepidation about his capacity to care for the three children, all who are under five years of age.

Summary of Clinical Observations and Diagnostic Impressions

Phillip exhibits clinical symptoms that meet DSM-IV-TR diagnostic criteria for Posttraumatic Stress Disorder. Criteria A involved multiple traumatic stressors that included suffering three incidents of sexual assault. Ongoing exposure to stressors of this magnitude is considered a complex trauma (Cloitre, Stolbach, Herman, van der Kolk, Pynoos, et al, 2009). A cumulative or complex trauma involving sexual abuse is often associated with enduring disturbances in personality and character development and diagnostic concerns that include comorbid PTSD and Borderline Personality Disorder (McLean & Gallop, 2003). A history of sexual abuse significantly increases the likelihood of chronic PTSD symptoms in concert with the Axis II diagnosis (Zanarini et al, 2011).

Areas of dysfunction include affect dysregulation, substance abuse, dissociation, adverse cognitive functioning, dysfunctional sexual behaviors, problems with self reflection, as well as significant interpersonal conflict, depression and suicidality (Briere, Hodges, Godbout, 2010).

Although there were discrepancies in the plaintiff's report, problems with dissociative symptoms including amnesia for abuse memories is well documented in trauma research. Memory problems

and dissociative tendencies are particularly common when the onset of abuse is at an early age (Trickett, Noll, Putnam; 2011).

Trauma that includes a betrayal of trust by an adult in a caretaking position of power and authority also result in more far reaching clinical and behavioral concerns (Edwards, Freyd, Dube, Anda, Felitti, 2012). Betrayal in trauma is also correlated with increased severity and duration of PTSD symptoms (Kelley, Weathers, Mason, and Pruneau, 2012).

LONG-TERM TREATMENT RECOMMENDATIONS

A detailed lifetime treatment plan is provided below with estimates of economic costs. The following modalities are recommended:

Individual psychotherapy Phase I: Phillip will benefit from an intensive treatment that includes a recommended frequency of two times a week over the next several years. The therapy should be conducted by an experienced therapist who can work effectively with the shame, anger and avoidant driven defenses associated with the sexual trauma.

Individual psychotherapy Phase II: It is more probable than not that Phillip will require intermittent treatment interventions at stressful periods throughout the remainder of adulthood.

Parenting Classes and Direct Supervision: Practical and strategic support for basic parenting duties.

Group therapy / anger management: In light of his difficulties with social skills and anger management, Phillip can be helped by a supportive group targeting these concerns, preferably with other men.

Family therapy: Various configurations of treatment with his children and potentially the mother of his children.

Couples / Marital counseling: For help with interpersonal trust, low self esteem, shame, diminished capacities for emotional and sexual intimacy and relationship conflict.

Psychotropic consultation and medications: Intermittent evaluation for mood stabilizers, antidepressant and/or anti-anxiety medications over lifetime.

Physical health care needs and costs: Extensive research by the Centers for Disease Control and Prevention has shown that chronic stress has a deleterious impact upon physical health.

Reciprocally, chronic health problems exacerbate mental health concerns. For this reason physical health care needs and associated health care costs are added to the life care plan. The CDC estimates annual costs for care among those suffering from PTSD will be higher on average than controls for a lifetime, conservatively averaging \$3,000 a year while not allowing for future inflation.

Psychiatric hospitalization and/or drug and alcohol detoxification and rehabilitation: It is probable that over the course of his life span, during times of heightened stress that Phillip will be require inpatient treatment.

Impact on income earning potential over a lifetime: The U.S. Census Bureau data has shown significantly lower earning capacities among individuals based on their level of education. While Phillip is bright, chronic and severe emotional and behavioral symptoms culminated in his dropping out of school after the eighth grade. If not for the sexual trauma, I believe that it is probable that Phillip would have at a minimum graduated from high school and received vocational training from two years of community college (Cheeseman Day & Newburger, 2002).

PSYCHOLOGICAL AND PSYCHIATRIC LIFE CARE PLAN FOR PHILLIP LEWIS

MODALITY:	FREQUENCY AND COST IF NOT SEXUALLY ASSAULTED	TOTAL:	ADDITIONAL FREQUENCY AND COST DUE TO SEXUAL ASSAULT	TOTAL:
INDIVIDUAL OUTPATIENT PSYCHOTHERAPY PHASE I: An intensive treatment over the next several years provided by a trauma-experienced therapist	200 sessions @ \$200/session	\$40,000	400 sessions @ \$200/session	\$80,000
PARENTING CLASSES AND DIRECT SUPERVISION:	None	0	100 sessions @\$100/session	\$10,000
INDIVIDUAL OUTPATIENT PSYCHOTHERAPY PHASE II: Treatment as needed over the course of a lifetime	100 sessions @ \$200/session	\$20,000	300 sessions @ \$200/session	\$60,000
GROUP THERAPY: Supportive group for men targeting anger management and social skills	None	0	100 sessions @ \$75/session	\$7,500
FAMILY THERAPY: To address family-wide stress secondary to generational transmission of trauma	25 sessions @ \$200/session	\$5,000	200 sessions @ \$200/session	\$40,000
MARITAL THERAPY: Secondary to problems with trust, communication, emotional, physical and sexual intimacy	25 sessions @ \$200/session	\$5,000	200 sessions @ \$200/session	\$40,000
PHYSICAL HEALTH CARE NEEDS: Stress related medical and behavioral concerns	None	0	Increased estimated cost each year over the course of a lifetime (i.e., 80 years of age): 43 years x \$3000 =	\$129,000
HOSPITALIZATION: Need for psychiatric and/or drug -alcohol detoxification/ rehabilitation	None	0	Over lifetime: several admissions for 7 days x 3 over a lifetime = 21 days @ \$1,000/day	\$21,000
PSYCHOPHARMACOLOGIC CONSULTATION:	None	0	Consultations over a life time as needed on 20 occasions	\$6,000
PSYCHOTROPIC MEDICATION:	None	0	\$2,400 per year for 43 years	\$103,200
INCOME EARNING POTENTIAL OVER LIFETIME: Difference between 8 th grade education and Associates Degree			Differential of income earned over life span without diploma or two years of community college:	\$735,367
TOTAL:		\$70,000		\$1,232,067

PAIN AND SUFFERING

A jury rather than a mental health professional can best attach economic value to compensation for the pain, suffering and damage Phillip has experienced and will continue to experience. As a mental health professional, however, I can state that he has endured thousands of moments of pain and suffering and more probably than not he will continue to be impacted by sequelae associated with the sexual assaults.

PROGNOSIS

Guarded.

Sincerely,

Robert Wynne, PhD, MFT

DECLARATION OF SHARLA BUCK

FILED
SUPERIOR COURT
THURSTON COUNTY, WA

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SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THURSTON COUNTY

P.L. a single male, and S.B. a married
but separated female,

Plaintiffs,

v.

WASHINGTON STATE DEPARTMENT OF
SOCIAL AND HEALTH SERVICES,

Defendant.

NO. 12-2-00680-3

DECLARATION OF SHARLA BUCK

Sharla Buck declares as follows:

1. I am plaintiff in this lawsuit along with my brother, Phillip Lewis.
2. My brothers and sisters and I were placed in foster care after it was discovered that I was being molested by step father. This occurred during 1984. At that time, Audrey Turley became our social worker. Ms. Turley informed me that it was her job to keep me safe.
3. DSHS and Ms. Turley placed me in the home of Georgia and Ray Towns. Shortly after being placed in the Town's residence, Mr. Towns began molesting me. The molestations would typically occur in his car when he was driving me to counseling sessions or to the grocery store, as examples. The molestations occurred regularly and repeatedly until

1 I was removed from the home after my foster sister and I reported the abuse to a school
2 counselor in 1987.

3 4. It is my understanding that DSHS's is claiming that the report of my foster
4 sister and I of being molested by Mr. Towns were purportedly "unsubstantiated" by someone.
5 As pertained to me, this cannot and/or should not be true because I have always maintained
6 that I was molested. The only part of any "investigation" during which I recall being
7 interviewed occurred on the day that my foster sister and I were removed from the Towns
8 home. The only other person that was a witness to the sexual abuse was Mr. Towns. So it
9 appears that anyone who investigated just took Mr. Town's word over mine and called it
10 "unsubstantiated".

11 5. Early on after first being molested by Mr. Towns, I informed Ms. Turley of
12 what occurred. Ms. Turley would visit periodically and take me alone in her SUV and ask
13 how I was doing. I told Ms. Turley on perhaps six (6) or seven (7) different occasions that
14 Mr. Towns was touching me the same way that my step father had touched me. Ms. Turley's
15 typical response was that I was "misremembering" what happened as related to my step father
16 or that I was not telling the truth. To my knowledge, until the other foster girl and I reported
17 the abuse our school counselor, Ms. Turley never took any steps to investigate what I reported
18 for the first time nearly three (3) years earlier.

19 6. Originally, I had not intended to file a lawsuit against DSHS for what occurred
20 to me during my childhood. However, upon learning from my brother, Phillip, that Ms.
21 Turley had failed him too, I felt that it was something that I needed to do. I also knew/know
22 that the only way that I am ever going to be able to obtain the counseling and help that I need
23 is by pursuing this.

DECLARATION OF SHARLA BUCK - 2 of 5

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1 7. Not until the recent past had I had the opportunity to work with a counselor
2 concerning the sexual abuse that occurred at the hands of Mr. Towns. On January 20, 2013, I
3 attempted suicide. As a result of this suicide attempt, I began counseling with Peggy
4 Dequette, MHP, LNHT, MA and have begun exploring the impact of the multiple traumas in
5 my life, including the abuse by Mr. Towns. Prior to these counseling sessions, I have not
6 been able to work with a professional to explore the impact of the childhood sexual abuse at
7 the hands of Mr. Towns upon my life. During the most recent counseling sessions, part of the
8 purpose is to explore the connections to my childhood abuse any why/how it caused me to
9 attempt suicide this year.

10 8. During the course of these proceedings, I was examined by Robert Wynne,
11 PhD. It is my understanding that the purpose of the examinations with Dr. Wynne was to
12 evaluate the impact of the abuse perpetrated by Mr. Towns in the context of my entire life. In
13 August of 2013, in the course of drafting this declaration, I was provided a copy of Dr.
14 Wynne's report. Prior to this occasion, I have never reviewed and mental health
15 professional's evaluations that were focused upon determining the impact of the abuse by Mr.
16 Towns.

17 9. Dr. Wynne's report indicates that "*[a]t a minimum the Towns home placement*
18 *represented a lost opportunity to provide Sharla a corrective emotional experience. Much*
19 *more probable is that it actually provided a destructive experience of sexual molestations*
20 *which launched a career of learned helplessness and posttraumatic disorder.*"¹ Dr. Wynne's
21 report also indicates that "*[d]espite the need for care, and despite her complaints of being*
22 *molested by her foster father, the subsequent reoccurring molestation by her foster father*
23

¹ Wynne Report, Page 22

1 significantly and irreparably aggravated the plaintiff's pre-existing traumatized state.
2 Prospects to right her developmental course were permanently derailed. Lack of protective
3 investigation and protective response by DSHS represented yet another betrayal by adult
4 caregivers, and served to intensify Sharla's rage, mistrust, and disillusionment."² The report
5 also indicates that "She is haunted by shame, guilt and rage. She feels 'dirty.' Sharla lacks
6 interpersonal trust and inadvertently reenacts reoccurring relational conflict involving acts of
7 betrayal and violence. She is avoidant, socially isolated and experiences chronic anxiety.
8 She experiences longstanding sexual dysfunction, She presents with a recurring depression,
9 self destructive behaviors (e.g. self cutting), and suicidality and homicidal ideation. There
10 have been periods of substance abuse."³

11 10. I have never before been provided an opportunity to review a professional's
12 report regarding the impact of the abuse I suffered at the hands of Mr. Towns. To the extent
13 that I have ever discussed or thought about issues pertaining to childhood molestation, it has
14 often been focused upon what my step father did to me. Dr. Wynne's explanation that being
15 abused again by Mr. Towns deprived me of an opportunity to get better and instead made my
16 conditions worse is something that I have never had a chance to explore in any meaningful
17 way. I would like to obtain the counseling recommended by Dr. Wynne for the sake of
18 making myself better and to understand that connections that are drawn in the report.

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23 ² Wynne Report, Page 24

³ *Id.* at 24-25

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and accurate to the best of my knowledge.

DATED this ^{SB} 15 day of August, 2013.


SHARLA BUCK

DECLARATION OF PHILIP LEWIS

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SUPERIOR COURT
THURSTON COUNTY, WA

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SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THURSTON COUNTY

P.L. a single male, and S.B. a married
but separated female,
Plaintiffs,

NO. 12-2-00680-3

DECLARATION OF PHILLIP LEWIS

v.

WASHINGTON STATE DEPARTMENT OF
SOCIAL AND HEALTH SERVICES,

Defendant.

Phillip Lewis declares as follows:

1. I am plaintiff in this lawsuit along with my sister, Sharla Buck.
2. During 1984, my brothers, sisters, and I were removed from our home and placed in foster care after it was discovered that my sister was being sexually abused by our step father. From that point forward, until I ran away from my last foster placement, it is my understanding that I was under the care of DSHS.
3. As it is reflected in DSHS's own documentation, I was placed by DSHS at the Deschutes Children Center on or around September 1, 1987, and remained at that facility until December 1, 1987. DSHS's own documents also reflect that multiple adolescent residents had been sexually assaulted at the facility prior to my placement in a manner similar to that which I was abused.

DECLARATION OF PHILLIP LEWIS - 1 of 5

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ORIGINAL

0-000000440

1 4. After several months of being placed at Deschutes, I was sexually assaulted by
2 other residents on or around the second-third week of December. This date is based upon the
3 fact that I remained at Deschutes for about a week after the assault(s) occurred.

4 5. After being sexually assaulted the first time, I recall that my social worker,
5 Audrey Turley, was contacted and asked to come and visit me. When Ms. Turley arrived, I
6 specifically informed her that I had been sexually assaulted and that I was in fear of being left
7 at Deschutes with my abusers. Despite the fact that there are a number of DSHS documents
8 demonstrating I was placed at Deschutes, and that Ms. Turley was my social worker, it is my
9 understanding that Ms. Turley denied under oath during her deposition that I was ever even
10 placed in at the group home. She also denied that I informed her that I was in danger.

11 6. In truth, when I informed Ms. Turley about being sexually assaulted by the
12 other residents, she responded that she did not believe me and/or did not believe that I was in
13 danger, and forced me to stay at Deschutes. Upon being sent back to stay at Deschutes with
14 my abusers, I was again sexually assaulted for "snitching" about what had occurred the first
15 time.

16 7. I was placed in a number of other foster placements which eventually included
17 that home of Ned and Jeanette Lacy. In their home, I was routinely subjected to physical
18 abuse at the hands of the other children.

19 8. I reported the ongoing physical abuse at the Lacy home to Ms. Turley, but she
20 did not do anything to intervene. I was left in the Lacy's foster home where I was eventually
21 sexually assaulted by another bigger and older child in the home.
22
23

1 9. Being sexually assaulted at the Lacy home was the last straw for me. I was not
2 safe there and Ms. Turley was not taking any steps to protect me, so I ran away from the Lacy
3 home and from DSHS's care forever.

4 10. Prior to the initiation of this lawsuit, I have never discussed in any detail the
5 facts of what occurred in relation to my having been sexually abused at Deschutes and the
6 Lacy home with anyone. At one point, I tried to approach a counselor about what occurred. I
7 was so ashamed of being subjected to what I perceived as a homosexual act that I informed
8 that counselor that I had been sexually assaulted by a woman.

9 11. The counseling session that I just described never went anywhere because we
10 were never able to get to the details of what occurred and discuss how it impacted me. I have
11 wanted counseling to explore the problems that I have experienced, but was never able to get
12 the counseling that I needed.

13 12. I have also been through many psychological examinations over the years for
14 assorted purposes including with the Social Security Administration to obtain disability.
15 None of these evaluations were for the purpose of exploring the impact of any sexual abuse,
16 and the details of the abuse were never discussed. I have never been told, until this the
17 pendency of this lawsuit that any of my diagnosis such as PTSD was caused by the childhood
18 sexual assaults.

19 13. Prior to this lawsuit, after being subjected to the differing psychological
20 examinations, I was never offered any counseling or provided an opportunity to discuss the
21 cause of whatever my emotional and/or psychological problems had been. I do not even
22 recall being provided copies of the examination reports, and if I was, I did not read and/or
23 understand them.

DECLARATION OF PHILLIP LEWIS - 3 of 5

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0-000000442

1 14. Over my lifetime, I have experienced severe emotional turmoil. During the
2 time period immediately preceding hiring an attorney to file this lawsuit, I was having
3 immense feelings of guilt when I was around my own children. I pursued hiring an attorney
4 and this lawsuit for purposes of helping me find out what was wrong with me and to obtain
5 counseling.

6 15. The first time that I ever discussed the details of the sexual abuse to which I
7 was subjected was with Robert Wynne, PhD, an expert that was retained by my attorneys.
8 The examinations occurred in February and March of 2013, and I was still very
9 uncomfortable discussing the details at that time. It is my understanding that the purpose of
10 the examination was to explore the impact of the childhood sexual assaults upon my life.

11 16. I reviewed a copy of Dr. Wynne's report for first time during August of 2013
12 for purposes of completing this declaration and responding to DSHS's motion to dismiss.
13 Prior to reviewing Dr. Wynne's report, I have never in my life reviewed a psychological
14 examination developed for the purpose of assisting my in making the connections between the
15 childhood sexual assaults and my current mental condition(s).

16 17. It is my understanding from Dr. Wynne's report that it is his opinion that the
17 childhood sexual assaults have caused me (1) "sexual identity issues", (2) "trust issues", (3)
18 homophobia, (4) sleep disturbances, (5) self injurious behaviors, (6) concerns about my ability
19 to care for my own children, (7) Post Traumatic Stress Disorder, and that the abuse caused (8)
20 *"a trauma-based, avoidant, antisocial character style that has wrought instability within*
21 *virtually every arena of functioning. He is exceptionally vulnerable, guarded, and impulsive*
22 *individual who lacks adaptive, self regulatory capacities to manage situations stress in his*
23 *daily life...Areas of damage include severe longstanding impairments in interpersonal*

1 *relationships, emotional, academic and vocational functioning, parenting skills and*
2 *diminished overall quality of life."*

3 18. Prior to reviewing Dr. Wynne's report, I have never had a discussion with a
4 mental health professional about the impact of the childhood sexual assaults upon me and my
5 life. In reviewing Dr. Wynne's report, for the first time, I certainly do not feel as though I
6 understand the breadth of the impact of what is described as my "damage" by Dr. Wynne, but
7 I would like to obtain counseling to further explore and make these connections. Prior to
8 reviewing Dr. Wynne's report, I did not know that my PTSD was triggered by the sexual
9 assaults or that my inability to maintain employment could all be connected to what happened
10 during my childhood.

11 19. I do understand that making these connections is a step towards healing. One
12 of the reasons that I filed this lawsuit was to be able to afford the type of counseling that Dr.
13 Wynne's is recommending. I have realized recently in my life that I do need professional
14 assistance and I would like to pursue the counseling that Dr. Wynne is recommending in order
15 to try and get better.

17 I declare under penalty of perjury under the laws of the State of Washington that the
18 foregoing is true and accurate to the best of my knowledge.

20 DATED this 15 day of August, 2013.

21 
22 _____
23 PHILLIP LEWIS

DECLARATION OF PHILLIP LEWIS - 5 of 5

CONNELLY LAW OFFICES, PLLC
2301 North 30th Street
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(253) 590-5100 Phone - (253) 590-2881

COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON

P.L. a single male, and S.B. a married
but separated female,

Appellants,

v.

WASHINGTON STATE
DEPARTMENT OF SOCIAL AND
HEALTH SERVICES,

Respondent.

No. 45342-8-II

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the state of Washington, that she is now, and at all times materials hereto, a citizen of the United States, a resident of the state of Washington, over the age of 18 years, not a party to, nor interested in the above entitled action, and competent to be a witness herein.

I caused to be served this date the foregoing in the manner indicated to the parties listed below:

- **Appellant's Reply Brief**

in the manner indicated to the parties listed below:

COURT CLERK WA STATE COURT OF APPEALS, DIVISION II 950 BROADWAY, SUITE 300 TACOMA, WA 98402 E-FILE: COA2FILINGS@COURTS.WA.GOV	<input checked="" type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via Electronic Mail/E-File
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Thomas R. Knoll, Jr. Attorney General of Washington – Torts Division 7141 Cleanwater Dr. SW Olympia, WA 98504-0126 Attorney for Respondent (WA State - DSHS) thomask@atg.wa.gov	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	Hand Delivered Facsimile U.S. Mail Email
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Timothy C. Chiang-Lin Anderson Hunter Law Firm 2707 Colby Ave., Suite 1001 Everett, WA 98201 Attorney for Appellant (P.L. and S.B.) timchainglin@gmail.com	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	Hand Delivered Facsimile U.S. Mail Email
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DATED this 17 day of January, 2014.


La-Cosha D. Lucas, Paralegal