

Jared U. Balmer, Ph.D.
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**Declaration of Jared U. Balmer, Ph.D. in the Matter of:
Kimberly R. Sweidy v. Spring Ridge Academy, et al.,
United States District Court of Arizona
Case No. 3:21-cv-08013-SPL**

I have been retained by counsel for Defendants Spring Ridge Academy, Jean Courtney, Suzanne Courtney, Brandon Courtney, Erin Smith, Leslie Filsinger, Justin Zych, and Kate Deily ("Defendants") in this matter to review the residential treatment program provided by Spring Ridge Academy at the time that REDACTED attended Spring Ridge Academy in 2019 and 2020. My education, training and experience that qualifies me to render such opinion testimony is set forth in detail in my curriculum vitae, which is attached as Exhibit "A" to this Report. Briefly, however, I obtained my Bachelor of Science from Gewerbeschule Basel, Switzerland in April 1967 with a Major in Medical Technology and Minor in Microbiology. In April 1975, I obtained my M.Ed from Brigham Young University in Provo, UT with a Major in Educational Psychology and Minor in Counseling and Guidance. From 1975 to 1977, I conducted individual, marital and family therapy with clinical supervision of first and second year graduate students in that field while continuing to work toward my PhD. I completed my doctoral program at BYU in April 1977 with my Major in Marriage and Family Therapy and Minor in Educational Psychology. I then acquired an additional 32 hours of post-doctoral training through seminars in Hypnotic and Strategic Techniques in Psychotherapy with Milton H. Erickson M.D.

Since the beginning of my career, I have worked with youth and their families providing therapeutic programs and environments very much like the therapeutic environment provided to girls at Spring Ridge Academy.

- From 1977 to 1985, I was in private practice in Marriage and Family Therapy in St. Louis, MO, then moved to Salt Lake City, UT where I continued on that same path at the Child Adolescents and Family Center until 1994.
- From August 1979 until December 1985, I was the Founder and Executive Director of the Educational Therapy Centers in Madison County, IL, which provided comprehensive day and residential treatment programs for emotionally and behaviorally disturbed children, adolescents and their families.
- From January 1986 to August 1993, I was the Chief Executive Officer of Rivendell of Utah in Salt Lake City, UT, which was an 80 bed Psychiatric Specialty Hospital for children and adolescents.
- Commencing in September 1994 through December 2009 I was the Founder and Executive Director of Island View Treatment Center in Syracuse, UT, which was a 112 bed Residential Treatment Center for adolescents and their families.

- In September 1997 I founded and was the Executive Director of The Oakley School in Oakley, UT, which was as 120 bed Therapeutic Boarding School. I remained in that position until April 2005. From March 2007 to December 2009, I held the position as Founder and Executive Director of The Aspen Institute for Behavioral Assessment, which was a 26 bed Specialty Psychiatric Hospital in Syracuse, UT.
- Commencing in August 2012 to the present, I have been the Founder and Executive Director of WayPoint Academy, which is a 44 bed Residential Treatment Center for boys with anxiety and related disorders in Huntsville, UT.

I received the National Leadership Award of the National Association of Therapeutic Schools and Programs in 2006, am a National Certified Counselor with the National Board for Certified Counselors, Inc. and am a former President of the Utah Association of Children and Adolescent Residential Programs. I am currently a member of the Editorial Advisory Board of the Journal of Therapeutic Schools & Programs and previously served on the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) Behavioral Health Advisory Board. In that capacity, I was part of the committee that formulated the JCAHO requirements for residential programs such as Spring Ridge Academy.

My publications and presentations are also listed on my curriculum vitae, which is Exhibit "A" to this Report. I have not testified in any legal proceeding in the past four years.

I am charging my customary hourly rate of \$200/hr. for consultation, review, reporting and testimony in this matter.

In my investigation of the Plaintiff's allegations in matter, counsel for the Defendants has provided me with the following case-specific documents and other materials to review:

1. Plaintiff's Complaint (Doc. 1);
2. Defendants' Answer (Doc. 12);
3. Joint Rule 26(d) Case Management Report (Doc. 19);
4. Expert Report of John Alexander Hunter, Ph.D. with Exhibits A-B March 22, 2022;
5. Expert Report of Rick Alan Ross with Exhibits A-C dated March 30, 2022;
6. Expert Report of James R. Flens, PhD, ABPP with Exhibits A-D dated April 4, 2022;
7. Plaintiff's Expert Disclosure dated April 7, 2022;
8. Deposition transcripts containing word indexes and Errata of Defendants taken in this matter as follows:
 - a. Veronica Borges
 - b. Brandon Courtney
 - c. Suzanne Courtney
 - d. Jeannie Courtney
 - e. Kate Deily

- f. Leslie Filsinger
 - g. Erin Smith
 - h. Justin Zych
9. Exhibits to all Depositions (above) in sequential order;
 10. Arizona Administrative Code (A.A.C.) Title 9, Chapter 10, Articles 1, 7 and 10 governing Spring Ridge Academy's operations at the times relevant to Plaintiff's claims;
 11. Arizona Revised Statutes (A.R.S.) Title 32, Chapter 33, Articles 3 through 8 governing Spring Ridge Academy's clinicians and clinical director at the times relevant to Plaintiff's claims;
 12. Group Therapy Notes (Bates Nos. SRA 000676, 000692-693, 000739, 000743-745, 000747-761, 000763-766, 000768-772, 000774-782, 784-823);
 13. Progress Notes, CLD Phone Call Notes, and Other Notes (Bates Nos. SRA 000317, 000342, 000346, 000385, 000631-675, 000677-691, 000694-738, 000740-742, 000746, 000762, 000767, 000773, 000783, 001450, 001452-1458);
 14. New Student Daily Progress Report (Bates No. SRA 000446);
 15. The January 24, 2020 Master Treatment Plan for REDACTED at SRA (Bates Nos. SRA 001602-1608);
 16. The Sweidy/Stata Decree of Dissolution (Bates Nos. SRA 000545-559);
 17. The February 10, 2020 Court Order to return REDACTED to SRA (Bates Nos. SRA 000355-358);
 18. The Agreement signed by Raymond Stata on February 26, 2020 concerning REDACTED return to SRA (Bates No. SRA 001449);
 19. 10/08/2021 Arizona Board of Behavioral Health Examiners Board Meeting Audio clip.mp3 (Bates No. SRA 001343); and
 20. 10/08/2021 Arizona Board of Behavioral Health Examiners Letter of Dismissal to Leslie Filsinger (Bates No. SRA 001570);

Based upon my review of the relevant portions of these materials, as well as my education, training and experience as set forth in my curriculum vitae which is appended to this Report, I have arrived at the following conclusions concerning the Plaintiff's claims that the program offered at Spring Ridge Academy was substandard or harmful.

At the outset, I note that much of what Plaintiff is alleging is tantamount to taking on the entire residential treatment industry. Many of the allegations in her lengthy Complaint and discourse in the expert reports she has provided have no relation to either Spring Ridge Academy as an institution, or the treatment provided to its client, REDACTED. I will therefore address what I consider the critical issues asserted in Plaintiff's claims, but to the extent that other corollary or seemingly irrelevant issues are brought up, I reserve the right to address those as well.

1. Post-Induction Therapy

I am not a practitioner of “Post-Induction Therapy,” but I know that Pia Mellody postulated this form of therapy in the 70’s and it gained acceptance in the therapy community. A review of literature and on-line resources readily shows that Post-Induction Therapy is used by different treatment centers who are treating clients with histories of trauma. There is nothing inherently substandard for programs to use this therapeutic approach and I would note that while Plaintiff’s disclosed experts have expressed their personal disdain for its use, they have provided no opinion that using the Post Induction Therapy model was negligent or caused any harm to Plaintiff or REDACTED .

Plaintiff alleges that the program manual only refers to “evidenced based” therapeutic modalities. Plaintiff’s own expert Richard Flens, PsyD notes that the Parent Manual contains information about multiple therapeutic modalities available at Spring Ridge Academy. The clinical director in her deposition referred to CBT and DBT, both of which are unquestionably evidenced based. Clearly, Spring Ridge Academy employs a variety of therapeutic modalities as virtually all residential facilities do. It is widely acceptable in the behavioral sciences that experimental therapies are employed (i.e., relaxation therapy, recreational therapy, equestrian therapy, and hosts of others).

2. Resource Realization (Jean Courtney led Parent/Client Workshops)

These workshops appear to be an outgrowth/adaptation of Life Spring, a very popular personal/relationship enhancement seminar/workshop, taught by facilitators. To the best of my knowledge, they are not led by a professional therapist. They are led by a sanctioned facilitator who does not need to be a registered therapist. In that regard, Spring Ridge Academy’s use of facilitators for these workshops is a commonly accepted practice.

3. Isolation/Public Shaming/Food Deprivation

The allegations of isolation, public shaming, and/or food deprivation must be examined by the operational practice that was applied with the client. I did not see in the deposition of the Clinical Director that these issues were directly addressed. That is likely because the therapy notes, testimony and even opinion reports of the Plaintiff’s experts do not make that connection to any alleged injury to Plaintiff or REDACTED .

4. Communication with Parents and other Outside Persons

In most jurisdictions, communication with outside entities (i.e., parents, legal guardians, and child protection agency, etc.) is regulated by statute. There are circumstances where parental contract in clinically contraindicated. This may include the following:

1. A parent with a *documented* history of physical, sexual, and/or emotional abuse. Based on the Individualized Treatment Plan, voice-to-voice communication may be resumed when the clinical team determines that it is clinically appropriate.
2. When the client reports singular or protracted histories of sexual, and/or emotional abuse. In most cases of this nature, clients are stressed, dysregulated or even may show signs of panic disorder when directed to have a voice-to-voice communication with the parents. Based on the Individualized Treatment Plan, voice-to-voice communication may

be resumed when the clinical team determines that it is clinically appropriate. Under such circumstance, letter writing by facilitate weekly communication but will likely mitigate any additional stressors to the child.

3. Allowing a child to have a voice-to-voice communication with the parents by berating the parents with strings of profanity is destructive to both child and parents. Under such circumstances, letter writing may mitigate the destructive nature of voice-to-voice.
4. When the client becomes emotionally dysregulated by interacting with parents.
5. Some clients, with diagnosis of oppositional defiant disorder, conduct disorder and/or are highly manipulative, can be prone to present parents with a litany of disinformation and untruths about their treatment experience in hope of withdrawal from the program. Such conduct may be important information to be address in family therapy.

In this case, the communication issues were complicated by the custody issues between the father and mother. Notably, the Court issued its Temporary Emergency Order on February 7, 2020 after the mother removed ^{REDACTED} from Spring Ridge Academy on February 3, 2020 without notice or permission from the father. In that Order, the Family Court judge adopted the language stating that Ms. Sweidy had “abducted” her daughter from Spring Ridge Academy in violation of the existing custody agreement and ordered that:

1. The Plaintiff release ^{REDACTED} to her father immediately so that he could return her to Spring Ridge Academy;
2. ^{REDACTED} “is not to be removed from Spring Ridge Academy Program without the prior, written consent of both parents, or order from the Court . . .”; and
3. The parties shall follow the recommendations and decisions of Spring Ridge Academy with respect to how, and whether, each parent will participate in their daughter’s treatment.

When ^{REDACTED} returned to Spring Ridge Academy, both parents were presented with a short Agreement to conform with the Family Court’s February 7, 2020 Order setting forth the protocol for continued treatment of ^{REDACTED} at Spring Ridge Academy. Mr. Stata agreed to those terms and signed the Agreement, but Ms. Sweidy refused to do so. Moving forward, it appears that Spring Ridge Academy abided by the terms of that agreement with the custodial parent, Mr. Stata.

In April, the Family Court issued another Order on April 30, 2020 modifying its previous February 7, 2020 Order by permitting Ms. Sweidy to have access to her daughter at Spring Ridge Academy which was the same as Mr. Stata. There is no indication that she did not.

It also clearly stated that both parents were to follow Spring Ridge Academy’s protocols for communication with their daughter and follow Spring Ridge Academy’s policies and procedures. There were times reflected in the Therapy Notes when ^{REDACTED} opted not to communicate with her mother. Noteworthy is the fact in the Plaintiff’s Complaint she stated that ^{REDACTED} verbalized to the Plaintiff that she benefited from the treatment at Spring Ridge Academy, and she had no intention to further communicate with her. So long as Spring Ridge Academy was abiding by the Family Court’s Order, it complied with its duties and was not required to somehow force a nearly-adult client to engage in unwanted communication with her mother.

In addition, I have no indication that Spring Ridge Academy has devolved sensitive divorce related information to ^{REDACTED}. However, for the client not to be emotionally affected by the – what appears to be – contentious relationship between the parents is unthinkable. The fact the mother took the client home and her father later insisted to bring her back is critical evidence for this. The therapist in this case is simply reporting what she sees and observes.

5. Development of the Master Treatment Plan (MTP)

Spring Ridge Academy is Joint Commission accredited. The commission has specific requirements as to the development and maintenance of a Master Treatment Plan. The Master Treatment Plan must have a) long term goals that correspond to the diagnosis and stated problems, and b) short term objectives. When short term objectives are met, additional objectives are added until the long-term goals have been met. A review of the client's MTP will shed light on the complaint. Based on the Clinical Director's deposition, this was the practice with the client.

It is a JCAHO requirement that the MTP must be reviewed with the client. The MTP in this case reflects that this was done on January 24, 2020. Discussing presenting problems and correspondingly delineating treatment implications with parents is typically done in family therapy session.

Academic goals and objectives are not part and partial of an MTP. What may be part of the MTP are behaviors and affective states that may interfere with academic performance such as depression, trauma, etc.

In her deposition, Valerie Borges testified that there as a Preliminary Treatment Plan (PTP) developed. This represents best practice. The PTP is very basic and contained a) **preliminary** diagnosis, and preliminary intervention, (i.e., individual tx, group tx, family tx) and if applicable further assessments. With an average length of stay of 10-12 months, the PTP is good for 30 days, after which the Master Treatment Plan in formulated. This appears to be the case at SRA based on her deposition in which she indicated that the MTP had been "globalized", i.e made available to parents for their review and input. Thus the parents are involved in the development of the MTP.

In this case, the MTP was sent to Ms. Sweidy by Veronica Borges for review and approval, but Ms. Sweidy did not provide approval before unilaterally removing her daughter from Spring Ridge Academy 10 days later on February 3, 2020. Once Mr. Stata secured a Family Court order to return ^{REDACTED} to Spring Ridge Academy, the contemplated therapies in the Master Treatment Plan appear to have been undertaken.

6. Appearance of Cannabis Abuse in the Diagnosis

Not having examined the psycho-social history of ^{REDACTED}, the stated long-term goals nonetheless appear well developed. The fact that the client has not used drugs for 3-5 months is not an indication that the stated goal should not be addressed. Recidivism of cannabis and drug abuse is very high. Furthermore, we do not know what the client herself told SRA regarding her use of drugs.

In her deposition, Ms. Borges testified that a previous assessment made available to SRA indicated that the client was diagnosed with “Cannabis use disorder, moderate, in early remission in a controlled setting.” The client indicated during the intake process that she was using controlled substances. Not including this diagnosis would be inappropriate in light the “remission was achieved in a controlled setting.”

7. COVID 19 Response

Plaintiff is also critical of Spring Ridge Academy for not sending its residents home at the onset of the pandemic in March/April of 2020. All residential treatment facilities that I’m familiar with did not send their clients home with the outbreak of COVID 19. In fact, parents preferred their children to be “kept safe” at the treatment facility. Why? School and Therapy are not disrupted. Conversely, parental visits are suspended. The Therapy Records, however, that videoconferencing was employed to facilitate family therapy sessions and also to permit communication between parents and their daughters at Spring Ridge Academy.

8. Dietary Issues

Spring Ridge Academy had an approved menu plan which is normal for residential treatment facilities. For clients with eating disorders, over and underweight individuals, menu plans are used. Outside of the approved menu plan, the facility is not obligated to provide seconds or otherwise supplement the approved diet. Holding to an approved menu plan is not refusing adequate nutrition for the client.

9. Against Medical Advice AMA Discharge

It is standard practice that Discharge Planning goes on long before the actual departure date. When a parent withdraws a client without such planning, the signing of an AMA document is good practice. When Ms. Sweidy arrived without notice to abruptly withdraw REDACTED from Spring Ridge Academy on February 3, 2020, it was appropriate to seek and obtain an early discharge acknowledgement from her.

10. Physicians and Nurse Practitioners

It is standard practice that most medical clinics and their physicians employ nurse practitioners, conducting initial assessments and consult with the physician if further assessments/procedures are indicated. In this case, Spring Ridge Academy made an appointment at the medical clinic and deferred to the medical professionals what the medical care course should be. Both parents were given access to take the client and communicate with the medical staff. Spring Ridge Academy acted timely and responsibly in this matter.

11. Urinating in the Parking Lot

Plaintiff is apparently claiming that she was somehow harmed because her daughter was prevented from using a bathroom during Parents Weekend, requiring her to relieve herself in a parking lot. At her deposition, Ms. Borges indicated that REDACTED “peed in the parking lot because it was fun” – not that she was summarily denied access to a bathroom.

This Report is a disclosure of my opinions and the bases therefore and is not intended to be an exhaustive recitation of everything I know about this matter or the opinions I will express at trial. I anticipate that my testimony in deposition or trial will provide additional detail depending upon the questions asked of me by counsel. Furthermore, my opinions in this Report are expressed to a reasonable degree of probability and are based upon information that I have reviewed to date. I understand that the lawsuit is ongoing and there may be additional information developed which may affect these opinions. I therefore reserve the right to modify or extend these opinions in the event new information is learned.

I am prepared to testify under oath regarding the above professional conclusions and declare the above to be true under penalty of perjury.

Respectfully submitted,

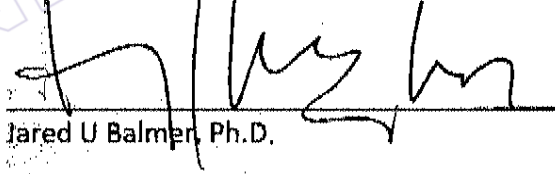
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6-7-22
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