

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF ARIZONA

3 _____
4 Kimberly Sweidy,)
5 Plaintiff,) 3:21-cv-08013-SPL
6 vs.) Phoenix, Arizona
7 Spring Ridge Academy, et al.,) May 29, 2024
8 Defendants.) 9:05 a.m.
9 _____)

10 BEFORE: THE HONORABLE STEVEN P. LOGAN, JUDGE

11
12 REPORTER'S EXCERPTED TRANSCRIPT OF PROCEEDINGS

13 TRIAL DAY 2- (Morning Session)

14 (Preliminary Jury Instructions)

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21 Official Court Reporter:
22 Elva Cruz-Lauer, RMR, CRR
23 Sandra Day O'Connor U.S. Courthouse, Suite 312
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25 Proceedings Reported by Stenographic Court Reporter
Transcript Prepared by Computer-Aided Transcription

UNITED STATES DISTRICT COURT

A P P E A R A N C E S

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Also present: Noel Reddy, Paralegal
Suzanne Courtney, Client Representative

SUMMARY OF PROCEEDINGS

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P R O C E E D I N G S

(The following is an excerpted transcript of the proceedings.)

THE COURT: Members of the jury, welcome back to court.

Molly, at this point you need to swear in the jury.

Ladies and gentlemen, please all stand.

(Jury is sworn by the Courtroom Deputy.)

THE COURT: That's an affirmative response from all of the members of the jury.

Ladies and gentlemen, to the newly selected jurors, please note that -- I believe Molly -- please take your seats.

You all have been renumbered. The top row is 1 through 4, the bottom is 5 through 8. I see you have your badges on now.

If any of you are from out of town, I have questions concerning accommodations, transportation or other arrangements, or anyone has any other questions, please go ahead and pose those questions to our courtroom deputy once we have our first break at 10:30.

To the parties, good morning to all of you as well. I want to go through the evidence that's been stipulated to.

First of all, I thank both sides for what you have done. I see Plaintiff's Exhibits 1 through 5 have been -- sorry -- 1 through 15 have been stipulated to. They will be

9:07:16AM 1 received into evidence. 16 through 19 have been received into
2 evidence. 26 through 30 have been received into evidence.

3 MS. ALLARD: Your Honor, I'm sorry to interrupt, and I
4 apologize.

9:07:28AM 5 THE COURT: First of all, we stand up in federal
6 court.

7 MS. ALLARD: I'm sorry. Your Honor --

8 THE COURT: I need you to move the microphone and
9 speak up, if you would please.

9:07:35AM 10 MS. ALLARD: Sorry, Your Honor. I -- we have
11 identified per stipulation certain sensitive records, and 26 is
12 one of them. I am at this time not moving to admit 26.

13 THE COURT: Okay. It's my understanding that the
14 parties have met and conferred. Typically what happens is if
9:07:56AM 15 you stipulate to an exhibit, the Court receives it into

16 evidence so that the parties can utilize the document during
17 their opening. So now you don't wish to have 26 stipulated to.

18 MS. ALLARD: Not at this time, not without requesting
19 some orders for confidentiality beyond the hearing.

9:08:14AM 20 THE COURT: I am having a really difficult time
21 hearing you.

22 MS. ALLARD: Your Honor, 26 I am not moving into
23 evidence at this time.

24 THE COURT: Okay. It's a stipulation, so it's not a
9:08:24AM 25 request to move it into evidence. So I am just going to go

9:08:27AM 1 ahead and remove the stipulation to number 26.

2 MS. ALLARD: Thank you. And I have others, Your

3 Honor, I'm sorry.

4 THE COURT: Did the parties meet and confer about

9:08:36AM 5 stipulating to documents, Mr. Grasso?

6 MR. GRASSO: Yes, Your Honor.

7 THE COURT: So there are stipulations with exceptions?

8 I don't understand. I have never seen this.

9 MR. GRASSO: Nor have I, Your Honor.

9:08:53AM 10 THE COURT: Okay. So what other exhibits have you

11 stipulated to that you now don't wish to stipulate to?

12 MS. ALLARD: 31 through 39, 56 and 57.

13 THE COURT: Hold on.

14 Go ahead.

9:09:24AM 15 MS. ALLARD: 71 and 72.

16 THE COURT: Go ahead.

17 MS. ALLARD: 121, 122, 123 --

18 THE COURT: Hold on. 121, 122, 123.

19 MS. ALLARD: 124, 125, 126, 127, 128, 129, 130, 131.

9:10:04AM 20 That would be it, Your Honor.

21 THE COURT: I'm sorry.

22 MS. ALLARD: That's it. That would be it.

23 THE COURT: Okay. Well, we will start again. This

24 Court receives into evidence Plaintiff's Exhibits 1 through 15,

9:10:21AM 25 16 through 19, 27 through 30, 40 through 45, 46 through 52, 54,

55, 58 through 60, 61 and 62, 64 through 70, 73 through 75, 76 through 90, 91 through 105, 106 through 120, 132 through 134, 140 through 148, 154 through 165, 166 through 169.

(Exhibit Numbers 1 through 15, 16 through 19, 27

through 30, 40 through 45, 46 through 52, 54, 55, 58 through 60, 61, 62, 64 through 70, 73 through 75, 76 through 90, 91 through 105, 106 through 120, 132 through 134, 140 through 148, 154 through 165, 166 through 169 are admitted.)

THE COURT: All of those Plaintiff's Exhibits have been received into evidence. You can utilize those during your opening statements, if you choose to.

During the course of the trial, if you want to use one of those exhibits that have been received into evidence, what I need you to do is forecast by saying something to the effect

of, "Your Honor, at this point we would like to publish to the jury Plaintiff's Exhibit Number 1, which has already been received into evidence." And of course I will allow it.

And the reason we do that is to make sure we have a clear record of everything that's already been received.

Next, I would like to talk about the defense exhibit list. Defense Exhibits 333 through 336 have been received into evidence. 337, 338, and 339 have been received. And that will be it at this point.

(Exhibit Numbers 333 through 336, 337, 338, and 339 are admitted.)

9:12:29AM 1 Ladies and gentlemen, now that you have been sworn, I
2 will briefly tell you something about your duties as jurors and
3 give you some instructions.

4 At the end of the trial, I will give you more detailed
9:12:39AM 5 instructions. It will be your duty to decide the facts. You
6 must decide the facts only from the evidence presented in this
7 courtroom, and you must not speculate or guess about any facts.

8 You must not be influenced by sympathy or prejudice.

9 You will hear the evidence, decide the facts, and then apply

9:12:58AM 10 the law as I give you those facts -- as I give to those facts,
11 and that is how you will reach your verdicts. In doing so, you
12 must follow that law whether you agree with it or not.

13 You must not take anything I may say or do during the
14 trial as indicating any opinion about the facts. You and you
9:13:20AM 15 alone are the judges of the facts in this case.

16 Importance of Jury Service.

17 Jury service is an important part of our system of
18 justice, with a long and distinguished tradition in Western
19 civilization. From the beginning, American law has viewed the
9:13:36AM 20 jury system as an effective means of drawing on the collective
21 wisdom, experience, and fact-finding abilities of individuals
22 such as yourselves.

23 Despite any inconvenience it may cause you, jury
24 service is an important responsibility for you, and I am sure
9:13:53AM 25 you will take it seriously.

Evidence.

You will decide what the facts are from the evidence presented in this courtroom. That evidence will consist of testimony of witnesses. Any documents and other things

received into evidence as exhibits, and any facts stipulated or agreed to by the parties or that I instruct you to accept.

You will decide the credibility and weight to be given to any evidence presented in this case, whether it be direct evidence or circumstantial evidence.

Direct evidence is a physical exhibit or the testimony of a witness who saw, heard, touched, smelled, or otherwise actually perceived an event. Circumstantial evidence is the proof of a fact from which another fact may be inferred.

You must determine the weight to be given to all the evidence, whether that evidence is direct or circumstantial.

Rulings of the Court.

Admission of evidence in court is governed by the rules of law. I will apply those rules and resolve any issues that arise during the trial concerning the admission of evidence.

If an objection to a question is sustained, you must disregard the question, and you must not guess what that answer to the question might have been.

If an exhibit is offered in evidence and an objection is sustained, you must not consider that exhibit as evidence.

9:15:21AM 1 If testimony is ordered stricken from the record, you must not
2 consider that testimony for any purpose.

3 Do not concern yourselves with the reasons for my
4 rulings on the admission of evidence. My rulings are based on
9:15:33AM 5 the law and do not reflect any personal belief on my part.

6 Credibility of Witnesses.

7 In deciding the facts in this case, you should
8 consider what testimony to accept and what to reject. You may
9 accept everything a witness says, or part of it, or none of it.

9:15:51AM 10 In evaluating testimony, you should use the test for
11 accuracy and truthfulness that people use in determining
12 matters of importance in everyday life, including such factors
13 as the witness's ability to see or hear or know the things the
14 witness testified about, the quality of the witness's memory,
9:16:12AM 15 the witness's manner while testifying, whether the witness has
16 any motive, bias, or prejudice, whether the witness is
17 contradicted by anything said or written before trial, or by
18 other evidence, and the reasonableness of the testimony when
19 considered in light of the other evidence.

9:16:30AM 20 The testimony of a law enforcement officer is not
21 entitled to any greater or lesser believability merely because
22 the witness is a law enforcement officer. You are to evaluate
23 the credibility of the testimony of a law enforcement officer
24 in the same way you have been instructed to evaluate the
9:16:50AM 25 testimony of other witnesses. Consider all of the evidence in

light of reason, common sense, and experience.

Expert Witness.

A witness qualified as an expert by education or experience may state opinions on matters in that witness's

field of expertise and may also state reasons for those opinions. Expert opinion testimony should be judged as any other testimony. You are not bound by it.

You may accept or reject it in whole or in part, and you should give it as much credibility and weight as you think it deserves, considering the witness's qualifications and experience, the reasons given for the opinions, and all the other evidence in the case.

Evidence, Statements of Lawyers, and Rulings.

As I mentioned earlier, it is your job to decide what facts are -- what the facts are from the evidence. Here are six rules on what is and what is not evidence.

Number one, evidence to be considered. You are to determine the facts only from the testimony of witnesses, from exhibits received into evidence, and from any facts stipulated or agreed to by the parties or that I instruct you to accept as true.

Number two, lawyers' statements. Statements or arguments made by the lawyers in the case are not evidence. Their purpose is to help you understand the evidence and apply that evidence to the law.

9:18:20AM 1 However, if the lawyers for a party agree or stipulate
2 that a particular fact is true, you should accept that fact as
3 true.

4 Number three, questions to a witness. A witness --
9:18:33AM 5 I'm sorry -- a question is not evidence. A question can be
6 used only to give meaning to a witness's answer.

7 Number 4, objections to questions. If a lawyer
8 objects to a question and I sustain an objection to the
9 question, the witness will not be allowed to answer the
9:18:52AM10 question, and you must not try to guess what the witness's
11 answer might have been. You must also not treat the objection
12 as evidence, or try to guess the reason why the lawyer
13 objected.

14 Number five, rejected evidence. At times during the
9:19:08AM15 trial, testimony or exhibits will be offered as evidence, but I
16 might not allow them to become evidence. If they never become
17 evidence, you must not consider them.

18 Number six, stricken evidence. At times I may
19 consider some evidence to be stricken or thrown out. When
9:19:26AM20 evidence is stricken or thrown out, you must not consider it.

21 No Transcript Available to the Jury, Taking Notes.

22 You will not be given written transcripts of witness
23 testimony. You should pay close attention to the testimony as
24 it's given. You have been provided with notepads and pens. I
9:19:46AM25 encourage you to take notes during the trial, if you wish to do

9:19:48AM 1

so.

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However, do not let note taking distract you so that you miss hearing or seeing other evidence. If you have cellular telephones, laptops, tablets, cameras, or other electronic devices, please turn them off and do not turn them on while in the courtroom.

You may use electronic devices only during your breaks, so long as you do not use them to conduct any research of any kind about any issue in this case, or communicate about anything having to do with this case.

You may not use any electronic devices to take notes during the course of this trial. You are permitted only to take notes on the notepads provided by this court.

You may take notes with you when you leave the courtroom for recesses, and you also may just leave them in your chairs, because no one will have access to your notes. Just place them -- just close the book, place them down on the chair; our courtroom deputy will place them in a protected place.

You may use them during your deliberations at the end of the trial, and I am referring to your notes and your notebooks, but until then, keep your notes to yourself.

If you do not want to take your notes with you during the trial, you should leave them on your seat. Whether you take notes or not, you should rely upon your memory of what was

9:21:19AM 1 said and not be overly influenced by the notes of other jurors.

2 After you have rendered your verdicts, the courtroom
3 assistant will collect your notes and they will be destroyed.

4 Do not be influenced by my note taking. My reasons
9:21:33AM 5 for note taking may not be the same as yours and at times may
6 relate to entirely other matters.

7 Admonition.

8 I am now going to take some time to discuss your
9 conduct as jurors. In our system, it is important that jurors
9:21:50AM 10 decide the facts based solely on the evidence that is presented
11 by the parties here in the courtroom. So I am going to give
12 you some rules designated to ensure that the parties get a fair
13 hearing free from outside influences. These rules are known as
14 the admonition.

9:22:09AM 15 Research related to the case, including Internet
16 research, is strictly forbidden. Do not do any research or
17 conduct any type of investigation about the case, the facts,
18 the parties, the witnesses, the attorneys, or any person or
19 entity related to the case.

9:22:28AM 20 Do not look for information on the Internet, or from
21 any other source about the case or about the facts or issues
22 related to this case. In other words, do not try to find out
23 information from any source outside of this courtroom, please.

24 The reason for this is that you must base any decision
9:22:48AM 25 only on the evidence that is produced here in the courtroom.

9:22:53AM 1 You must base any decision only on the evidence that is
2 produced here in the courtroom because the fairness of the
3 trial depends on both parties knowing exactly what evidence you
4 are considering so that they can respond to it or address it in
9:23:10AM 5 their arguments.

6 Do not view or visit the locations where the events of
7 the case took place. Do not talk to anyone about the case --
8 about anyone who has anything to do with this case, and do not
9 let anyone talk to you about this case until the trial has
9:23:25AM 10 ended and you have been discharged as jurors.

11 Until then, you may tell people you are on jury duty,
12 and you may tell them the estimated schedule for the trial, but
13 do not tell them anything about this case. You are not allowed
14 to talk about the case with anyone until the trial is over and
9:23:43AM 15 you have been discharged as jurors.

16 If someone should try to talk to you about this case,
17 stop him or her or walk away. If you should overhear others
18 talking about this case, stop them or walk away.

19 If anything like this does happen, report it to me or
9:24:01AM 20 any member of my staff as soon as you possibly can. The
21 attorneys and parties have been given the same instructions
22 about not speaking with you. So do not think they are being
23 unfriendly to you when you see them around the courthouse.

24 There is one and only one limited exception to the
9:24:32AM 25 foregoing rules. During recesses during the trial, you may

9:24:35AM 1 discuss the evidence presented at the trial, number one, only
2 amongst yourselves; number two, only when you are all together;
3 and number three, only when you are all in the jury room.

4 Even though you may discuss the case under the
9:24:48AM 5 conditions I have described, I do not form final opinions about
6 any fact -- or do not form final opinions about any fact or
7 about the outcome of the case until you have heard and
8 considered all of the evidence, closing arguments, and the rest
9 of the instructions that I will give you on the law.

9:25:09AM 10 Both sides have the right to have the case fully
11 presented and argued before you decide any of the issues in the
12 case.

13 Keep an open mind during the trial. Form your final
14 opinions only after you have had an opportunity to discuss the
9:25:23AM 15 case with each other in the jury room at the end of the trial.

16 If at any time during the trial you have difficulty
17 hearing or seeing something that you should be hearing or
18 seeing, or if you have personal distress for any reason, raise
19 your hand and let me know.

9:25:41AM 20 Please wear your juror badge at all times in and
21 around the courthouse so everyone is aware that you are a
22 juror.

23 If you have any questions about parking, restaurants,
24 or other personal matters relating to your jury service, feel
9:25:57AM 25 free to ask our courtroom deputy, but do not try to discuss the

9:26:00AM 1 case with court staff at any point.

2 Before each recess, I will not repeat the entire
3 admonition that I have given you; however, please remember that
4 the admonition still applies at all times during this trial.

9:26:14AM 5 Media Coverage.

6 There may or may not be media coverage during this
7 trial. What the media covers is up to them. If there is media
8 coverage, you must avoid it during the trial. If you do
9 encounter something about this case in the media during the
9:26:35AM 10 trial, end your exposure to it and immediately report it to me
11 as soon as you can.

12 Exclusion of Witnesses.

13 Witnesses are excluded from the courtroom until they
14 are called to testify. This means that all witnesses must
9:26:58AM 15 remain outside of the courtroom during the trial except when
16 the witness is called to the witness stand.

17 If you see a witness talking to the lawyers, you
18 should avoid being present or overhearing them discuss what
19 their testimony may be.

9:27:14AM 20 There are some exceptions to the rule excluding
21 witnesses from the courtroom until they are called to testify.
22 For example, the parties are allowed to remain in the courtroom
23 at all times.

24 Ladies and gentlemen, soon you will begin hearing the
9:27:47AM 25 evidence in this case. Before that, each side may make what's

9:27:51AM 1 called an opening statement. An opening statement is not
2 evidence. It is an outline of the expected evidence. It is
3 offered to help you understand and follow the evidence that
4 will be presented during the course of the trial. Next,
9:28:05AM 5 plaintiff will present witnesses and defendant may
6 cross-examine them.

7 Then defendant may present witnesses and plaintiffs
8 may cross-examine them. Plaintiff may then present further
9 evidence. After the evidence has been presented, the attorneys
9:28:20AM 10 will make their closing arguments. I will also give you the
11 final instructions on the law. You will then go to the jury
12 room to deliberate and decide the case.

13 The final instructions I give you at the end of the
14 trial may differ from these preliminary instructions. If a
9:28:37AM 15 final instruction is different than a preliminary instruction,
16 you should disregard that particular preliminary instruction
17 and rely instead on the final instruction.

18 Any preliminary instruction not replaced by any final
19 jury instruction together with the final instructions will
9:28:55AM 20 govern your deliberations.

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C E R T I F I C A T E

I, ELVA CRUZ-LAUER, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a EXCERPTED, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control.

DATED at Phoenix, Arizona, this 21st day of June, 2024.

s/Elva Cruz-Lauer
Elva Cruz-Lauer, RMR, CRR