

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Kimberly Sweidy,)
)
Plaintiff,) 3:21-cv-08013-SPL
)
vs.) Phoenix, Arizona
) May 30, 2024
Spring Ridge Academy, et al.,) 1:01 p.m.
)
Defendants.)
)
-----)

BEFORE: THE HONORABLE STEVEN P. LOGAN, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TRIAL DAY 3 - (Afternoon Session)

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UNITED STATES DISTRICT COURT

A P P E A R A N C E S

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P R O C E E D I N G S

THE COURT: This court will come to order. All parties present when the court last closed are present again.

Ma'am, you are still under oath.

Counsel, please continue.

MS. ALLARD: Thank you, Your Honor.

THE COURT: You're very welcome.

D I R E C T E X A M I N A T I O N

BY MS. ALLARD:

Q. Ms. Borges, I am going to lead off asking you again some more questions about some email exchange between you and Ms. Sweidy on or about January 27th, 2020, and I left off asking you regarding the Facing Codependence concern. And then I showed you your email where you said that all parents are required to read Facing Codependence.

So next I'm going to item 5. That's where we left off. And she -- I think Ms. Sweidy responded to a statement that you made that the dad is conflict avoidant. And she took issue with the fact that you didn't know anything about their divorce or their history, and that you made that statement, and I think she emailed you about that; do you recall that?

A. Where are we looking?

Q. We are going to look at page 52 of Exhibit 55. I'm sorry, no. It is the following page, page 46.

So Ms. Sweidy there responds to you regarding your

1 comment that father was conflict avoidant, and she has an
2 opinion about that based on her own emotional experience in her
3 relationship with her husband, and you read it. And I think
4 she talks to you at that point about their marital history;
5 wouldn't you agree with that?

6 A. Where are you at?

7 Q. I'm at the top of page 46.

8 THE COURT: It's on the screen there to your left.

9 THE WITNESS: Okay.

10 BY MS. ALLARD:

11 Q. Do you see what I'm talking about, her response here?

12 A. Yes.

13 Q. So I think you would agree then that -- in your testimony
14 you talked about conflict in the divorce. Is this the
15 statement from Ms. Sweidy that you're talking about when you
16 said that you formulated that opinion based on information you
17 got early in Rearden's enrollment?

18 If you look --

19 A. You're asking me if her statement to me --

20 Q. In an email, yes?

21 A. In B.

22 Q. B.

23 A. That that was solely why I made that comment? It's not
24 solely for that reason. I had already heard from Ms. Sweidy in
25 phone calls her view of things that were going on with

1 Mr. Stata from -- I'm not sure. They were disjointed, but she
2 had told me that there was problems in the relationship, and I
3 had also heard from Rearden that there was problems with their
4 relationship. That it was contentious.

5 Q. Well, instead of using generalities like you're looking at
6 it, in characterization, boilerplate characterizations, I'd
7 like to just stick with the facts.

8 So the facts that were told to you that there was a
9 disagreement or a concern would have come from your biosocial
10 intake with Rearden, correct?

11 A. This statement? Not necessarily, no.

12 Q. No, the statement that -- or the conclusion that you drew
13 that there was contention between the parents, that conclusion
14 that there was conflict, was based on Rearden's biosocial as a
15 factor, correct?

16 A. I made this statement at the time that this email came out
17 to me. So at this point in time I had information from
18 Ms. Sweidy regarding her relationship with Mr. Stata.

19 Q. What information was that?

20 A. Just things that she had told me on the telephone, like
21 for -- I had a 30-minute conversation -- well, it wasn't a
22 conversation. For 30 minutes she told me about her
23 relationship with Mr. Stata, what happened to her in
24 wilderness, her feelings about Rearden. So it wasn't just
25 strictly based on the biopsychosocial at all. There were other

1 reasons, and her reaction to The Master Treatment Plan.

2 Q. And that's what I'm asking to establish, is that this
3 particular email was -- formed the basis for your opinion that
4 there was conflict. That's all I am asking to establish.

5 A. Not just this one -- this one email, no.

6 Q. Okay. So --

7 A. This is part of it.

8 Q. Part of it.

9 So we have an email. We have a phone conversation.
10 We have Rearden's biosocial assessment. What else?

11 A. In another note I wrote there was refusal on Ms. Sweidy's
12 part to participate in the program at all.

13 Q. Well, let's talk about that.

14 A. Uh-huh.

15 Q. I understand that's a note that you wrote.

16 A. Uh-huh.

17 Q. Is that a yes?

18 A. Yes.

19 Q. Are you confident that that note was accurate?

20 A. Yes.

21 Q. Have you reviewed all of your communications with
22 Ms. Sweidy in order to check yourself on that one?

23 A. You are asking me if that progress note is accurate, and,
24 yes, it is.

25 Q. Okay. Let's move ahead to your correspondence back to

1 Ms. Sweidy January 28th. It's now page 51. Do you see that?

2 A. Yes.

3 Q. And isn't it true that you canceled her therapy session
4 based on the email and based on the reasons that you state
5 here?

6 A. Canceled whose therapy sessions?

7 Q. Ms. Sweidy's therapy session with you?

8 A. The family therapy that we were supposed to have on the
9 30th? Is that what you are talking about?

10 Q. Well, I assume that that family session would be with
11 Ms. Sweidy, correct?

12 A. Yes.

13 Q. She is one of your clients?

14 A. Yes.

15 Q. So due to the issues outlined in 5, I am postponing our
16 family session on Thursday the 30th at 1:00 p.m. GMT.

17 What's "GMT"?

18 A. That's the meridian -- oh gosh, Greenwich Mean Time.

19 Q. Okay.

20 Until all of your concerns could be addressed with our
21 clinical team.

22 So your reasons are stated in your paragraph 5, and in
23 that you say: Philosophically we do not believe it is the
24 fault of only one parent or member of the family. I'm sorry if
25 you don't agree with my assessment of your family dynamic.

1 Your assessment, of course, did not include any review
2 of their divorce history or any discussion with their prior
3 therapist; am I correct with that?

4 A. Yes.

5 Q. Did you consider at all the fact that at this point in time
6 Ms. Sweidy had sole legal custody of her daughter?

7 A. When I wrote the statement about their relationship, their
8 marriage being contentious, it had nothing to do with that. It
9 had to do with all of the issues leading up to trying to get
10 Ms. Sweidy into family therapy with Rearden, trying to arrange
11 that.

12 Ms. Sweidy being upset with The Master Treatment Plan,
13 not wanting to participate in the program, disagreeing with
14 many things in the program. So I decided to suggest that we
15 just postpone it until she could have a conversation with the
16 program team.

17 Q. Isn't it true that you disagree with many things in the
18 program, including Post Induction Therapy and the workshops,
19 and that you told Rearden that?

20 A. No, that's not true.

21 Q. Didn't you tell her it was "stupid"?

22 A. I wouldn't use those words, no.

23 Q. So if she told me that, she would have been lying?

24 A. I could also say that maybe you misinterpreted what she
25 said.

1 Q. So in response to your number 6, moving forward, Ms. Sweidy
2 responds to that?

3 A. Where are we at now?

4 Q. I am moving to it. Page 51.

5 On page 54.

6 A. I'm sorry?

7 Q. Page 54.

8 Ms. Sweidy said to you, right, that: You have
9 canceled our Thursday session. I am not in agreement, but I
10 have no control over you or your actions.

11 A. Yes, that's what she wrote.

12 Q. So why is it you characterize in your testimony that she
13 refused to cooperate with therapy?

14 A. Because she had.

15 Q. She is saying here she wants to go to family therapy with
16 you and Mr. Stata and her daughter.

17 A. She is saying that she's not in agreement, but I have no
18 control.

19 Q. She's saying: You have canceled our Thursday session. I
20 am not in agreement.

21 A. Right.

22 Q. She's not in agreement with the cancelation; is that how
23 you understand her statement?

24 A. Right. She's not in agreement with the cancelation, but I
25 am not hearing her say that she wants to participate in family

1 therapy, because up to this point she had refused to do so.

2 Q. Her first session was canceled by you, and she told you she
3 was not in agreement; do you agree with that statement?

4 A. Yes.

5 Q. Is that a yes?

6 A. Yes.

7 Q. And you articulated in the email that one of the reasons is
8 because she refused to read Facing Codependence by Pia Mellody.

9 Q. It says that she's asked to read it, not that she has to
10 read it. Nobody is required to read it, and no one will be
11 kicked out of a therapy session if they don't.

12 Q. Would it be -- just so the record is straight for the jury,
13 the only two communications on this subject are the two emails
14 here, the one on page 51 dated January 28th and Ms. Sweidy's
15 response on page 54 where she says she doesn't agree with the
16 cancelation?

17 There were no other phone calls or any other
18 communication other than these two on the subject of canceling
19 --

20 A. In the phone call.

21 Q. -- her therapy.

22 THE COURT: Stop, stop. Ma'am, this is the third time
23 since 1:00 that you talked over the lawyer. I need you to
24 allow her to finish the question before you start, please.

25 THE WITNESS: Okay. I am sorry.

1 THE COURT: What's the question again?

2 MS. ALLARD: I will rephrase it.

3 BY MS. ALLARD:

4 Q. We've been talking about two emails here in the last five
5 minutes of testimony. It would be your email to her where you
6 state the reasons you're canceling her family therapy, her
7 lengthy response, including that she did not agree with the
8 cancelation.

9 Were there any more communications between you and
10 Ms. Sweidy on the subject of her inclusion in family therapy at
11 Spring Ridge Academy?

12 A. Up until this point?

13 Q. After this point.

14 A. I don't recall.

15 Q. If you would have had a conversation with her about that,
16 would you have reflected it in your notes?

17 A. Not necessarily.

18 Q. Did you ever resume family therapy with Ms. Sweidy after
19 the date of this email exchange?

20 A. Family therapy never started, so there was -- it never
21 resumed, because it had never started.

22 Q. So the answer is "no"?

23 A. Yes.

24 Q. Going back to page 51 on number 6 where you say: Due to
25 the issues outlined in 5, I'm postponing our family session on

1 Thursday the 30th until all of your concerns can be discussed
2 with our clinical team.

3 Did you make an effort to discuss with the clinical
4 team the content of these two emails on whatever issues you
5 wanted to discuss?

6 A. Yes, they were sent to the clinical team, the emails.

7 Q. And was family therapy then reinitiated by the clinical
8 team?

9 A. No.

10 Q. Was there a formal opinion as to why not?

11 A. Ms. Sweidy was --

12 MS. ALLARD: Motion to strike. Nonresponsive.

13 THE COURT: She didn't say anything. She said,
14 Ms. Sweidy.

15 Can you finish what you were about to say?

16 THE WITNESS: Yes. I'll try to collect that thought
17 again. I recall that the door was left open for Ms. Sweidy to
18 participate in family therapy.

19 BY MS. ALLARD:

20 Q. How? Do you recall? And what is that based on?

21 A. I believe I recall an email that was sent out and stating
22 such.

23 Q. What email and saying what?

24 A. I can't tell you which email. I believe that there was an
25 email that was sent out. It may be on record. I'm not sure.

1 Q. What makes you now, testifying today, believe there was an
2 email sent out?

3 A. The door would always be open for a parent to come into
4 family therapy if they want to.

5 Q. Do you have any recollection of an email from someone at
6 Spring Ridge Academy and Ms. Sweidy inviting her to family
7 therapy?

8 A. I can't be positive of that email.

9 Q. As part of your work in your daily routine, you reviewed
10 Rearden's notes at the residential hall called Daily Milieu
11 notes?

12 A. Yes.

13 Q. And did you take note that she was placed on silence and
14 separation in her initial weeks?

15 A. Yes.

16 Q. Did you take note that she was admonished for speaking to
17 other Phase 1 students?

18 A. Yes.

19 Q. Did you take note that she was admonished for going outside
20 to use the bathroom?

21 A. I don't recall that. I do recall a time where she didn't
22 go outside, she went in the bushes outside, so she was told she
23 couldn't do that.

24 Q. Do you -- were you told that she was ill for approximately
25 six to seven days?

1 A. I know that she had been ill, yes.

2 Q. And did she -- were you told that she had to move her
3 mattress close to the bathroom?

4 A. I don't recall that -- being told that. It may have been
5 in the Milieu notes.

6 Q. Were you told that she got in trouble and sent to Brandon
7 Courtney?

8 A. I don't recall anything specific there.

9 Q. Did she ever tell you that she was frustrated that she
10 didn't know what the rules were at SRA and no one ever told
11 her?

12 A. I don't recall her saying that.

13 Q. Do you recall seeing a Daily Milieu note where she said
14 after she participated in Teen Challenge that she felt like she
15 was losing her memory and that she was so upset that she was
16 tearing up rags?

17 A. Tearing up racks?

18 Q. Rags.

19 A. Rags?

20 Q. Rags, like --

21 A. I don't recall that.

22 Q. In any of your email communication with Ms. Sweidy that led
23 up to this January 27th and 28th exchange, did you inform her
24 that her daughter was sick?

25 A. When a student becomes ill at SRA, they go to the --

1 medical, and they go to the doctor, and they inform parent that
2 the child is sick.

3 Q. So the answer is no?

4 A. That I did -- are you asking if I informed them?

5 Q. Yes.

6 A. I don't recall.

7 Q. Did you inform Ms. Sweidy that you knew that the kitchen
8 conditions at SRA were so substandard that you made a licensing
9 complaint while Rearden was there to licensing about the
10 kitchen?

11 A. No, I did not.

12 Q. Why not?

13 A. Because Rearden had told me she told her mother.

14 Q. So why did you make a licensing complaint about SRA?

15 A. I was hearing a lot about the kitchen, so I decided to make
16 the complaint and just figured if there was something come of
17 it, somebody would look at it, and if there was, then it would
18 be taken care of.

19 Q. Well, in that complaint, you also stated that you yourself
20 were nauseous when you ate in that salad bar?

21 A. I had observed the girls cleaning in the salad bar, and I
22 made a decision after that I wasn't going to eat in there. The
23 way that people can clean, young kids can clean.

24 Q. Is it true that you were nauseous whenever you ate there?

25 A. I put that in my complaint, yes.

1 Q. Well, your testimony is you put it in the complaint. My
2 question is: Were you stating the truth when you said that?

3 A. Yes.

4 Q. So why is it you did not work with staff at Spring Ridge
5 Academy to remedy what you observed about unhealthy and
6 unsanitary conditions in the kitchen?

7 A. I did.

8 Q. Who did you complain to?

9 A. I told Leslie about it.

10 Q. And what response did Leslie give you?

11 A. She said she would look into it.

12 Q. Did she?

13 A. I don't know.

14 Q. You also made a complaint to licensing that you believed
15 that SRA had problems with nepotism?

16 A. Okay. Yes.

17 Q. Why did you make that complaint? What relevance was it to
18 the licensing facility or licensing agency?

19 MR. SMITH: Excuse me, Your Honor. Relevance.

20 THE COURT: Ms. Allard, how is this line relevant?

21 MS. ALLARD: The context of the complaint was that
22 there were no precautions for COVID and the prevention of
23 communicable diseases. Evidence will show later, through other
24 testimony, there was illness, viral illness, experienced by
25 Rearden.

1 THE COURT: From the children cleaning the salad bar?

2 MS. ALLARD: No. Rearden got sick with viral symptoms
3 and had to be seen medically two days after her mother asked
4 for her release for medical reasons due to the governor
5 shutting the schools down.

6 THE COURT: Mr. Smith.

7 MR. SMITH: Your Honor, in the context of the claims
8 in the case, I don't believe that's relevant at all.

9 THE COURT: Sustained.

10 Please disregard the questions about the sanitary
11 conditions of the salad and this -- the last question and
12 response.

13 BY MS. ALLARD:

14 Q. Okay. The next question I'll ask is: Why did you make
15 complaints about the staff at Spring Ridge Academy?

16 A. I can't recall why I put that in that particular complaint.

17 Q. Did you have concerns, or do you have concerns, about the
18 way the staff acted at Spring Ridge Academy when my client's
19 daughter was enrolled?

20 A. Not while she was enrolled.

21 Q. Prior to her enrollment?

22 A. No.

23 Q. Did any of your concerns have to do with how Spring Ridge
24 Academy represented their services to parents?

25 A. No.

1 Q. You have prepared a number of progress notes in this
2 matter, and I think we've been referring to them, and at this
3 point I'm going to bring them up and ask a few questions about
4 those.

5 A. Okay.

6 Q. Do you recall the conversation with Kimberly Sweidy on
7 December 23rd, 2019, where you made a note that, Ms. Sweidy was
8 feeling much better and looking forward to reading other
9 assignments that you offered her?

10 And when I say Ms. Sweidy, I'm referring to my client,
11 Kimberly Sweidy.

12 A. Do you have the --

13 Q. Would it refresh your recollection?

14 A. Please.

15 THE COURT: Ma'am, can you move your microphone down,
16 please, and speak up a little bit? Thank you.

17 MS. ALLARD: Your Honor, at this time it's not an
18 admitted exhibit, so the hard copy, if that's available, for
19 the witness to --

20 THE COURT: What's the number?

21 MS. ALLARD: It is Exhibit 121.

22 THE COURT: Yes, just for the witness only.

23 MS. ALLARD: Yes, Your Honor.

24 THE COURT: Did you want it into evidence?

25 MS. ALLARD: No, Your Honor.

1 THE WITNESS: What's the date, please?

2 BY MS. ALLARD:

3 Q. It would be page 2.

4 A. Your question again, please?

5 Q. I will take it one at a time. My first question is -- I
6 think I previously asked you, if you recall that Ms. Sweidy
7 told you she was upset regarding email communications that she
8 had with staff at Spring Ridge Academy prior to your first
9 meeting with her here?

10 A. With staff? Emails with staff?

11 Q. Or emails. I think she characterized it as "emails."

12 A. Your question?

13 Q. Were you made aware -- let me set a little more foundation.

14 Were you made aware by Kate Deily that she and
15 Ms. Sweidy and Mr. Stata got into an email disagreement about
16 whether or not the older daughter would be coming to Spring
17 Ridge Academy around Christmastime?

18 A. No, I don't recall that.

19 Q. So Kate Deily did not communicate with you that she had
20 communicated with Ms. Sweidy and reprimanded her in an email?

21 A. I don't recall that, no.

22 Q. In looking at this email, there appears to be a reference
23 to emails that Ms. Sweidy said upset her.

24 Do you have any recollection of your conversation with
25 her about those emails?

1 A. No, I just put down that she said that she was upset about
2 emails.

3 Q. What else did she tell you she was upset about?

4 A. She said that she was experiencing -- I wrote it in the
5 note. She expressed that she was experiencing -- had been
6 experiencing trauma since leaving the wilderness placement from
7 staff there, from Rearden, and from her father.

8 Q. Do you have a recollection of what she told you?

9 A. That's what she -- yes.

10 Q. Did she tell you what happened?

11 A. I don't recall in this particular note if she did.

12 Q. And then you make a note there that you used empathetic
13 listening?

14 A. Yes.

15 Q. And then it appears that you made a note that she became
16 attentive and less interrupting, stating that she was feeling
17 much better?

18 A. Yes.

19 Q. So you left this conversation on good terms?

20 A. Yes.

21 Q. And this was your first meeting over the phone with
22 Ms. Sweidy?

23 A. I believe so.

24 Q. I am going to ask you, did Rearden ever tell you in the
25 beginning that she was struggling to commit to the SRA program?

1 A. She might have.

2 Q. Would it refresh your recollection to look at your notes,
3 specifically page 4?

4 A. Yes, I see it.

5 Q. Did she tell you that she was struggling to commit to the
6 program?

7 A. Yes.

8 Q. Did she tell you what parts that were bothering her about
9 the program?

10 A. I don't recall which parts. It's typical of the girls to
11 struggle to adjust.

12 Q. Did she tell you that she was angry and contemplating
13 running from the program?

14 A. Yes.

15 Q. Did you tell her parents?

16 A. I don't recall. She said that she would not do it.

17 Q. If the notes reflect -- have no reflection of you talking
18 to either Mr. Stata or Ms. Sweidy about it, would it be fair to
19 say that you did not tell Rearden's parents that she felt like
20 running from the school?

21 A. Not necessarily, no.

22 Q. Well, do you have any recollection of telling either one of
23 them?

24 A. I don't recall.

25 Q. And do you recall that the date of this interaction with

1 Rearden was December 30th, 2019?

2 A. Yes.

3 Q. And this would have been after she participated in the
4 first workshop, Teen Challenge, or before?

5 A. I don't recall the sequence of events.

6 Q. Moving ahead to my next question, do you recall your second
7 conversation with Kimberly Sweidy for 30 minutes on
8 December 31st, 2019?

9 A. Yes.

10 Q. Now, if you were going to have told a parent that their
11 daughter wanted to run from Spring Ridge Academy, it would make
12 sense that you most likely would have told Ms. Sweidy in this
13 conversation the very next day; would that be a fair
14 assumption?

15 A. If I felt like the student was going to run, which I didn't
16 feel that Rearden was going to, and she said she wasn't.

17 Q. So the next day when you spoke to her mother, you did not
18 tell her that her daughter had just said she wanted to run from
19 Spring Ridge Academy?

20 A. In this note I write that I was spoken at. I didn't get a
21 chance to really say anything in this conversation for 30
22 minutes.

23 Q. Well, you did say that you gave her a brief update on how
24 Rearden was doing. So if you gave her a brief update, would
25 that also have included that Rearden told you the day before

1 she wanted to run away?

2 A. Perhaps. I don't remember. I don't recall.

3 Q. On the phone -- the question I will ask you is about

4 January 11th, 2020 -- I'm sorry, January 7th, 2020, at

5 1:45 p.m., it appears that you wanted to talk to her about the

6 Residential Life Milieu notes. Do you see that note there

7 under "Issue"?

8 A. I see the note.

9 Q. It says that Rearden struggles with personal boundaries.

10 Do you recall what it is that you brought her in to talk about?

11 A. I will need to look at this so I know specifically. Yes.

12 I wrote that there have been several instances where she has

13 been redirected and continues to break touch rules.

14 Q. And she was placed on SNS. Can you describe what SNS is?

15 A. If I remember correctly, I believe it's silence and

16 separation.

17 Q. And what is that?

18 A. It's just where two students who have been directed to keep

19 their personal physical boundaries aren't doing so, and they

20 have been told a number of times, so then they have to spend a

21 short period of time away from each other.

22 Q. I think you testified you observed Rearden during her

23 participation in the Teen Challenge workshop?

24 A. I -- I did observe it, part of it at least.

25 Q. And to refresh your recollection on the date, could you

1 look at your progress note on page 8?

2 A. Yes.

3 Q. So it appears that the date that you made a note about your
4 observation was January 16th, 2020?

5 A. I'm sorry, what are you asking me?

6 Q. This record was made January 26th [sic] 2020, is that what
7 that means, what -- the date I see in the upper left corner?

8 A. Are we still on page 8?

9 Q. Yes.

10 A. It says January 16th.

11 Q. Is that the date that you made the note?

12 A. Yes.

13 Q. And it appears that you observed her that day and the day
14 before, and that you saw her playing the Red Black game?

15 A. That's what I wrote, yes.

16 Q. And you wrote down there the plan was that she would move
17 up to Phase 2. Why did you make that notation?

18 A. After completing -- I can't remember all of the -- all of
19 the requirements of moving up to Phase 2, and part of it is
20 completing workshops.

21 Q. So is the reason that you promoted her to Phase 2 is
22 because she completed the Teen Challenge workshop?

23 A. In part.

24 Q. What was the other part?

25 A. I would get information from the rest of the Milieu about

1 how she was doing and from her CLD, from her teachers, and we
2 would make a decision on moving up. Unless there was some
3 gross misconduct, it would be her natural progression to Phase
4 2.

5 Q. So independent of what -- so even though she said she
6 wanted to run away, was placed on silence and separation, was
7 sent to you by the Residential Life staff, she was promoted up
8 to the next phase?

9 A. Her behavior wasn't any -- yes. I will answer yes. And
10 her behavior wasn't so different from many of the students
11 trying to adjust at that early stage in the program.

12 Q. Were you aware that there were phone restrictions placed on
13 the students based on their phase status?

14 A. Yes.

15 Q. What was your understanding of the rules for Phase 1?

16 A. Oh, boy. I would like to be able to say exactly that I
17 know 100 percent for sure, but I don't recall the exact rules
18 for Phase 1.

19 Q. What -- do you know what privileges would change for Phase
20 2?

21 A. Maybe phone calls that are monitored with people in her
22 life.

23 Q. You mean her parents?

24 A. Sure, yes.

25 Q. Did you inform her parents that she was promoted to Phase 2

1 so they could adjust their phone contact with their daughter?

2 A. I don't recall. I am sure that I would have in a phone
3 call, but I don't recall exactly doing that or when.

4 Q. Do you recall speaking to Kimberly Sweidy the same day that
5 you made the note about the phase change, January 16th, 2020?

6 I am referring to Exhibit 121, page 9?

7 A. Page 9?

8 Q. Yes.

9 A. Yes.

10 THE COURT: Is there a question or a response? What's
11 going on?

12 BY MS. ALLARD:

13 Q. Okay. So you understand -- so you spoke to her the next
14 day. Did you tell her that Rearden advanced to Phase 2 so she
15 could increase her phone contact?

16 A. I don't recall.

17 Q. Would you have done that, would it be reflected in these
18 notes?

19 A. No, not necessarily, and her CLD may have informed her.

20 Q. And you told her, Ms. Sweidy, about her family therapy
21 session that was scheduled in this phone conversation?

22 A. That was the plan.

23 Q. And that she had to complete Parent Challenge first?

24 A. Yes.

25 Q. And do you recall that -- I think I asked you, that you

1 observed both parents at Parent Challenge?

2 A. Briefly, yes.

3 Q. And at some point in time, were you made aware that Rearden
4 had telephoned her dad during Parent Challenge, when she was at
5 a restaurant with her mom, to leave Spring Ridge Academy?

6 A. I don't recall.

7 Q. Do you recall having a phone conversation that you
8 reflected in your notes with Raymie Stata?

9 A. Which note?

10 Q. I'm going to ask you about page 12.

11 A. Okay. Yes.

12 Q. So did Raymie Stata call you to tell you that Kimberly had
13 complained to him about what was happening at Spring Ridge
14 Academy?

15 A. I'm reading the note here. And your question is?

16 Q. Do you remember Raymie Stata calling you to tell you that
17 Kimberly Sweidy wanted to remove their daughter from Spring
18 Ridge Academy?

19 A. I don't see anything in this note.

20 Q. Okay. Did he tell you that Kimberly reported she was upset
21 about the program?

22 A. I wrote that he said that she was upset about the program.

23 Q. And did he tell you that he actually -- he wanted his
24 daughter to stay in the program?

25 A. At this point I didn't write that in the note.

1 Q. You did write it in the note?

2 A. No, I did not. I don't see it.

3 Q. On the -- where it says "Intervention," the fourth line
4 down: Raymie wants her to stay, feeling it's the best setup to
5 help them.

6 A. Okay.

7 Q. Is that what he told you?

8 A. Yes. If I wrote it in the note, that's what I'm relaying.

9 Q. And then you wrote: He will have a family session with her
10 where he establishes his feelings that she stay.

11 What do you mean by "her"? Is that referring to his
12 daughter or his ex-wife?

13 A. With Rearden.

14 Q. At this point in time, you have a relationship -- a
15 therapeutic relationship with three individuals, correct?

16 A. Explain "therapeutic relationship," What are you asking?

17 Q. You have three family therapy clients in the Sweidy Stata
18 family?

19 A. That is the plan, yes.

20 Q. One of them is Kimberly Sweidy?

21 A. Yes.

22 Q. One of them is Raymie Stata?

23 A. Yes.

24 Q. And the other is their daughter, Rearden?

25 A. Yes.

1 Q. At this point in time, it appears to be that there is now a
2 conflict between what your clients want; would you agree with
3 that?

4 A. Yes.

5 Q. So do you have any training on how to resolve conflicts of
6 interest in the context of marriage and family therapy?

7 A. Yes, I do.

8 Q. And isn't it your understanding that communications outside
9 the context of family therapy need to be authorized by all
10 three parties?

11 A. If I was doing couples counseling or in private practice,
12 yes, perhaps.

13 Q. So why would that be any different with family counseling?

14 A. First I have to establish that we are having family therapy
15 with all the parties involved, and I have to be able to
16 communicate with all of the parties involved. I have to be
17 able to communicate to Rearden. I have to communicate with the
18 mother. I have to communicate with the father.

19 So if we're talking about this particular issue, this
20 would be something to address that they have conflict of
21 interest about the program or what's going on with Rearden.

22 But I would plan to have conversations with the three of them,
23 either together or aside, but if I can't have conversation with
24 you one of the parties, then it has to be between the two
25 participating parties.

1 Q. So I guess what I'm understanding from you is that you
2 don't believe that you have a therapeutic relationship with
3 Kimberly Sweidy prior to the date of this note?

4 A. No, I did not.

5 Q. Even though you were quote, unquote, "her assigned
6 therapist" as of the date she enrolled her daughter in December
7 of 2019?

8 A. She has to be willing to participate for her to have a
9 therapeutic relationship. She is stating things that she's
10 upset about that I'm reporting in progress notes, but we are
11 not having conversation about this or plans to address it in
12 family therapy.

13 Either Rearden and Kimberly sit down and we do it that
14 way with the two of them, and then we have Rearden and dad. If
15 I could get Raymie and Kimberly to talk together in a family
16 therapy session, that would be ideal, but if I can't get both
17 parties to participate, then I have to just go with what I
18 have.

19 Q. But isn't it true that you had already taken confidences
20 from Ms. Sweidy prior to the date here?

21 A. What do you mean by "confidences"?

22 Q. Private details regarding her feelings, her emotions, her
23 marriage, her wishes for her daughter? Hadn't you already
24 solicited all of that information from her in the context of a
25 therapist/client relationship?

1 A. The conversations that I had with Kimberly where she
2 expressed those, I wasn't soliciting information. She was
3 telling me things that she was upset about, but we weren't able
4 to make a plan that we would sit down and continue to talk
5 about this.

6 Q. Didn't -- in your notes, didn't you call those "therapy
7 sessions" with Ms. Sweidy, when you made notes of those
8 conversations?

9 A. Yes.

10 Q. So you had therapy sessions with Ms. Sweidy where she
11 revealed information to you, and then subsequent to that, you
12 have canceled family therapy and then use confidences that she
13 gave you without her permission in sessions solely with her
14 husband; isn't that true?

15 A. I didn't say that, no.

16 Q. Okay. So did you or did you not use information that you
17 received from Ms. Sweidy in your counseling sessions with her
18 daughter?

19 A. No, I did not.

20 Q. Okay. Did you use information you obtained from
21 Ms. Sweidy, or impressions you made of Ms. Sweidy, in your
22 counseling sessions with Mr. Stata?

23 A. No.

24 Q. On January 29th, do you recall having, what you called in
25 your notes, your first family session with just Rearden and

1 Raymie?

2 A. I see the note.

3 Q. What was discussed?

4 A. The first part of it is discussing Rearden is telling
5 Raymie that her mom called her and said she was going to pull
6 her from SRA. The discussion was about taking accountability
7 for how it was handled, the call was handled. Raymie wanted
8 her to think about what was best for her in a decision whether
9 or not to stay at SRA or not.

10 Rearden stated she wanted to make that decision with
11 that in mind, what was best for her, rather than what was
12 convenient for her. And then the latter part of it, Raymie
13 discussed what he -- his takeaways from Parent Challenge.

14 Q. And did he also say that he wanted her to commit to the
15 process at SRA?

16 A. The way I wrote that, it sounds like that was my takeaway.

17 Q. You mean the line that says: Raymie wants her to think
18 about what is best for her in deciding on staying at SRA,
19 knowing that he wants her to commit to the process?

20 A. "Knowing that he wants her to commit to the process." I
21 don't know if he specifically said that or if that's something
22 that I know or knew or inferred.

23 Q. It appears that the next day you had an individual session
24 with Rearden on January 31st, 2020 where the two of you talked
25 about her visit with her mother where they discussed leaving

1 SRA; do you see that?

2 A. Yes.

3 MR. SMITH: I beg your pardon. Could we have a page
4 number, please?

5 MS. ALLARD: Page 15.

6 MR. SMITH: Thank you.

7 BY MS. ALLARD:

8 Q. You have a plan that you note at the end of here, and you
9 gave her an assignment to grieve over the parent she has versus
10 the parent she wishes she had, and you did a body tracing
11 exercise.

12 What is that assignment based on if the only thing
13 being discussed is a phone call to Dad to leave SRA because her
14 mother wanted her to leave?

15 A. I wrote that the assignment to help Rearden grieve over the
16 parent she has versus the parent she wishes she had, and the
17 body tracing was related to that.

18 Q. What does that have to do with her mother being alleged to
19 coax her to go home to California?

20 A. Nothing.

21 Q. So do you know why you made a note that Rearden was to
22 grieve over one of her parents?

23 A. Rearden was struggling with all of this that's happening,
24 and she's -- I'm not putting in the notes verbatim every single
25 thing that is said. She has a parent that she wants to be one

1 way, and she doesn't have that with that parent. So at some
2 point, you know, as children, when we have issues with a
3 parent, we have to accept we've got the parent we've got, not
4 the parent necessarily that we want.

5 Q. Which parent?

6 A. In this case she's talking about her mother.

7 Q. Because her mother was going to take her home?

8 A. In the note I put: She felt she was manipulated --

9 Q. To leave --

10 A. -- by her mother.

11 Q. To leave SRA?

12 A. Yes.

13 Q. To call her dad?

14 A. I'm sorry, I don't understand.

15 Q. Well, was it manipulated to call her dad and have her dad
16 yell at her, or was it to manipulate her to leave SRA, which --

17 A. Manipulate her to leave SRA.

18 Q. Were you made aware during these counseling sessions that
19 Rearden's father yelled at her for an hour on the phone?

20 A. Not in this note.

21 Q. Do you have any recollection of Rearden telling you that?

22 A. She might have.

23 Q. Did she tell you that her dad went through the litany of
24 everything that she had done wrong in her life and why she
25 needed to stay at SRA?

1 A. I don't have a specific recollection of that, but she may
2 have said that.

3 Q. Would it have been your assessment that maybe Rearden would
4 have felt intimidated by that whole experience, based on her
5 father yelling at her and giving her the litany?

6 A. If that happened to her where she felt that her father was
7 reading her a riot act or giving her a litany, that would be
8 something that she and her dad -- she and I would discuss in
9 therapy.

10 Q. In fact you did, and you made a note that they said both of
11 them could have handled that phone call better. Do you recall
12 making that note?

13 A. That was the previous note that we were talking about?

14 Q. Well, do you recall that conversation?

15 A. I'm just confused on which progress note you're telling me
16 that I said that. I recall that was about the note about --

17 Q. Well, let's just talk -- we will go back to page 12 on
18 Exhibit 121. And on Exhibit [sic] 12, this appears to be
19 conversation that you had alone with Raymie Stata, correct?

20 A. Yes.

21 Q. And he complained that Kimberly spoke at him for 30 minutes
22 about her upset over the program, and then you stated -- or
23 actually he also stated he was concerned that Rearden called
24 him on Sunday where she told him she wasn't sure she should
25 stay at SRA or that it was the right program for her, correct?

1 A. Yes.

2 Q. And so your plan coming out of this conversation with
3 Mr. Stata was: Help Rearden navigate the conflicts surrounding
4 her mother and father's relationship, support Rearden in making
5 decisions about her treatment without being influenced by her
6 mother's personal feelings.

7 What would be wrong with her mother's personal
8 feelings?

9 A. I didn't say that they were wrong. I'm saying she was
10 influenced by them. On the one hand, her mother is wanting her
11 to leave the program, but Rearden is not sure she wants to
12 leave the program.

13 Q. Because her father doesn't want her to go, correct?

14 A. Because Rearden wasn't sure that she wanted to go.

15 Q. I'm going to ask you to refresh your recollection on one of
16 my previous questions with page 14. On the date of
17 January 29th, 2020, you had what you called your first family
18 session without Kimberly. This is just with Mr. Stata and
19 Rearden.

20 You said: Both talked about the phone call Sunday
21 night when Rearden called him saying her mom was going to pull
22 her from SRA. They both took accountability for not handling
23 it in the best way and apologized to each other for their part.

24 Do you recall why you made that note?

25 A. Because it was about the issue about her mom saying she was

1 going to pull her. They had some conflict around that, and
2 that -- it was to establish that they apologized, so they
3 worked it out.

4 Q. Why did they need to apologize?

5 A. I can't remember -- exactly recall what they said they said
6 to each other, but evidently they needed to apologize to each
7 other.

8 Q. Did Rearden ever tell you subsequently that in fact her
9 father was intoxicated during that conversation?

10 A. During this conversation?

11 Q. At some point down the road, you maintained a long-term
12 relationship with Rearden, correct?

13 A. Yes.

14 Q. In fact, you were online with her even after she left SRA,
15 correct?

16 A. Yes.

17 Q. And she told you twice that her father became so inebriated
18 that she had to help him with cleaning up after himself, and
19 actually had to call her mother to be taken from his home, and
20 you knew that, correct?

21 A. Yes.

22 Q. And it didn't happen just once, it actually happened twice?

23 A. I recall this specific incident you are talking about.

24 Q. Do you recall a second time Rearden told you that her dad
25 was drunk?

1 A. I don't recall that.

2 Q. And this is after she left SRA but was still talking to you
3 as her therapist, correct?

4 A. Yes.

5 Q. So at any time in these communications with Rearden, did
6 she also tell you that when she called her dad to leave SRA,
7 that it was her opinion he was drunk?

8 A. When who called? I'm confused on which time we are talking
9 about. Are we talking about the note on page 14, or are we
10 talking about back on the other one?

11 Q. I'm talking about any time you talked to Rearden after this
12 note you made here, did she tell you: By the way, Ronnie, my
13 dad was drunk that time that I called him to try and leave SRA?

14 A. I don't recall that conversation.

15 Q. But you did talk extensively with her about the fact when
16 she lived with him before she turned 18, after the court
17 returned her to her father's custody, that not once, but twice,
18 she was so upset because of the level of intoxication requiring
19 her to clean him up. She told you about that?

20 A. I recall --

21 Q. Is that true?

22 A. -- the conversation about her having to clean him up after
23 she had gone home from SRA.

24 Q. To live with her dad?

25 A. Yes.

1 Q. And did you make a report to CPS or anybody about that in
2 California?

3 A. No, she was at her mother's house. She went to her
4 mother's house after that, and she told me that she was fine
5 there.

6 Q. But you knew he had, at that point, sole custody. My
7 question is: Did you make a report to CPS?

8 A. No, I did not.

9 Q. And since you are from California and worked in California,
10 you know who CPS is, don't you?

11 A. I do.

12 Q. And you are well trained as a mandatory reporter on what to
13 do if children are in neglectful situations?

14 A. I'm not sure that that would meet the specification of a
15 endangered situation.

16 Q. It was also told to you, wasn't it, that other adult men
17 were in the house that knocked on Rearden's bedroom door to
18 tell her to go down and clean her father up?

19 A. It was a get-together, I guess, so if there were men there,
20 yeah.

21 Q. So if Ms. Sweidy --

22 A. It could have been women too. I'm sorry.

23 Q. If Ms. Sweidy had written you an email the next day that
24 was, you know, five pages, single spaced, would you consider
25 that being unnecessarily combative?

1 A. I don't recall receiving an email from Ms. Sweidy regarding
2 that incident.

3 Q. At some point in time, do you recall having a therapy
4 session with Rearden where it was discussed that it was wrong
5 for her mother to give her a phone on their visit during Parent
6 Challenge? And if it would refresh your recollection, I am
7 referring to page 15.

8 A. Yes, I see it.

9 Q. Why was that a subject in conversation?

10 A. Well, it was against the rules for that visit for her to
11 have a phone.

12 Q. How does that hurt her? How does it hurt Rearden to have a
13 cell phone with her mom on a visit at a restaurant?

14 A. It's a rule for all parents and all students that they
15 don't have a phone yet; not until they get to Phase 4 can they
16 have a phone or use it. They are not supposed to be calling
17 their friends or making other arrangements.

18 Q. Right, but just because it's a rule at SRA doesn't mean
19 it's necessarily -- has any therapeutic value. I am asking
20 what the therapeutic value is in denying a cell phone to
21 Rearden, because you are the one that knows her, at this point,
22 you know something about her?

23 A. It's a rule that all of the students know about and the
24 parents know about, and it's not up to me to make a decision on
25 whether or not that it has therapeutic value. It's a rule.

1 It's in the handbook. Everybody follows it. And when they
2 don't follow it, then we have to have a discussion about it.

3 Q. So I just want it to be clear that there was no specific
4 reason for Rearden not to have a cell phone? In other words,
5 she didn't have a drug dealer, correct?

6 A. The reason is because it's not -- a rule not to have it. I
7 don't know if she had a drug dealer. I don't know what she
8 would use the phone for or what any of the other girls would
9 use their phone for, if they take it and they use it on a visit
10 at that particular level.

11 Another student might. Students have done that where
12 they call a drug dealer or they go to hook up with their
13 boyfriend, or any other number of things that they might do.

14 Q. I have heard you say, "It's a rule"?

15 A. Yes.

16 Q. My question was: What's the therapeutic value of that
17 rule?

18 A. Well, we could -- we could say that at that level she
19 hasn't perhaps developed enough self-discipline where she would
20 make the correct choices if she had a phone. So we are
21 expecting that by the time a student reaches stage 4 -- Phase
22 4, that they will have -- they'll have that self-discipline, so
23 they don't abuse their privileges.

24 Q. I had asked you previously if you remembered that on
25 January 7th, Rearden, in the Residential Life, was very upset

1 in the evening. When we came back from dinner, she starting
2 ripping up all the cleaning rags one by one, very angrily. She
3 refused to talk about it. Then once we got over to the APR
4 for study hall, she ran down the hall and wanted to go outside.
5 I got the other students situated with Tammy, then took her
6 outside, and she cried uncontrollably for several minutes.

7 She then stated she was very lonely and she misses her
8 friends. And she feels like their memories are fading and she
9 has no one here. The incident in the cafe was between her
10 Evelyn -- some other incident.

11 Did you see that note?

12 A. Yes.

13 Q. So again, I am going to ask the question: What is the
14 therapeutic value of denying this child -- I don't care what
15 any rules are -- this child a cell phone to call her friends
16 when she is with her mother at dinner?

17 MR. SMITH: Objection, Your Honor. Asked and
18 answered.

19 THE COURT: Overruled.

20 THE WITNESS: Are you asking me that specific to that
21 incident where she was upset about her friends?

22 BY MS. ALLARD:

23 Q. Well --

24 A. Are you asking me in relationship to that?

25 Q. I'm asking you in relation to your training and experience

1 and whatever education or work experience clinically you have
2 to answer the question, if you have it?

3 A. I am asking for clarification on the question.

4 Q. You have an education in therapy?

5 A. Yes.

6 Q. Where? Where did you get it?

7 A. I got my master's in transpersonal counseling from JFK
8 University in California.

9 Q. Did you ever get licensed in California to counsel people
10 there?

11 A. No.

12 Q. Why not?

13 A. Well, when I graduated, the State of California, the Board
14 of Behavioral Health was shut down, so most of my graduating
15 class were not able to get their license for two years. I
16 subsequently moved to Texas after I got my license, and in the
17 state of Texas you must have a license to practice. You don't
18 need one in California.

19 So I started teaching, and by the time I got back to
20 California, again, I did not need a license to practice, and I
21 was not in private practice.

22 Q. So you have a master's degree, and what work experience do
23 you have in counseling prior to coming to Spring Ridge Academy?

24 A. I have -- okay, let's see. I started -- I started
25 counseling back in the '90s. I was a participant in a

1 counseling group, and in that group I was asked to facilitate
2 the group. So at this point I don't have any education in
3 therapy, but I did facilitate a battered women's group.

4 I then worked for the DA's office as a -- I worked as
5 a victim/witness counselor, and that I was a volunteer. And
6 that job came up as a paid position, but because I didn't have
7 a degree, I couldn't apply for the job, and the DA put in a
8 word for me, wanted me to be able to have the job, and I didn't
9 have the -- they said I needed to get an AA degree, so --

10 Q. What county was that?

11 A. Solano County.

12 Q. And the DA's office in Solano County has a counseling
13 program?

14 A. No, it's victim/witness.

15 Q. It's to call people and see how much money somebody robbed
16 them of, correct? Isn't that what that job was?

17 A. No, it was for women who had been abused by their spouse or
18 boyfriend, and the DA's office was trying to get them to
19 testify against their perpetrator, and my job was to give
20 them -- to talk to them, make them feel okay through the
21 process.

22 Q. To tell them to come to court?

23 A. Yes.

24 Q. But it wasn't counseling experience?

25 A. It was counseling I was giving, yes.

1 Q. Other than that, what other clinical experience, if you
2 call it clinical, did you have prior to your job at Spring
3 Ridge Academy?

4 A. Okay. From there -- bear with me. I have to think on
5 this. I have quite a bit of experience.

6 I started to get my degrees, and I worked at Youth and
7 Family Services, I believe first. And Youth and Family
8 Services is an outpatient clinic. It's a communicated clinic,
9 and I worked under the license of my supervisor as a counselor
10 providing groups and providing therapy to at-risk youth.

11 Q. And how many years did you do that?

12 A. Four or five.

13 Q. Did you counsel them for anxiety?

14 A. Yes.

15 Q. Okay. So -- and based on that five years of experience,
16 and I am going to ask this same question again, what's the
17 therapeutic value of denying a child who misses her friends
18 from using a cell phone to say hello?

19 A. It's expected that getting put into a therapeutic boarding
20 school, you are going to miss your friends. That is expected,
21 and you're going to have -- you are going to be upset over it.
22 But many of -- many young people have issues with using their
23 phones responsibly, so the phone is not -- screens of any kind
24 are not being used at that particular juncture in the student's
25 progress at SRA.

1 The therapeutic value is that -- and Rearden got --
2 she did come to terms with this, so it wasn't something that
3 was an ongoing issue for her that she went on and on and
4 missing her friends and she was very distraught. It was a
5 thing that happened.

6 She discussed it with her Community Coaches. She
7 discussed it with her CLD. She discussed it with me. And she
8 came to terms with it, and I believe that she would never have
9 been upset about her mom wanting to give her a phone if she was
10 still struggling with not being able to see her friends or talk
11 to her friends --

12 Q. Okay.

13 A. -- rather.

14 Q. I'm going to move on.

15 You entered a therapy note on January 31st, 2020
16 where -- again under "Issue," do you recall making a note that:
17 Kimberly is demanding conditions for her participation in the
18 process?

19 A. Is this on --

20 Q. Page 16.

21 A. "Kimberly is demanding conditions for her participation in
22 the process and telling Rearden the program isn't right for
23 her. It is determined by the clinical and program team to
24 inform Raymie as he has equal say in Rearden's therapeutic
25 process."

1 Q. So I had asked you a question about this relationship or
2 conflict of interest that you had, and at this point, it
3 appears that you are taking a confidence from Kimberly and
4 using it to tell her ex-husband Raymie about it?

5 A. Let me read this. So this information from Kimberly was
6 not given to me in a therapy session.

7 Q. It was given to you in those emails we were talking about,
8 correct?

9 A. And it was reported to me from the clinical team that they
10 were receiving emails from her, so it wasn't a confidence from
11 Kimberly.

12 Q. Then you put under "Intervention" that you: Informed
13 Raymie that this writer has been unable to proceed with family
14 sessions between Rearden and her mother.

15 Why did you tell him that?

16 A. Because there's supposed to be the three -- the mom, the
17 dad and the student -- and I wasn't able to make that happen
18 with Kimberly.

19 Q. Did you tell --

20 A. So he has the right to hear from it. I'm not able to get
21 Kimberly in therapy with her.

22 Q. Did you tell Raymie Stata that you canceled Kimberly's
23 family therapy session?

24 A. When are you talking about? Back -- the 1-30?

25 Q. Yes.

1 A. I don't recall if I told him that, that I canceled the
2 session.

3 Q. And then you went on to inform him that: We, the
4 clinical/program team, are engaged in trying to establish
5 collaborative communication with Kimberly.

6 Is that what you represented to him?

7 A. Yes.

8 Q. Well, that wasn't true, was it?

9 A. Yes, it was.

10 Q. What did you do to establish collaborative communication
11 with Kimberly after you canceled her therapy session?

12 A. What I know that was happening with the program team was
13 that they were in communication with her. By that time, I was
14 unable to establish any communication besides those emails that
15 Kimberly sent me.

16 Q. Who --

17 A. So the program team was in the process of seeing if we
18 could work it out with her.

19 Q. Who on the program team told you that they were attempting
20 to work things out with her?

21 A. I can't recall who exactly, but the program team consists
22 of Suzie Courtney, Leslie Filsinger, and others, but I was in
23 communication with Suzie Courtney and Leslie, mostly.

24 Q. And they told you that they were attempting to reach out to
25 Kimberly Sweidy?

1 A. I can't recall if it was verbal that I was told or that I
2 was getting -- seeing maybe emails that were being sent.

3 Q. So after you tell him this, you tell him two things, that
4 his ex-wife is not going to participate in family therapy, and
5 that the program team has reached out to her to try and do it.
6 And then next he tells you he's going to fight in court now?

7 A. I didn't write that.

8 Q. He said: He stated he will fight to keep her at SRA as he
9 predicts Kimberly will want to pull Rearden?

10 A. Okay.

11 Q. You see that?

12 A. Yes.

13 Q. Well, would it -- how did you -- you made -- the word
14 "fight," you put it down here. What kind of fight are you
15 talking about?

16 A. I don't know, I may have been -- may have been able --
17 should have put that in quotes perhaps, I don't know.

18 Q. So when you wrote the word "fight," you don't have any
19 recollection today what he --

20 A. I don't know how he is going to fight.

21 Q. So then on February 7th, there's a progress note where the
22 objective is to: Give support to Rearden's father after an
23 unscheduled removal of his daughter from campus.

24 Is that what you wrote?

25 A. Yes.

1 Q. So why did you think you needed to give support to Raymie
2 Stata after Rearden was removed by her mother?

3 A. He was involved in family therapy with his daughter at the
4 school, and he should know about it.

5 Q. So "Intervention" then says: On February 3rd this writer
6 called Raymie to inform him that Kimberly had taken Rearden
7 from campus not to return, and did he know she was going to
8 take her.

9 A. That she was what?

10 Q. Did he know? You called him to ask him if he knew.

11 A. Are you reading from a progress note?

12 Q. Page 17.

13 A. Okay. He informed that he was filing legal papers and was
14 unsure on how to speak to Rearden about it.

15 Q. I'm asking you why you called him.

16 A. I'm not sure that I called him or if this was a regular
17 scheduled therapy session.

18 Q. I just read your notes under "Intervention." Can you
19 review those there, the first line?

20 A. Okay. I see that. Yes. And again, it could have been
21 also a regularly scheduled therapy session. It would be
22 something that I would inform -- if Raymie had come on campus
23 and picked Rearden up, I would have --

24 MS. ALLARD: Motion to strike. Nonresponsive.

25 THE COURT: That's sustained.

1 Please disregard the last response from the witness.

2 BY MS. ALLARD:

3 Q. The last line that I asked you about that you just read
4 says: On February 3rd, 2020, this writer called Raymie to
5 inform him that Kimberly had taken Rearden from campus not to
6 return and did he know that she was going to take her. He said
7 he did not.

8 Is that what you recall doing?

9 A. Yes.

10 Q. And it was not a family therapy session, correct?

11 A. I am not sure. It may not have been.

12 Q. Can you look at your notes? You would make a note of that.
13 Did you?

14 A. It's hard to tell by the dates --

15 Q. Is there any note that this is a therapy session?

16 A. It says it's a family session without --

17 Q. What is the objective stated for the note?

18 A. "Give support to Rearden's father after unscheduled
19 removal."

20 Q. And what's your "plan"? You wrote that you had a plan.

21 A. "Remain in supportive communication with Raymie as it
22 pertains to Rearden's process and possible return to campus."

23 Q. How was she going to return to campus if her mother had
24 sole legal custody and took her home?

25 A. I don't know, maybe that was the fight that Raymie was

1 talking about.

2 Q. Well, in your note you mention that he should not talk
3 about the legal filings in front of Rearden?

4 A. Yes.

5 Q. So who brought up legal filings?

6 A. I'm not sure. I don't know.

7 Q. And this is on -- the note is dated February 7th, but you
8 put a date of February 3rd. So would it be fair to say that
9 this happened the same day that Ms. Sweidy removed her
10 daughter, February 3rd?

11 A. I believe that's the date, if you are saying it is.

12 Q. How did you find out that that happened that day?

13 A. How did I find out what happened?

14 Q. That Ms. Sweidy came to pick up her daughter.

15 A. I was there.

16 Q. Oh, you saw it?

17 A. I was called in that she was there.

18 Q. Okay. And who called you?

19 A. I can't recall who did.

20 Q. And then you started taking notes again after Rearden was
21 returned, and it looks like I'm going to ask you to look at
22 page 19. That -- your first note was February 14th, 2020?

23 A. Okay. Yes.

24 Q. So does that refresh your recollection that the date of
25 that session was February 14th, 2020?

1 A. Yes.

2 Q. So the issue there is: Rearden is struggling after being
3 pulled by her mother.

4 Why did you write that as an issue?

5 A. Because it was an issue for her.

6 Q. You mean she wasn't happy to be back?

7 A. No.

8 Q. And she told you: I'm not gonna lie. She thought it might
9 be nice not to come back?

10 A. Right, yes.

11 Q. And then she told you that she and her mother joked that
12 she should get emancipated?

13 A. It says that she asked if her mom was joking.

14 Q. And what did she say?

15 A. She said that her mom said: Yeah, maybe, but why not?

16 Q. Before this time period, Rearden saw you once a week,
17 correct, for therapy?

18 A. That would have been usual, yes.

19 Q. And after she was returned, you now saw her twice a week;
20 is that correct?

21 A. Um, I'm not certain about that. I would have to look at
22 these notes to know.

23 Q. Would it refresh your recollection to look at your notes?

24 A. I have one for the 14th and one for five days later for the
25 19th. And then -- so it looks like roughly every five days,

1 which I'm not sure that I would have been able to get two
2 sessions a week in that time.

3 Q. While I'm looking at March, for example, there's
4 March 11th, and there's March 17th, then there's March 19th on
5 Skype, March 26th, March 30th, March 31st. So without laying
6 this out and -- with a calendar, you don't recall whether or
7 not it was once or twice a week?

8 A. Well, just as an example, March 30th and then March 31st,
9 one was a family session, the first one, and the next one was
10 individual, so that would happen twice in a week.

11 Q. I am going to ask you on page 26, you made a note in an
12 "Intervention" that: Rearden is becoming more open to
13 experiencing uncomfortable emotions. When she arrived, she put
14 a blanket over her and did a meditation.

15 Is that something you initiated?

16 A. The meditation?

17 Q. Putting a blanket over her head.

18 A. No, she felt uncomfortable having her eyes closed with
19 somebody sitting there, so she suggested -- she grabbed a
20 blanket and put it over her head.

21 Q. You had her do "Color breathing exercises." What are
22 those?

23 A. It's a standard breathing exercise. I ask the person to
24 tell me their favorite color, and then I have them imagine
25 they're breathing in that color, and that it's soothing away

1 whatever negativity, or, you know, feelings -- negative
2 feelings that they're having, and just let that color wash
3 through them. And then when they breathe out, they breathe out
4 the color and the negativity, and then they just repeat that
5 exercise.

6 Q. Do you recall reading a Community Life note where Rearden
7 had a supervised telephone call with her mother and that when
8 her mother asked about a schedule change, that director
9 commented that Rearden properly set a boundary and didn't
10 answer the question?

11 A. I would have to see the note.

12 Q. Do you recall Rearden asking you on March 11th, 2020 that:
13 She had a list of things that are confusing for her to talk
14 about. And the first was that she heard people say, "We're
15 supposed to focus on where we are in our process." And she
16 wanted to know what that meant.

17 And I am going to refer you to page 25.

18 A. I'm sorry page?

19 Q. 25.

20 A. Okay. I see the note and that part you're talking about.

21 Q. Do you recall Rearden asking you or telling -- coming in
22 with a list of questions including, what is the process that
23 I'm supposed to be doing here?

24 A. It says here, supposed to tell where I am in the process.

25 Q. Can you even articulate what the process is?

1 A. For SRA there are processes that you go through, like the
2 stages, the phases, and your particular personal process is how
3 you go about -- how you go about -- how you think, how you
4 react emotionally, how you make decisions. So process is the
5 method by which you go about doing these things.

6 Q. Rearden asked you what her process was though? Did you
7 give her an explanation?

8 A. "We're supposed to focus on where we are in our process.
9 What does that mean?"

10 Q. Did you give her an answer?

11 A. What we focused on was her anxiety around this question, as
12 I wrote in the note.

13 Q. Her anxiety around not knowing what the process was
14 supposed to do for her at SRA?

15 A. Not what the process was supposed to do for her at SRA,
16 what -- how do I explain where I'm at in my process. How do I
17 understand that.

18 Q. You made a note here that she complained that she felt
19 dissociated during this counseling session?

20 A. Yes.

21 Q. And she put a blanket over her head?

22 A. Yes.

23 Q. What's your training and experience on this type of
24 symptomology? What does that mean, that -- is she having a
25 break?

1 A. No, she didn't. So there's dissociative disorder, where a
2 person regularly in response to their feelings or emotions will
3 detach from themselves and they feel like they're not in their
4 body and they are looking down at themselves. That isn't what
5 this is.

6 She was just feeling -- she dissociated in the sense
7 that she wasn't feeling grounded. She wasn't feeling like she
8 was like right there in the process. So doing that exercise
9 was a way for her to get grounded again. It worked for her, so
10 we did it.

11 THE COURT: Ladies and gentlemen, this is a perfect
12 time to take our afternoon recess. Court will be in recess
13 until 2:50. All rise for the jury. Court is in recess.

14 (The jury leaves the courtroom.)

15 THE COURT: Jury has left the courtroom. I just want
16 to remind the parties that we have 37 witnesses for a
17 three-week trial and we are on number three. Everyone have a
18 nice break.

19 MS. ALLARD: Thank you, Your Honor.

20 (Recess taken at 2:30 p.m.; resumes at 2:56 p.m.)

21 THE COURT: This court will come to order. All
22 parties present when the court last closed are present again.
23 The witness is still under oath.

24 Ms. Allard, when you are ready, please continue your
25 questions.

1 MS. ALLARD: Thank you, Your Honor.

2 THE COURT: You're very welcome. It is also my
3 understanding from the U.S. Marshals, we had some kind of
4 situation from some people that were in this courtroom. Just
5 be mindful that everything is recorded at this courthouse,
6 whether you're in this room, on the landing, or first floor.
7 So those of you that are guests, just make sure you keep that
8 in mind.

9 Go ahead, Ms. Allard.

10 BY MS. ALLARD:

11 Q. At some point in time you were contacted by Mr. Stata to --
12 and inform that a court investigator from California wanted to
13 interview Rearden alone?

14 A. That I was informed by the court?

15 Q. No, by Mr. Stata. He called and told you that Rearden was
16 going to be interviewed by a court investigator for the family
17 law matter in California.

18 A. Yes.

19 Q. And after he told you that, you called Rearden in to tell
20 her, correct?

21 A. I believe so. I don't know the timing for that.

22 Q. And you did a pros and cons assignment with her on what she
23 would tell the court investigator, correct?

24 A. No.

25 Q. Did you discuss with her what she would tell the court

1 investigator?

2 A. No.

3 Q. Why did you even tell her?

4 A. That she was going to go to court?

5 Q. That she was going to be interviewed by a court
6 investigator.

7 A. Because it would probably affect her in some way, and I
8 wrote notes about that, too.

9 Q. Were you attempting to influence her statement?

10 A. No, I was not.

11 Q. When you told her that -- when you learned that she was
12 going to have to talk to the court and you called her in, you
13 had her do an empty chair exercise, correct?

14 A. I'll have to see that note.

15 Q. Page 33.

16 A. Your question again?

17 Q. Why did you have her do an empty chair exercise?

18 A. In my note that -- I wrote that there were a number of
19 things that came up in that session. How she overthinks. She
20 what-ifs. She is anxious about being put in the middle of her
21 parents' issues via the court. So the exercise was there to
22 help her with that situation.

23 Q. You wrote in your note to answer the questions: What do I
24 get out of being at SRA; why am I here; how am I successful
25 here?

1 A. Yes.

2 Q. So that exercise was for her to process making a decision
3 on what she would tell the court investigator, correct?

4 A. No. It was in regards to those questions: What do I get
5 out of being in SRA; why am I here; and how am I successful
6 here.

7 MS. ALLARD: No further questions.

8 THE COURT: Is there any cross-examination?

9 MR. SMITH: Yes, there is, Your Honor.

10 THE COURT: Come on up, please.

11 MR. SMITH: Thank you.

12 THE COURT: You're welcome.

13 CROSS-EXAMINATION

14 BY MR. SMITH:

15 Q. Ms. Borges.

16 A. Yes.

17 Q. I want to go back and just cover a few of the things that
18 were touched upon that perhaps would be better to have a little
19 more detail on.

20 First thing I want to talk to you about is how you got
21 to the point where you were giving therapy at Spring Ridge
22 Academy. So I know that you provided some of your prior
23 history. I would like to know, though, maybe a little more
24 orderly, when did you -- when did you first go to college?

25 A. In -- oh, gosh, 1990-something. I can't remember the exact

1 day.

2 Q. Okay. Where was that?

3 A. It was at Solano Community College.

4 Q. And that's in California?

5 A. Yes.

6 Q. And did you obtain a degree from there?

7 A. I received an AA in psychology.

8 Q. So your first degree was in psychology?

9 A. Yes.

10 Q. By that point in time, had you been out working?

11 A. Yes.

12 Q. What kinds of things had you done in your work life up to
13 that point?

14 A. Some that I covered, I worked in -- with battered women in
15 a number of settings. I worked in residential as overnight
16 staff for dual-diagnosed patients who had both a drug issue and
17 a mental health illness.

18 I worked with the sheriff's department as a liaison
19 counselor through a -- with the youth that they would bring in
20 who were truant and things from school. And -- which
21 eventually led up to me working at Youth and Family Services in
22 Solano County as a counselor there working with at-risk youth,
23 and then from --

24 Q. Let me stop you right there. So that -- I think during the
25 questioning you got up to that point and then Ms. Allard went

1 on a different direction.

2 When you were at Youth and Family Services -- in which
3 county?

4 A. Solano.

5 Q. Solano County, California?

6 A. Yes.

7 Q. And at that point in time, did you have any other degree
8 beyond your bachelor's?

9 A. I was earning my bachelor's while I was at Youth and Family
10 Services.

11 Q. Okay. So it was during the time that you were earning your
12 bachelor's degree, you were working at Youth and Family
13 Services?

14 A. Yes.

15 Q. And where did you get your bachelor's degree from?

16 A. Sonoma State.

17 Q. So you go to the community college, and then you get to
18 Sonoma State, which is again in California?

19 A. Yes.

20 Q. And then after that, once your at Youth and Family
21 Services, where do you go from there?

22 A. After -- I did get my master's degree while I was at Youth
23 and Family Services.

24 Q. Okay. What year was that?

25 A. That was 2005.

1 Q. Okay.

2 A. 2005 or 2006.

3 Q. What as your master's in?

4 A. Transpersonal counseling psychology.

5 Q. Is that what you had told us about earlier, that you were
6 at JFK University?

7 A. Yes.

8 Q. And I think you mentioned that there was some kind of
9 government shutdown or something that interfered with your
10 ability to just go ahead and get licensed in the state of
11 California?

12 A. Yes.

13 Q. To this day, you have never gotten your license, correct?

14 A. Yes, that's correct.

15 Q. In counseling?

16 A. That's correct.

17 Q. But you have -- you have given counseling both in
18 California and Arizona, correct?

19 A. Yes.

20 Q. And how is it that somebody like you with a master's degree
21 in counseling without a license can still go ahead and give
22 counseling?

23 A. You just need to be supervised by a licensed therapist with
24 that state.

25 Q. And even though it's jumping ahead a little bit, who was it

1 at Spring Ridge Academy that was supervising you?

2 A. Leslie Filsinger.

3 Q. She was a licensed therapist?

4 A. Yes.

5 Q. And so when we look at these -- a minute ago, there were
6 all of these progress notes that -- is that what those things
7 are called, what you have been talking with Ms. Allard about,
8 "progress notes"?

9 A. Yes.

10 Q. They are in this system called "BestNotes"; is that right?

11 A. Yes.

12 Q. And when we look at all of those, I look down at the
13 bottoms and I see you have signed them, and then usually a
14 couple of hours later Leslie Filsinger had signed it; is that
15 right?

16 A. Yes.

17 Q. Is that a yes?

18 A. Yes.

19 Q. Is every one of those, does she have to countersign on all
20 of your notes?

21 A. Yes, she did.

22 Q. And is that a -- what does that signalize to somebody who
23 is looking at this?

24 A. That a licensed professional has looked at the notes and
25 deemed them proper.

1 Q. Now, in your dealings with Leslie Filsinger while you were
2 at Spring Ridge, is that the only way she would supervise you,
3 just look at your notes and then sign off on them?

4 A. No, when I started working there, she had asked me if I
5 would proceed with State of Arizona to get my license, and I
6 said, okay, let's try it, and --

7 Q. Okay.

8 A. -- at that point, we would -- she would also give me
9 supervision on a weekly basis and on an every week, individual
10 basis where we would talk about my cases.

11 Q. Was that part of the process for obtaining licensure in the
12 State of Arizona?

13 A. Yes.

14 Q. Did you ever obtain your licensure in the State of Arizona?

15 A. No, I didn't.

16 Q. Why not?

17 A. It was becoming a hassle actually, to get the license and
18 go through the process and get all the information, and I was
19 never planning on being a private -- being in private practice.
20 So there was really no reason for me to keep going on with it,
21 in my mind. I just didn't want to keep going on with the
22 process.

23 Q. I'm sorry. So the kind of counseling that you were able to
24 do under the supervision of a counselor who is licensed, that
25 was a career goal for you and you were content with that?

1 A. Yes.

2 Q. And was there a time when you were in -- I thought I heard
3 you mention that you were in the state of Texas for a while?

4 A. Yes.

5 Q. Is that after you had gotten your master's degree?

6 A. It was.

7 Q. So you get your master's degree from JFK in California, and
8 then what year do you go to Texas?

9 A. I went to Texas right after I got my degree in 2006,
10 beginning of 2006.

11 Q. Okay. Why did you do that?

12 A. My daughter -- I have one child, and I had another
13 grandchild, I have two grandsons, and I wanted to be with them.
14 It was too far to go -- to be away from them.

15 Q. So when you went to Texas to live near your daughter, were
16 you able to continue to work under somebody else's licensure?

17 A. No, I wasn't.

18 Q. Why not?

19 A. State of Texas just doesn't do that.

20 Q. Okay.

21 A. Yeah, so --

22 Q. Did you apply for a license in Texas?

23 A. No, I didn't.

24 Q. So what did you do to earn a living while you were in
25 Texas?

1 A. Well, first I got a position at a full juvenile prison. It
2 was like a like a four-tier prison, and I was a supervisor
3 there, and I was training as a corrections officer.

4 And then I met a criminal justice professor there who
5 was working there part-time, and he said they needed a
6 psychology teacher at Remington College, and I thought -- that
7 sounded good to me.

8 Q. So did you do both together or did you quit the prison?

9 A. No, I quit the prison job. It wasn't for me, and I started
10 teaching intro psych.

11 Q. And where was that?

12 A. That was in Garland, Texas.

13 Q. Where did you teach?

14 A. At Remington College.

15 Q. Remington College?

16 A. Yes.

17 Q. Were you teaching undergraduates?

18 A. Yes.

19 Q. What kind of -- I think you mentioned you were teaching
20 psychology?

21 A. Yes.

22 Q. What level were you teaching?

23 A. It's intro.

24 Q. Okay.

25 A. Intro. And it was a class that -- Psych 101, so it's a

1 course everybody at that school had to take.

2 Q. And is this something where the people that are taking it
3 are in the psychology undergraduate program?

4 A. No, they were in other programs, like in business and
5 culinary programs and criminal justice and tech.

6 Q. Okay.

7 A. Yeah.

8 Q. How long did you teach undergraduates at Remington College?

9 A. Let's see, I started -- four or five years.

10 Q. Okay. What did you do after that?

11 A. I went back to California. I couldn't take the weather.

12 THE COURT: Mr. Smith, I am going to ask you both to
13 stop talking over each other. When she responds, you keep
14 saying, well okay, and all of this has to be recorded properly.
15 So just listen to the question and the response and try not to
16 talk over each other, please.

17 MR. SMITH: Yes, sir.

18 BY MR. SMITH:

19 Q. Do you remember what year you went back to California?

20 A. In August 2011.

21 Q. And once you returned to California, what were you doing
22 there?

23 A. Well, I started applying at colleges, and I also applied
24 for a mental health position. I got a position at the county
25 of Napa as a crisis response counselor.

1 Q. And is that a full-time position?

2 A. No, that was an on-call part-time position.

3 Q. Were you doing something else in addition to that?

4 A. I was driving limos and taking people wine tasting on the
5 weekends. I did that. And then in 2012, I started teaching at
6 various -- as as adjunct at various community colleges around
7 the Bay Area.

8 Q. Around the Bay Area in California?

9 A. Yes.

10 Q. And then at some point we know you ended up at Spring
11 Ridge. Is your next stop after that to come to Spring Ridge?

12 A. Yes.

13 Q. When was that?

14 A. That was in 2017, October.

15 Q. Okay. So you've come to Spring Ridge in 2017. At that
16 point, were you -- who hired you?

17 A. I interviewed with Leslie Filsinger. I first had a phone
18 interview from California, and then I was asked to come for a
19 formal interview. So I came over, checked things out with my
20 family, had the interview, and then I was hired.

21 Q. And then at that point in time, you were working, if I
22 understand what your testimony was, under her licensure in
23 Arizona?

24 A. Yes.

25 Q. Now, earlier you were provided a copy of Exhibit 121. Do

1 you have that in front of you?

2 A. Yes.

3 Q. I think about 15, 20 pages were gone through. How many
4 pages does it say are in Exhibit 121?

5 A. I'm sorry, how many pages are in Exhibit 121?

6 Q. Yes, down at the bottom.

7 A. 89.

8 Q. Okay. Would you do me a favor, just look through there and
9 see, is everything in Exhibit 121, the kinds of notes that you
10 told us about earlier when you were testifying, those progress
11 notes?

12 A. Yes.

13 Q. Are they all progress notes for Rearden Stata?

14 A. Yes.

15 Q. And are they all progress notes that you authored?

16 A. Yes.

17 Q. Are these notes that you would normally do in the course of
18 what you are providing as therapeutic services at Spring Ridge
19 Academy?

20 A. Yes.

21 Q. And is it the same for all of the students, these kinds of
22 notes are kept like this at Spring Ridge Academy?

23 A. Yes.

24 Q. And is this a -- when you made those notes, would you make
25 them at around the time that you were -- of the events that you

1 were recording?

2 A. Yes.

3 MR. SMITH: Your Honor, at this point in time we would
4 like to move for the admission of 121.

5 THE COURT: Is there any objection from the
6 plaintiffs?

7 MS. ALLARD: Yes, Your Honor, due to the
8 confidentiality of --

9 THE COURT: I'm sorry?

10 MS. ALLARD: Due to confidentiality of multiple
11 parties that are not here in court.

12 THE COURT: The objection is sustained under 403
13 grounds as well.

14 BY MR. SMITH:

15 Q. Let me have you look at a couple of those pages. Earlier
16 you were asked to look at page 2. Do you see that in front of
17 you?

18 A. Yes.

19 Q. What's the date of this progress note?

20 A. 12-23-2019.

21 Q. Is this your first recorded communication that you had
22 directly with the plaintiff, Kimberly Sweidy?

23 A. I believe so, yes.

24 Q. And is this -- when you did this note, was this something
25 where you were discussing family therapy with her?

1 A. This would have been an orientation note where we get to
2 know each other, talk about what things are going to happen,
3 talking about -- gonna have family therapy and individual
4 therapy, how things work, yes.

5 Q. And up above, actually in the upper left-hand side of it
6 where it says, "Type" of note, it says "Family," doesn't it?

7 A. Yes.

8 Q. And it's "Family call/mom"?

9 A. Yes.

10 Q. Is that still a family therapy note even though you are
11 talking to one person in the family?

12 A. Yes.

13 Q. Why?

14 A. Because she's part of a whole, which is the three of them.

15 Q. Okay. Does family therapy have to include all three people
16 together at the same time?

17 A. No.

18 Q. If you would do me a favor and take a look at page 5. You
19 authored this, correct?

20 A. Yes.

21 Q. Again, this is a type of note -- what type of note is this?

22 A. It's a family note with Kimberly only.

23 Q. So -- and the date is what date?

24 A. 12-31.

25 Q. If her daughter had been enrolled since the 13th of

1 December, we are now looking 18 days later on 12-31; is that
2 right?

3 A. Yes.

4 Q. And this is about eight days after the note on page 2,
5 which was 12-23, correct?

6 A. Yes.

7 Q. Do you have any reason to believe that you had additional
8 therapy sessions with -- family therapy type sessions with
9 Kimberly Sweidy between those two dates?

10 A. Not necessarily, no.

11 Q. In this note, you've made a couple of statements. Under
12 "Issue": Kimberly talks at you and does not use appropriate
13 communication.

14 Did you write that?

15 A. Yes.

16 Q. What did you mean when you wrote that?

17 A. When I spoke to her on the phone, it was her talking most
18 of the entire time and not allowing me to get any words in.
19 She also was going on about things that had happened to her
20 during Rearden's stay at wilderness, feelings she had about
21 her, you know, about her ex-husband Raymie, which was okay.
22 There's nothing wrong with that. But there wasn't any back and
23 forth between us on that.

24 Q. Okay. If you look at the first line under "Intervention,"
25 there's a -- on all of these notes I'm seeing these subparts,

1 one is "Issue," below that, "Intervention." What's supposed to
2 go into the intervention?

3 A. It's talking a little bit more about the issue that's going
4 on and then what we did about it. What I did about it. What
5 happened with the person involved.

6 Q. So in this case you've said that Kimberly dominated the
7 conversation after this writer gave her a brief update on how
8 Rearden was doing, correct?

9 A. Yes.

10 Q. Is that right?

11 A. Yes.

12 Q. And then you next write: She lectured about Rearden's
13 manipulation skills, suggesting that I'm being played,
14 educating me on how to handle her making it all about her and
15 how Rearden has manipulated her.

16 Did I read that correctly?

17 A. Yes.

18 Q. Now, you said -- you used a word there that I want to ask
19 you about, "lectured." She lectured me.

20 What did you mean when you use the word "lectured"?

21 A. When she spoke to me, it was in a way that she was telling
22 me and I should know -- I should know that what she says is
23 right. And any time I would try to, you know, ask her another
24 question or put -- add something into it, she just would
25 completely cut me off, and I just wasn't able to speak.

1 Q. Okay. And so you intentionally wanted to convey that in
2 your note when you put the word "lectured" in there?

3 A. Yes.

4 Q. Then you -- if you look down one more sentence later: Then
5 she said she is letting me know up front so I'm not blindsided
6 that she will be sending copies of letters written between
7 Rearden and her dad during wilderness to our Executive
8 Director.

9 Did I read that correctly?

10 A. Yes.

11 Q. So these are communications between Rearden, who's a minor
12 child, and her father, correct?

13 A. Yes.

14 Q. And for some reason Ms. Sweidy had possession of those?

15 A. Yes.

16 Q. And she was offering or she said she's going to be sending
17 them to the Executive Director.

18 A. Yes.

19 Q. Who's the Executive Director?

20 A. Suzie Courtney.

21 Q. Was there a release of some kind for her to be able to
22 provide that kind of private communication to the Executive
23 Director?

24 A. I don't recall. I don't believe so, but I don't recall
25 there was.

1 Q. What was your plan? Could you read to the jury what your
2 plan was at that point on this note?

3 A. I was --

4 Q. Just go ahead and read what you wrote.

5 A. Okay: This parent will need support around active
6 listening and appropriate communication.

7 Q. And then the next note we have that I would like you to
8 look at that was on page 7. Do you have that in front of you?

9 A. Yes.

10 Q. This is again a family therapy note?

11 A. Yes.

12 Q. But it's with dad only, correct?

13 A. Yes.

14 Q. And what's the topic of this note?

15 A. "Build rapport and orient parents to SRA program."

16 Q. And what's the "Issue"?

17 A. "Raymie was going to attend Family I workshop."

18 THE COURT: Mr. Smith, just one moment, please.

19 (Discussion held off the record.)

20 THE COURT: Mr. Smith, go ahead, please.

21 MR. SMITH: Thank you.

22 BY MR. SMITH:

23 Q. So the issue was that Raymie, the father, was going to
24 attend the Family I workshop, which I'll represent to you was
25 around February 14th?

1 A. Uh-huh.

2 THE COURT: I'm sorry, Mr. Smith.

3 Molly, in the room outside of the courtroom. Thank
4 you.

5 I'm sorry. Go ahead.

6 MR. SMITH: Yes, sir.

7 BY MR. SMITH:

8 Q. Under "Intervention": Discussed the benefits of not
9 attending Fam I workshop with Rearden's mother, as the
10 animosity between them would be counterproductive. He agreed
11 and he will work on organizing a private workshop in March.

12 Did I read that correctly?

13 A. Yes.

14 Q. You wrote that?

15 A. Yes.

16 Q. What was going on that was going to have you communicate to
17 Mr. Stata that rather than attend the Family I workshop, he
18 should do it separately from Ms. Sweidy?

19 A. There didn't seem to be any way that they would be able to
20 come together in the same location.

21 (Discussion held off the record.)

22 THE COURT: Go ahead, Mr. Smith.

23 MR. SMITH: Thank you, sir.

24 BY MR. SMITH:

25 Q. Is the Family I workshop something that is already

1 scheduled or does it depend on when Rearden arrived at the
2 school? How does that work?

3 A. No, it's already scheduled. There are dates throughout the
4 year that they happen, depending on when a student comes in.

5 Q. So would this be the first Family I workshop for this
6 particular family since the arrival of Ms. Stata at the school?

7 A. Yes.

8 Q. And because of what you had witnessed, is that why you have
9 communicated this to him?

10 A. Yes.

11 Q. Was this something that you solely determined on your own?

12 A. No, I spoke with the program team about it also.

13 Q. And remind us again, who is on this program team?

14 A. Suzie Courtney, Leslie Filsinger, Brandon Courtney, the --
15 Susan, I just call her Susan D., sorry, the principal, and I'm
16 not sure if one teacher is also on it.

17 Q. Thank you. And then if you don't mind looking at page 9 of
18 Exhibit 121. Is this another progress note?

19 A. Yes.

20 Q. This says: Family without student.

21 Correct?

22 A. Yes.

23 Q. What does that mean?

24 A. That the student wasn't present.

25 Q. And what's the "Objective"?

1 A. "Build rapport, orient parent to program and family therapy
2 expectations."

3 Q. And what's the "Issue"?

4 A. "Kimberly has difficulty listening."

5 Q. And was this something -- was this a session that was with
6 both Kimberly and Raymie?

7 A. No, it was just Kimberly.

8 Q. And in this particular progress note, it talks about the
9 Teen Challenge that coming weekend, correct?

10 A. Yes.

11 Q. And there's a Parent Challenge that's coming up that the
12 family would be attending, the parents would be attending,
13 correct?

14 A. Yes.

15 Q. And there's a discussion in here about different things,
16 sources to read or resources to review, correct?

17 A. Yes.

18 Q. What is the purpose of making these sources -- resources
19 available to the parents?

20 A. They can help, and this Mind -- the Bradshaw talking
21 method, it simply helps people to communicate. I mean, one of
22 the biggest problems with most of our relationships is
23 communication breakdown. So if we can practice ways of
24 listening to another and then speaking ourselves in an
25 appropriate way so that each person feels like they've been

1 heard, it's just better for communication and for
2 relationships.

3 Q. So is part of the goal here to start fostering
4 communication among the family members?

5 A. Yes.

6 Q. And if we look at page 16 -- I beg your pardon, page 14. I
7 beg your pardon.

8 This is another family therapy note with Mr. Stata,
9 correct?

10 A. Yes.

11 Q. And it's dated January 29th?

12 A. Yes.

13 Q. And in this particular one, we have an objective about:
14 Family members, including sibling, will learn four strategies
15 of effective communication; e.g., eye contact, active
16 listening, reflection, "I feel" statements, et cetera, and
17 demonstrate strategies in three consecutive sessions.

18 Did I read that correctly?

19 A. Yes.

20 Q. So is this again this theme of fostering communication
21 along the family members?

22 A. Yes.

23 Q. Up to this point, had Ms. Sweidy indicated to you in any of
24 your communications with her that she was willing to engage in
25 these activities to start fostering communication that would --

1 that you would want to see for therapeutic purposes?

2 A. No.

3 Q. If, as we've learned from the questioning that occurred
4 before, the family therapy proceeded where she did not
5 participate, does that mean it's no longer family therapy?

6 A. No, it doesn't.

7 Q. And were there sessions that included Rearden's sister?

8 A. I believe there was one session, yes.

9 Q. Okay. On this particular day, January 29th, under
10 "Intervention," you've written: Both -- and that would be --
11 "both," being both Mr. Stata and his daughter Rearden, correct?

12 A. Yes.

13 Q. "Both talked about the phone call Sunday night when Rearden
14 called him saying her mom was going to pull her from SRA."

15 Did I read that correctly?

16 A. Yes.

17 Q. You were questioned about that earlier, and in that
18 particular call, that happened -- do you remember being told
19 that that happened after the Parent Challenge had occurred?

20 A. Yes.

21 Q. And was that the one where Rearden was provided with a cell
22 phone?

23 A. Yes.

24 Q. What's the problem with giving somebody a cell phone?
25 She's a 17-year-old, she can handle a cell phone, right?

1 A. She's in a program because her parents feel that she's not
2 displaying behavior that they want to see. And most parents
3 have problems with their kids, no matter what age, with screens
4 and phones.

5 So the reason for limiting the phone calls, and
6 especially in the very beginning, is so that the student can
7 have a chance to see if they're going to really, you know, get
8 with -- get with the program, see if they're going to stay with
9 it, whether they're able to adjust to it.

10 And then knowing -- they know that at a certain point
11 they're going to get their phone back. They're going to have
12 their own phone. They are going to be able to call people from
13 campus. They are going to be able to talk to whoever they want
14 to.

15 In the very beginning, it's monitored simply because
16 most teenagers, and frankly most of us adults, have issues with
17 our phones and having to have them in our lives 24/7.

18 Q. And you were questioned repeatedly about, you know, why is
19 it -- just because it's a rule doesn't -- what's the
20 therapeutic value of that.

21 In the context of what's going on with somebody like
22 Rearden Stata, Phase 1 at Spring Ridge Academy, when she's
23 given a cell phone at that point in time, we understand it's a
24 rule, it's Spring Ridge Academy's rules, is there a therapeutic
25 value to having the students understand to follow certain

1 rules?

2 A. It does, and I talked about it earlier, about having
3 self-discipline and monitoring yourself on what's the correct
4 thing to do and what isn't. So, you know, learning how to use
5 your phone correctly is a part of that. It's part of the
6 therapeutic process.

7 Q. And if we look a little further in this particular note --
8 well, let me just ask you a follow-up. They talk about this
9 phone call that Ms. Sweidy had her daughter make to Mr. Stata,
10 correct?

11 A. You still on 14?

12 Q. Yes.

13 A. Yes.

14 Q. From a family therapy or family functioning standpoint,
15 when a parent is using -- a divorced parent is using that kind
16 of communication through the child to the other parent, is that
17 a good thing?

18 A. No.

19 MS. ALLARD: Objection, misstates -- lack of
20 foundation.

21 THE COURT: I'm sorry?

22 MS. ALLARD: Your Honor, I would object to the form of
23 the question. It suggests that there is a conversation that
24 Ms. Sweidy is asking her daughter to convey to Mr. Stata on her
25 behalf, and there's no evidence that that's how that went down.

1 THE COURT: Sustained. Calls for speculation.

2 Please disregard the last question.

3 BY MR. SMITH:

4 Q. Let me ask you, on a hypothetical basis, if that in fact
5 turns out to be what the evidence shows, that Ms. Sweidy asked
6 her daughter to place that call to tell her father that she
7 would be removing her from the program, or asking his
8 permission to remove her from the program, from a therapeutic
9 standpoint, is that a problem?

10 A. Yes.

11 Q. Why?

12 A. It puts the child in the middle of the parents' conflict,
13 and it makes them feel like they have to do something about it
14 or take a side, and it's -- it's just not good parenting to do
15 that.

16 Q. And in the second paragraph of this record, this progress
17 note from January 29, 2020, Raymie shared his takeaways from
18 the Parent Challenge, sharing that he recognizes he has been
19 ignoring his psychological self through intellectualizing
20 feeling that the CBT therapy he has been getting has been
21 contributing to that.

22 Did I read that correctly?

23 A. Yes.

24 Q. So he talked to you about his takeaway from the Parent
25 Challenge workshop?

1 A. Yes, he did.

2 Q. Did he express that he felt like it was a positive
3 experience for him?

4 A. Yes.

5 Q. If you would look at page 16. Is this another family
6 therapy note?

7 A. Yes.

8 Q. And it's January 31, which is two days after the one we
9 just looked at?

10 A. Yes.

11 Q. And at that point in time, what is the objectives that you
12 have written in here?

13 A. "Inform dad that Rearden's mother is refusing to cooperate
14 in the process."

15 Q. And how did you know by that point that she was not
16 cooperating in the process?

17 A. She told me she wasn't going to.

18 Q. When you provide that kind of information to the father, is
19 that betraying some kind of counseling confidence that you are
20 supposed to maintain for Ms. Sweidy?

21 A. No. It just informs him that she's not going to
22 participate in the process.

23 Q. Okay. And is this a note in which you also noted that he
24 indicated that he predicts that she will try to take
25 Kimberly -- their daughter out of Spring Ridge Academy?

1 A. Yes.

2 Q. That in fact occurred three days later on February 3rd,
3 correct?

4 A. Yes.

5 Q. You mentioned earlier in your testimony that you were
6 actually there when that happened?

7 A. Yes.

8 Q. And there's a note, if you look at page 19, that talks
9 about that. It says: Rearden -- under "Issue": Rearden is
10 struggling after being pulled by her mother.

11 Did I read that correctly?

12 A. Yes.

13 Q. And in that particular note, that's addressing some of the
14 aftermath of what occurred with Rearden because of the way she
15 was taken out of the program; am I right about that?

16 A. Yes.

17 Q. Take a look at one more in this Exhibit 121, page 79?

18 A. I'm sorry.

19 Q. Page 79. What's the date of this note?

20 A. 10-23-20.

21 Q. Now, by that point in time, where was Rearden Stata?

22 A. She was in California with her dad.

23 Q. And are you continuing to give her therapy?

24 A. Yes.

25 Q. And are you still doing it under the licensure of Leslie

1 Filsinger in Arizona?

2 A. Yes.

3 Q. And do you have any information as to whether or not that
4 was appropriate for you to be giving that kind of therapy? I
5 guess they call it "telemedicine."

6 A. Yes, I was told that we could do that.

7 Q. Where did you get that information?

8 A. Leslie Filsinger.

9 Q. And in this particular case, there's some reporting by
10 Rearden that she had seen some videos of herself as a child,
11 correct?

12 A. Yes.

13 Q. It says: She also watched some family videos her dad had
14 saved and came across some her older sister had taken of
15 Kimberly screaming at Rearden when she was five years old. In
16 the video Kimberly was angry because Rearden did not adequately
17 complete her event planning duties for a party they were
18 having, saying, "You have always been lazy, should have gotten
19 up at 5:00 this morning like I told you to."

20 And that last part was in quotes, correct?

21 A. Yes.

22 Q. Did I read that correctly?

23 A. Yes, you did.

24 Q. And so here she is -- at this point in time she's just
25 turned 18, correct?

1 A. Yes.

2 Q. And so here we are talking about something that happened
3 when she was five years old that she is seeing on a video,
4 correct?

5 A. Yes.

6 Q. What's -- from a therapeutic standpoint, why are you
7 dealing with that? Why are you even talking to her about this
8 thing that happened 13 years earlier?

9 A. It had really affected her to see those videos and just
10 to -- it brought to her the feelings of insecurity that she had
11 and that she was a bad person, and watching those videos just
12 kind of solidified for her where she got it from.

13 Q. Thank you. You further -- if you look down, it's about the
14 fourth line down in that second paragraph. You also wrote:
15 Rearden has turned 18, is going to get her driver's license
16 soon, is finishing up her high school work, is reconnecting
17 with friends, getting along with her father, and maintaining a
18 healthy relationship, even with his drinking.

19 Did I read that correctly?

20 A. Yes.

21 Q. And then it goes on, and you have in quotes where she says,
22 quote, "I know there will be times when I'm depressed, but it
23 won't be because my mom's criticism is running through my head
24 anymore," unquote.

25 Did I read that correctly?

1 A. Yes.

2 Q. And you put that in quotes. Is that something that you are
3 actually quoting her?

4 A. Yes.

5 Q. Next thing you write is: I have not seen Rearden this
6 positive.

7 Did I read that correctly?

8 A. Yes.

9 Q. Now, here we are, October of 2020, you first saw Rearden in
10 December of 2019. Is that statement, "I have not seen Rearden
11 this positive," is that accurate?

12 A. Yes.

13 Q. So at this point in time, having undergone the therapy that
14 you've provided, and living with her father, your assessment is
15 that she is positive?

16 A. Yes.

17 Q. More positive than you had seen her since you first met
18 her?

19 A. Yes.

20 Q. Then you write: She generally looks lighter and has
21 matured in the last month.

22 What do you mean by that?

23 A. She just seemed to like, mature, and grow up in a positive
24 way that she was -- that she had started to really use her
25 tools, the tools she had learned, and it was working for her.

1 And she had made some decisions about herself in her life that
2 were helping her get there.

3 Q. And when you say "lighter," what is that supposed to
4 connote?

5 A. She wasn't as anxious as she could be and had been.

6 MR. SMITH: I would like to publish Exhibit 55.

7 THE COURT: It's in evidence. You may.

8 MR. SMITH: Thank you.

9 THE COURT: You're welcome.

10 BY MR. SMITH:

11 Q. Are you able to see Exhibit 55 in front of you?

12 A. It is not on the screen, but I have a hard copy.

13 Q. You do? Would you go to page 71?

14 A. 71?

15 Q. Yes.

16 THE COURT: It's up here. It should be in the box now
17 as well.

18 Mr. Smith, can you just make sure that's 55, please?

19 MR. SMITH: It says 55 at the bottom.

20 BY MR. SMITH:

21 Q. Can you tell us what this document is?

22 A. Discharge summary.

23 Q. And when we're looking at the discharge summary, is this
24 something that you would have written?

25 A. Yes.

1 Q. Is this page 71? Yes.

2 Look under the "adjustment disorders," which is number
3 2. Do you see that?

4 A. Yes.

5 Q. And then down -- the last sentence in that area. It says:
6 Rene and her father have successfully completed the family
7 workshops and are communicating in the present moment a
8 majority of the time, so much so that family sessions have been
9 reduced to biweekly.

10 Did I read that correctly?

11 A. Yes.

12 Q. So "biweekly," what does that mean?

13 A. Every other week they would have a session.

14 Q. Okay. So instead of weekly, now we are going every two
15 weeks?

16 A. Yes.

17 Q. And the date of this is -- are you able to see the date on
18 your copy?

19 A. It's 12-18-20.

20 Q. December 18th, 2020?

21 A. Yes.

22 Q. So about a year after the first record that you and I
23 started looking at here today, correct?

24 A. I'm sorry?

25 Q. This discharge summary is about a year after the first

1 record you and I looked at here today?

2 A. Yes.

3 Q. Is this discharge summary something that everybody who is
4 ending Phase 4 and moving on gets?

5 A. Yes, this is when the person leaves the program, so
6 everybody would get a discharge summary.

7 Q. Okay. If you look at page 72 of Exhibit 55 under
8 "Condition on discharge."

9 A. Yes.

10 Q. Have you written: Rene made significant progress over her
11 stay at SRA in developing a functional, healthy ego state and
12 demonstrated behaving out of that appropriate ego state most of
13 the time.

14 Did I read that correctly?

15 A. Yes.

16 Q. What does that mean?

17 A. The ego state kind of refers to psychodynamic theory, Freud
18 and others, but basically what it means is that you are able to
19 function from your -- from your centered self. The ego state
20 is a state that makes the decisions for you, not from your
21 totally emotional self, which would be super ego, and not from
22 your immature juvenile self that just wants everything it wants
23 and be able to be a healthy centered -- in a healthy centered
24 state.

25 Q. Thank you. And then you next write in the "Condition on

1 discharge": She learned to communicate in a more effective,
2 functional manner, making huge progress coming to terms with
3 her relationship with her parents, especially with her mother.

4 Did I read that correctly?

5 A. Yes.

6 Q. Well, her mother, Ms. Sweidy, up to this point in time, has
7 she participated in any family therapy?

8 A. No.

9 Q. So how is it that her daughter, Rearden, was able to make
10 huge progress coming to terms with her relationship with
11 Ms. Sweidy without that component of Ms. Sweidy being in family
12 therapy?

13 A. And that's the key point there. It's from her -- her
14 perspective that she was able to get past -- get past the
15 things that were causing her anger, causing her acting out,
16 causing her to feel less than or insecure about herself.

17 She could -- she could be confident in her ability to
18 make her own decisions, and she could put her relationship with
19 her mother in the proper place and -- you know, how that works
20 out on a long-term basis every time.

21 Q. So from what you've just described, even though Ms. Sweidy
22 was not participating in the family therapy sessions that you
23 would conduct, those had beneficial effects for the
24 relationship between Rearden and her mother?

25 A. It was beneficial for Rearden in accepting her relationship

1 with her mother, however she defined it.

2 Q. I see. So then one last part of this "critical events and
3 interaction." It says: In February 2020 her mother came with
4 law enforcement and pulled Rene -- that's Rearden, correct?

5 A. Yes.

6 Q. "From the program. Rene did not want to go but had to."

7 Let me stop right there. How do you know that she did
8 not want to go?

9 A. She told a number of people at the moment that it was
10 happening.

11 Q. Okay.

12 A. And it's documented.

13 Q. You saw a note earlier, an FYI note, that had a reference
14 to that?

15 A. Yes.

16 Q. Would that be the kind of place where it would be
17 documented?

18 A. Yes.

19 Q. Okay. And then it says: Within three weeks her dad had
20 petitioned the court, and she was allowed to come back to the
21 program.

22 Did you have anything to do with the filing of that
23 petition?

24 A. No.

25 Q. "In June there was another hearing and dad had full custody

1 but stipulated she had to return home."

2 Is that why you were now giving, in October, the note
3 that we were looking at earlier of 2020, you're giving Rearden
4 Zoom therapy while she's at home with her father?

5 A. Yes.

6 Q. "She continued the program remotely from the beginning of
7 July until graduation, December 18, 2020."

8 So at that point in time, your prognosis, the first
9 word is "excellent," correct?

10 A. Yes.

11 Q. Why did you say that?

12 A. Because I felt that all of the work she had done shows that
13 she had a lot of potential to move forward and begin her life
14 as a young adult and in a healthier manner than when she had
15 arrived.

16 MR. SMITH: Would it be possible to hand the witness
17 an exhibit, 311?

18 MS. ALLARD: Your Honor.

19 THE COURT: Yes.

20 MS. ALLARD: This exhibit has not been admitted. Is
21 he asking to publish?

22 THE COURT: That's correct. 311 will only go to the
23 witness. It has not been received into evidence.

24 BY MR. SMITH:

25 Q. Do you have 311 in front of you?

1 A. Yes.

2 Q. And what is 311?

3 A. I'm sorry, I didn't hear that.

4 Q. What is 311?

5 THE COURT: Mr. Smith, you would think with two
6 microphones it would pick you up better. You have to pick one.
7 And if you can move it down, that would be very helpful.

8 MR. SMITH: Thank you, sir.

9 THE COURT: Thank you.

10 BY MR. SMITH:

11 Q. What is 311?

12 A. This whole thing?

13 Q. Yes. If you take a few minutes to look through it.

14 A. New Student Daily Progress Report.

15 Q. Are these progress notes from -- beg your pardon.

16 A. No, I don't believe so.

17 Q. Let me ask you this. Is 311 documents from BestNotes?

18 A. Yes.

19 Q. And does it include progress notes like what we were just
20 talking about from the other exhibit, 121?

21 A. Yes.

22 Q. And does it also include progress notes for group therapy?

23 A. I'm looking through it. Yes.

24 Q. Are these the kinds of notes that are normally kept at
25 Spring Ridge Academy?

1 A. Yes.

2 Q. And are these notes contemporaneous with the events or near
3 the time of the event that they are depicting?

4 A. Yes.

5 Q. And is this the kind of note that you as a therapist would
6 create, and as you look through there, have you created some of
7 these notes?

8 A. Yes.

9 Q. So are the authors of all of these notes people with actual
10 knowledge of what's contained in them?

11 A. Yes.

12 MR. SMITH: Your Honor, we would move for the
13 admission of 311.

14 THE COURT: Is your argument under hearsay that they
15 are business records?

16 MR. SMITH: These are business records exception, Your
17 Honor.

18 THE COURT: Ms. Allard.

19 MS. ALLARD: I would object under 402, relevance and
20 confidentiality. They are a random assortment of various
21 therapy records at Spring Ridge Academy.

22 MS. SWEIDY: And group.

23 THE COURT: Just stop one moment.

24 Mr. Smith, in 311, are they all the Sweidy child's
25 records?

1 MR. SMITH: They are, Your Honor.

2 THE COURT: And with those records, are they all
3 generated from this witness?

4 MR. SMITH: They are not all generated from this
5 particular witness.

6 THE COURT: Okay. The objection is sustained. If you
7 have specific parts that you wish to renumber as sub exhibits,
8 we can talk about it, but an entire 300 pages of whatever it
9 is, I will not allow it in.

10 MR. SMITH: Your Honor, I would like to re-move for
11 the admission of 121 under the business record exception as
12 well. They were all generated by Ms. Borges.

13 THE COURT: I have already ruled under 403 that they
14 are not coming in.

15 MR. SMITH: Yes, sir.

16 That's all I have. Thank you.

17 THE COURT: Is there any redirect?

18 MS. ALLARD: Yes, Your Honor. Briefly.

19 THE COURT: Come on up.

20 REDIRECT EXAMINATION

21 BY MS. ALLARD:

22 Q. Ms. Borges, do you still have in front of you Exhibit 121?

23 A. Yes.

24 Q. I am going to direct your attention to page 87.

25 A. I have it.

1 Q. Is it true that within two weeks of Rearden's graduation
2 from Spring Ridge Academy for work that she was doing online,
3 that her father asked that the session you have with them be
4 devoted to him confronting her that she hadn't done any of her
5 school work and possibly wasn't going to graduate?

6 A. Is your question about this note?

7 Q. Yes.

8 A. Please repeat it.

9 Q. Is it true that Raymie Stata asked you to help him confront
10 Rearden for not doing any of her work that she needed to
11 graduate in two weeks?

12 A. Yes.

13 Q. So my follow-up question to that would be: How is it that
14 you came to the opinion within a few weeks after this that she
15 was so improved and ready to enter the adult world?

16 A. As I recall, this was about her not turning in some work on
17 some specific things for her graduation.

18 MS. ALLARD: Motion to strike. Nonresponsive.

19 THE COURT: That's overruled.

20 BY MS. ALLARD:

21 Q. So how is it that you came to the opinion that she was
22 ready to enter the adult world and so improved when she was
23 still entrenched in her old habits of not getting her school
24 work done?

25 A. That decision was not made just -- with me alone. The

1 decision was also made with her teachers and -- that she had
2 turned in her work by the time she was needing to turn in it
3 in, and we were working on this issue throughout the entire
4 time that she didn't -- wasn't turning in her work. She was
5 putting some of it away in a drawer. Not all of it, but some
6 of it. And she was anxious about graduation, so -- but she did
7 end up doing all of her work.

8 Q. So between the date of this note, which is December 3rd,
9 2020, and then December 18th, 2020, graduation day, she got her
10 work turned in?

11 A. She turned it in. It was already done, she just didn't
12 turn things in.

13 Q. Did you see it?

14 A. The teachers verified it. I didn't see the work, no.

15 Q. And who told you that the teachers verified it?

16 A. The teachers.

17 Q. Who did you talk to?

18 A. I can't remember all of her teachers, but I know Mr. Stubbe
19 was one of her teachers, and he was the one who would have
20 determined that if she had not done her work through
21 information from the other teachers, she wouldn't have
22 graduated.

23 Q. So you -- Mr. Stubbe told you that she could graduate?

24 A. Yes.

25 MS. ALLARD: No further questions.

1 THE COURT: Subject to re-call, plaintiffs?

2 MS. ALLARD: Yes, Your Honor -- sorry, yes. Subject
3 to re-call but on standby.

4 THE COURT: Ma'am, it appears that you may be called
5 back to the stand at some point during this three-week trial.
6 Make sure the parties have your updated contact information.

7 Please be careful walking down the steps. As I
8 indicated, we have people falling down those steps.

9 Call your next witness, please.

10 Ma'am, just leave that, and we'll get it for you.

11 MS. ALLARD: Yes, Your Honor. We would call Erin --
12 I'm sorry, Suzie Courtney. Suzanne Courtney.

13 **SUZANNE COURTNEY, PLAINTIFF'S WITNESS, SWORN**

14 THE CLERK: You can have a seat on the witness stand.

15 THE COURT: Ma'am, just please make sure you speak
16 directly in the microphone.

17 THE WITNESS: I will.

18 THE COURT: Great.

19 DIRECT EXAMINATION

20 BY MS. ALLARD:

21 Q. Can you please state and spell your name for the record?

22 A. Sure. My name is Suzanne Courtney. S-U-Z-A-N-N-E. Last
23 name, Courtney, C-O-U-R-T-N-E-Y.

24 Q. Are you the owner of Spring Ridge Academy?

25 A. My husband and I are.

1 Q. And how long have you been the owners of Spring Ridge
2 Academy?

3 A. Since about 2018.

4 Q. How did you take over Spring Ridge Academy? Had you been
5 working there before, or how long have you been there?

6 A. I began working there in 1999. I took a little break at
7 one point to work in some social services and then came back.

8 Q. And when is it you married Brandon Courtney?

9 A. 2004.

10 Q. And so in what roles did you work at Spring Ridge Academy
11 during that time period?

12 A. I began my time at Spring Ridge Academy in a direct care
13 capacity. We spoke about the Community Coaches. I worked in
14 that capacity. I was a supervisor of other Community Coaches.
15 I supervised all of the community staff. I served as a parent
16 liaison. I served as Admissions Director and Executive
17 Director.

18 Q. And what kind of education, training, and experience did
19 you have prior to coming to Spring Ridge Academy?

20 A. I held a bachelor's of art in counseling psychology and
21 experiential education from Prescott College and master's
22 degree in education and human resource from Northern Arizona
23 University.

24 Q. What is experiential education as opposed to regular
25 education?

1 A. It is a combination of curriculum involving typical
2 curriculum design but infusing experiential modalities and
3 methodologies.

4 Q. Now, you didn't take any class on blindfolds and dark roads
5 in experiential education at Prescott College, did you?

6 A. We did not have a class on blindfolds and dark roads.

7 Q. Are you familiar with the Commitment exercise done at
8 Spring Ridge Academy from your years there?

9 A. Which exercise?

10 Q. The one where Brandon Courtney or someone takes the girls
11 out in a van at night with blindfolds on and has them walk for
12 an hour alone?

13 A. I am familiar with an exercise that's similar to that with
14 different time frames.

15 Q. Okay. So let me ask you this. Are you familiar with an
16 exercise by the name of Commitment?

17 A. No.

18 Q. Are you familiar with the Spring Ridge Academy Parent
19 Manual?

20 A. Yes.

21 Q. And it's marked in this matter as Exhibit 7 and there's a
22 description of Commitment as an experiential workshop. Are you
23 familiar with that?

24 A. Yes.

25 Q. And what documentation do you have that describes what's

1 involved in that workshop at Spring Ridge Academy?

2 A. Well there's the blurb in the Parent Manual.

3 Q. What does the blurb say?

4 A. I would need to see it in front of me.

5 THE COURT: Do you have tissues up there?

6 THE WITNESS: I do.

7 BY MS. ALLARD:

8 Q. I'm showing you Exhibit 7, page --

9 THE COURT: You may publish, Molly.

10 BY MS. ALLARD:

11 Q. You see Exhibit 7, page 7.

12 A. Page 6 I see.

13 Q. Oh. No it's marked in the center of the bottom, sorry.

14 A. Yes, I do.

15 Q. Is that the blurb you are referring to at the bottom of the
16 page?

17 A. It is.

18 Q. Is that the only description parents receive at what
19 happens at Commitment training prior to enrolling their
20 children?

21 A. Yes.

22 Q. Are you aware that part of the -- what's been called
23 Commitment is carrying a sandbag for a period of time around
24 campus or home?

25 A. Yes.

1 Q. Are you aware part of that involves some sort of beads?

2 A. I think at different times it has involved beads.

3 Q. Are you aware that at certain times it also involved an
4 excursion at night in a van?

5 A. Yes.

6 Q. Are you aware that that excursion also involved the girls
7 that went on that van to be blindfolded and not know where they
8 were going?

9 A. Yes.

10 Q. Are you aware that at some point that van would stop in a
11 remote location and the girls would be asked to walk alone on a
12 desert road for an hour?

13 A. Yes -- not an hour. Excuse me. No.

14 Q. For how long?

15 A. I think usually under 30 minutes.

16 Q. Exhibit 7 is the Parent Manual from when my client enrolled
17 her daughter. Did you draft Exhibit 7?

18 A. No.

19 Q. Do you know who did?

20 A. It would have been a collaborative effort.

21 Q. Between who?

22 A. Between different department heads. There are times we had
23 independent reviews from family members. So because we revised
24 it so frequently, I can't pinpoint the exact people in later
25 2019.

1 Q. So you have no idea who revised the Parent Manual in 2019?

2 A. I would not be able to be specific because of the amount of
3 revisions.

4 Q. How many administrative employees were there at Spring
5 Ridge Academy in 2019?

6 A. What type of position would you describe as administrative?

7 Q. Anybody who is not a teacher or therapist or a Residential
8 Life staff person?

9 A. 15 or under would be my guess without, you know, looking at
10 a list or writing a list.

11 Q. Can you name them?

12 A. In 2019?

13 Q. Yes.

14 A. We would have had an office manager.

15 Q. And who was that?

16 A. I don't recall who served in that responsibility in 2019.

17 Q. Did that person work full-time?

18 A. Yes.

19 Q. Anyone else?

20 A. Uh-huh. We would have had Admissions Director, which would
21 have been Kate Deily, a principal who would have been Justin
22 Zych. We would have had an Operations Director, which would
23 have been Erin Smith. We would have had a Residential
24 Director, Susan Dougherty.

25 We would have had three cooks whose names I couldn't

1 produce off the top of my head. We would have had two to three
2 medical personnel. We would have had a groundskeeper and a
3 maintenance person.

4 Q. So of those people that you listed going through that
5 exercise, did it help refresh your recollection who modified
6 the Parent Manual that year?

7 A. Well, it would have been a collection of Erin Smith, Justin
8 Zych, Susan Dougherty. The medical personnel would have had a
9 hand in it.

10 There are times we had parents that we asked to review
11 it as part of the revision. Admissions would have looked at a
12 revision, probably not put too much in there.

13 Q. How about the therapy description. Who drafted that?

14 A. I am sure Leslie Filsinger would have had a hand in that.

15 Q. At some point in the middle of the page, and this is
16 Exhibit 7, page 5, it says: The family therapy occurs in
17 conjunction with individual therapy to resolve conflict,
18 improve communication, develop a system of trust and support,
19 increase connection, and practice effective boundaries and
20 limit setting by parents.

21 Were you aware this is what you were putting out there
22 to the public?

23 A. Yes.

24 Q. Do you agree with that, that that's what you were doing at
25 Spring Ridge Academy?

1 A. Yes.

2 Q. In the third paragraph it says: In addition to
3 cognitive-based therapies, Spring Ridge uses evidence-based
4 modalities and treatments, such as EMDR, Somatic based
5 therapies, and Post Induction Therapy to resolve issues related
6 to trauma.

7 Do you see that representation?

8 A. I do see that.

9 Q. And would you agree that Post Induction Therapy is not
10 evidence based?

11 A. I would default that to our clinical people. I am not an
12 expert in therapy.

13 Q. Who -- did you write this in the Parent Manual?

14 A. No.

15 Q. Who did?

16 A. I would imagine Leslie Filsinger.

17 Q. Directing your attention to the bottom of page 2 of the
18 exhibit, which appears to be a cover letter signed by Brandon
19 Courtney and Suzie Courtney. Did you draft the letter?

20 A. I was involved in the drafting of the letter.

21 Q. Who else was involved in the drafting of the letter?

22 A. Brandon Courtney.

23 Q. And in that letter, at the bottom you say: You have been
24 through a lot to get to this juncture, and we want to assure
25 you that you've taken a step that will make a significant

1 difference for you and for your daughter. We are here to serve
2 you, your daughter, and your family.

3 Is that what you wrote?

4 A. Yes.

5 Q. I'm showing you page 10 of the Parent Manual. Are you
6 familiar with this page of the Parent Manual?

7 A. I would like a minute to familiarize myself.

8 Would you mind scrolling down if you want me to read
9 the whole page?

10 Can you repeat your question?

11 Q. Are you familiar with this page?

12 A. I am.

13 Q. Did you draft it?

14 A. I did not draft it.

15 Q. How did you become familiar with it?

16 A. So I think that parts of this have evolved over time in
17 different revisions, so I don't know the original author.

18 Q. So do you agree that it's common for children at Spring
19 Ridge Academy to want to tell their parents that they hate
20 everyone there?

21 A. I would say that that can come up.

22 Q. Is it true that children at Spring Ridge Academy complained
23 that the food is really terrible?

24 A. I think that can come up.

25 Q. Are you aware that there have been complaints by your staff

1 about the kitchen and the food?

2 A. Well, I just heard what Veronica had said.

3 Q. And are you aware that children have complained that
4 they -- you got to get me out of here before I go crazy?

5 A. That can come up.

6 Q. Have you heard students say to their parents: If you let
7 me come home, I'll promise I'll be good?

8 A. That has come up.

9 Q. And who came up -- or what is the distinction between the
10 denial phase, the dichotomy phase, and the acceptance phase?

11 A. Well, I think they are loosely borrowed from the stages of
12 grief.

13 Q. Have you personally followed up on sheriff's reports and
14 licensing reports that have come in over the years since you've
15 been either in a high-ranking capacity or the owner?

16 A. Could you explain what you mean by "follow-up"?

17 Q. Well, I assume that when a girl runs away and the sheriff
18 picks her up, you as the owner of the school find out about it
19 the next day?

20 A. Usually I'm informed live time while things like that are
21 happening.

22 Q. How does the sheriff get a hold of you?

23 A. Of me personally?

24 Q. Yes.

25 A. The sheriff typically doesn't contact me personally.

1 Q. Then how do you find out?

2 A. We have a phone tree among the staff, and when there are
3 certain types of incidents, the phone tree is activated so that
4 we are all aware. We are there to support one another, the
5 family, and whatever needs might be happening on campus or off
6 campus.

7 Q. So just focusing on the month -- a few months before
8 Ms. Sweidy enrolled her daughter, do you recall the nature of
9 some of those police reports that may have been generated given
10 incidents at Spring Ridge Academy?

11 A. Without looking at them, I would just be guessing.

12 Q. Okay. Do you have a recollection that there was an
13 allegation from a student who was taken by way of ambulance
14 that the ambulance driver had sexually assaulted her in the
15 ambulance?

16 A. I remember that happening, but I can't pinpoint accurately
17 from memory the time that occurred.

18 Q. And do you remember that -- did you talk to your staff and
19 learn that he was one of the regular ambulance drivers to
20 Spring Ridge Academy?

21 A. I do not recall that.

22 Q. About how often per month does an ambulance come to Spring
23 Ridge Academy? And let's just give the example of 2018 and
24 2019.

25 A. I wouldn't be able to accurately give you a number.

1 Q. Is it true that Spring Ridge Academy was violated by
2 licensing for a student that self-harmed with a knife at Spring
3 Ridge Academy?

4 A. That is accurate.

5 Q. And is it true that Spring Ridge Academy attempted to
6 rebrand and relicense?

7 A. That is correct.

8 Q. And is it true that in that process, demands were made of
9 Spring Ridge Academy and violation -- Spring Ridge Academy was
10 violated for a lack of quality control on these incidents?

11 A. That is not correct.

12 Q. Okay. Did you have an understanding from licensing that
13 they now wanted you to fill out an incident report of every
14 incident at the school on a quarterly basis?

15 A. That's not my understanding.

16 Q. What was your understanding?

17 A. I would want to look at the document so that I speak
18 accurately.

19 Q. Okay.

20 A. Yeah.

21 MS. ALLARD: Your Honor, I would ask to publish
22 Exhibit 145.

23 THE COURT: Just one moment.

24 You may.

25

1 BY MS. ALLARD:

2 Q. I am showing you page 1 of a 244-page exhibit, Exhibit 145.

3 Do you recognize Exhibit 1 -- I'm sorry -- page 1.

4 Specifically, if you could look at -- there's a
5 paragraph in the third column at the top where it cites the
6 regulation R9-10-704.1(a).

7 Number 1, where it says: Review of the facility
8 quality management program revealed that it did not include a
9 method to identify, document, and evaluate incidents.

10 Do you see that?

11 A. I do.

12 Q. And that happened in 2018, prior to Ms. Sweidy's daughter's
13 enrollment, correct?

14 A. Well, this states 2017.

15 Q. Well, on the left column, Citation 1 says: Corrected date,
16 January 23rd, 2018.

17 A. Right. So if you notice what I am pointing out is the
18 inspection occurred in '17, and then you have a window of time
19 to show the correction.

20 Q. And what did you do to correct the quality control
21 regarding incidents that occur at Spring Ridge Academy?

22 A. I would need to see further documentation, because from
23 memory I don't recall.

24 Q. Okay. At some time later in 2020/2021, were you cited
25 again for the same thing?

1 A. I would need to see the documentation to recall.

2 Q. What happened in 2017 that prompted the Arizona Department
3 of Health Services to review Spring Ridge Academy's handling of
4 incidents?

5 A. It could have been an annual report that -- from their
6 annual inspection when you're licensed, before having Joint
7 Commission Accreditation, the State will come in annually to
8 provide a survey.

9 And in those surveys, we review any updates in the
10 last year that the State may have changed regulations and have
11 an opportunity to collaboratively adjust policy, documentation,
12 procedures.

13 Q. I'm going to show you page 4 now. Citation Number 1
14 corrected date December 11th, 2019. Do you see that citation?

15 A. I do.

16 Q. Do you recall what that was about?

17 A. I do remember that. That was the incident we just spoke
18 about, yes.

19 Q. What incident is that?

20 A. Where you had said, were you aware that there was a young
21 person who self-harmed with a knife.

22 Q. And when did that incident occur?

23 A. It looks like -- well, I don't know the date of the
24 incident, because I don't have the incident report in front of
25 me. I just have the document as a result of us self-reporting

1 to the State that incident.

2 Q. Well, I'm looking at the column to the right, and the
3 records appear to indicate that the Yavapai County Regional
4 Medical Center Emergency Room is the one that reported this
5 incident?

6 A. They may have as well, but we have to self-report those
7 kinds of incidents also.

8 Q. And then it states there that: R#1 stole a knife from the
9 facility kitchen and returned to her dorm bathroom and cut her
10 left forearm.

11 Does that help refresh your memory on which incident?

12 A. Absolutely.

13 Q. And you were cited in Citation Number 2, it appears, for
14 failing to ensure that a resident does not use or have access
15 to any equipment or participate in any activity that may
16 present a threat to the resident's health.

17 And number two, it says: The review of the biosocial
18 assessment for R1 that was completed at the time of admission
19 revealed that the resident had a history of self-harm.

20 Do you see that?

21 A. Yes.

22 Q. Now, subsequent to this incident, did you again have more
23 self-harm incidents at Spring Ridge Academy?

24 A. Yes.

25 Q. And at some point in 2021, you were informed, isn't it

1 true, that Spring Ridge Academy was not licensed as a lockdown
2 facility to handle children who have these needs and concerns?

3 A. No.

4 Q. Do you recall being informed that you weren't licensed to
5 house children who self-harm?

6 A. No.

7 THE COURT: Ladies and gentlemen, this is a perfect
8 time to take our evening recess. Court is in recess until 9:00
9 tomorrow morning. You all have a wonderful evening.

10 All rise for the jury. Court is in recess until
11 tomorrow at 9:00 a.m.

12 (The jury leaves the courtroom.)

13 THE COURT: Court is in recess.

14 (Proceedings concluded at 4:30 p.m.)

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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 full, 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 31st day of May, 2024.

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