

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Kimberly Sweidy,	)	
	)	
Plaintiff,	)	3:21-cv-08013-SPL
	)	
vs.	)	Phoenix, Arizona
	)	May 31, 2024
Spring Ridge Academy, et al.,	)	8:57 a.m.
	)	
Defendants.	)	
	)	
	)	

BEFORE: THE HONORABLE STEVEN P. LOGAN, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TRIAL DAY 4 - (Morning Session)

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Proceedings Reported by Stenographic Court Reporter
Transcript Prepared by Computer-Aided Transcription

A P P E A R A N C E S

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

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P R O C E E D I N G S

THE COURT: This court will come to order. The jury is absent.

It has been brought to my attention by my courtroom deputy that the parties need to talk to me about an issue.

Ms. Allard.

MS. ALLARD: Your Honor, I referenced several Arizona regulations in the proposed jury instructions on constructive fraud as to legal and equitable duties. At this point in time, I have submitted copies of those regulations, Arizona Behavioral Health regulations to the Court.

I thought this would be the appropriate time to request judicial notice of those statutes, given that I will be doing some questioning of this witness -- started to question this witness on that subject area yesterday.

THE COURT: So these are marked exhibits that have not been received into evidence?

MS. ALLARD: They are not marked exhibits, Your Honor. They -- I am requesting the Court take notice for purposes of subsequent jury instruction conferences. I do not have to be showing them to the witness as exhibits.

THE COURT: Why is it that you didn't request this pretrial?

MS. ALLARD: I didn't see any rule that required request for judicial notice pretrial, Your Honor.

1 THE COURT: No, this is additional evidence that's
2 presented to a jury, and that's why we have exhibit lists and
3 other things. I mean, if we were allowed to just overnight
4 bring in four different documents every single day, these are
5 dozens of issues that we need to deal with.

6 MS. ALLARD: I apologize, Your Honor. I really spent
7 some time researching your order to see how requests for
8 judicial notice would be handled, and I did not see anything in
9 the order regarding that.

10 THE COURT: There's usually a motion that's filed for
11 me to take judicial notice, but, you know, we are beyond that
12 now.

13 Mr. Smith, what's the defense's -- or Mr. Grasso,
14 what's the defense's position on this?

15 MR. GRASSO: We object, Your Honor. We believe that
16 for the reasons Your Honor has already stated for the record,
17 and I don't think this is an appropriate use of judicial notice
18 under Rule 201.

19 THE COURT: Well, under 201 I absolutely can take
20 judicial notice. I mean, I am very familiar with 201. I just
21 don't like the way we are going about it. Is it because you
22 plan to talk about this issue with the witness?

23 MS. ALLARD: No, Your Honor. There are other
24 regulations that I will be talking about that they were cited
25 for. No, these were foundation for a jury instruction

1 conference, so if we want to table this until then, it's not --
2 it's for Court instructions.

3 THE COURT: Okay. Let me ask you this, Ms. Allard.
4 The defense has already been put on notice of these four items
5 before today?

6 MS. ALLARD: I copied and pasted the content in the
7 joint trial conference report in the jury instruction on
8 constructive fraud, yes.

9 THE COURT: So none of these four items are new to the
10 defense then.

11 You have already received all of these well before the
12 trial starting?

13 MR. GRASSO: I don't recall that, Your Honor. I don't
14 recall receiving these. I received them -- Ms. Allard
15 approached me 15 minutes ago and handed me those four copies.
16 And I asked her if she was intending to use these today,
17 because they hadn't been disclosed as exhibits, and I think
18 this is an improper use of what she's trying to accomplish in
19 this particular case. I told her that we needed a conference
20 with Your Honor.

21 THE COURT: I certainly understand what she's trying
22 to accomplish, and it makes a whole lot of sense. You have the
23 owner of a school that has certain Arizona administrative
24 requirements in terms of behavioral health exams and some other
25 issues concerning licensing of the school.

1 And I think that the other lady who was on the stand,
2 Jean Courtney, I think she was the one that initially opened
3 the school, had indicated on the record that she was familiar
4 with the requirements of the school and the interplay with the
5 State as it relates to reporting of different medical issues
6 and other things. Either she said it or one of the other
7 administrative ladies that took the stand said something about
8 that.

9 So I certainly understand why she's attempting to do
10 what she's doing. I just wish, Ms. Allard, you would have done
11 this as part of marked exhibits, and it's clearly something
12 that should have been thought about, you know, pretrial.

13 MS. ALLARD: Your Honor, I just want to address
14 counsel's misrepresentation. The language of these statutes
15 are copied verbatim into a very lengthy proposed jury
16 instruction on constructive fraud, which counsel has had since
17 October.

18 THE COURT: Just one moment.

19 What pages in Document Number 180? Document 180 is
20 the proposed jury instructions for plaintiff and defendant.
21 What page are you referring to, Ms. Allard?

22 MS. ALLARD: I'm looking right now, Your Honor. I
23 have the document open.

24 MS. SWEIDY: Your Honor, please give us a second. It
25 is 92 pages long, so I need to do a search.

1 THE COURT: Go ahead.

2 MS. SWEIDY: Thank you.

3 THE COURT: I see "agent," "principal"," "scope of
4 authority." Those are on pages 46 and 47.

5 MS. ALLARD: Your Honor, it starts on --

6 MS. SWEIDY: I believe it's 68, but give me just a
7 second, of 92. Yes, Your Honor, 68 of 92, towards the bottom.

8 MS. ALLARD: 68 and 69, Your Honor, and 70. The
9 statutes that I submitted to the Court.

10 THE COURT: I can't hear what you're saying.

11 MS. ALLARD: There are about five pages of statutes
12 that start on page 68.

13 THE COURT: Just one moment.

14 Mr. Grasso, you don't recall these pages in the Joint
15 Proposed Instructions? I know they're disputed, but there is
16 still information as it relates to AA Code that's laid out, 68
17 through, I think, page 75 of Document 180.

18 MR. GRASSO: Your Honor, as -- I apologize, as I
19 indicated a moment ago, I didn't recall it. I have now looked
20 at the instructions and some of them are -- it appears, without
21 me going through, to be cut and pasted in here.

22 These documents that I got for the first time this
23 morning, five minutes ago, appear to be photocopies from the
24 Arizona Administrative Code.

25 THE COURT: No, I understand what you have, because I

1 have the same four documents, but you have -- I mean, the
2 plaintiff has called their witnesses who have all provided
3 testimony administrative in nature in terms of how the school
4 is run. We have heard a litany of things about this school,
5 and I think there was some questions about when you have a
6 child that's having some difficulty or -- I forgot the -- how
7 the questions were framed, but -- you in the shirt back there
8 with the glasses hanging off it, are you okay?

9 A VOICE: Yes, sir.

10 THE COURT: Because you do a lot of acting out and
11 moving, and putting your head down below the bench and laughing
12 and everything, and you have been doing it for four days now.
13 Who -- what do you do? What role do you have here?

14 MR. GRASSO: He works with me, Your Honor. He's
15 somebody who assists me with tech equipment.

16 THE COURT: That's fantastic. If he is your
17 employee --

18 MR. GRASSO: I will take care of it.

19 THE COURT: -- you need to talk to him about the
20 proper way to act in a courtroom.

21 MR. GRASSO: I will, Your Honor.

22 THE COURT: Because he's really close to getting
23 thrown out. This isn't a nightclub that you sit there talking
24 to your friend giggling all day, okay?

25 A VOICE: Yes, sir.

1 THE COURT: No, I have had a chance to review all four
2 of these documents, and based on the information that's been
3 placed on the record by way of testimony, it's fair for
4 Ms. Allard to go into these different areas.

5 But in terms of me receiving these four documents into
6 evidence or taking judicial notice at this point, I am not
7 willing to do that; however, if she wants to somehow impeach
8 the witnesses, in terms of what their knowledge is about these
9 Arizona Administrative Code sections, she can certainly do
10 that. But you need to mark your exhibits as impeachment
11 exhibits.

12 What else from the defense? Make a record of your
13 objections.

14 MR. GRASSO: Your Honor, the only thing I would add
15 for the record, in addition to the comments and objections I've
16 already made, is that from looking at these quickly this
17 morning, they do have dates that apply -- most of them say
18 October 1, 2022 through December 31, 2022.

19 So I'm concerned there may be some foundational issues
20 associated with these particular sections. But I understand,
21 and thank Your Honor for your time.

22 THE COURT: Well, Mr. Grasso, you are certainly not
23 questioning the authenticity of these documents? You are not
24 arguing that they're fake?

25 MR. GRASSO: No, Your Honor, I didn't -- that wasn't

1 what I was intending to say. They may not be the version of
2 the administrative code that applies to the time frame we're
3 dealing with in this case, and I think, just based on my
4 knowledge in practicing, sometimes the administrative code
5 changes quite frequently.

6 So there's some questions about whether it would be
7 unfair or prejudicial to try to impeach a witness with a code
8 provision that applied in a different time frame, especially a
9 witness who's not an attorney.

10 THE COURT: Well, you can certainly make those
11 objections real time during the examination. This Court will
12 not receive these four documents into evidence; however, if the
13 proper foundation is laid obviously, Ms. Allard, the plaintiffs
14 can go into this as it relates to some form of impeachment,
15 because I believe, I can't recall what witness it was, but the
16 witness didn't appear to know much about what happens and what
17 are the requirements of the board or whoever regulates the
18 school. But I may be mistaken, but I don't know which witness
19 that was.

20 Is there anything else from the plaintiffs?

21 MS. ALLARD: No, Your Honor.

22 THE COURT: Defense?

23 MR. SMITH: No, Your Honor. Thank you.

24 THE COURT: You're very welcome.

25 Molly, if you can call the jury back in, please.

1 THE CLERK: Yes. Ms. Courtney, you can take the
2 stand.

3 (The jury enters the courtroom.)

4 THE COURT: Ladies and gentlemen, welcome back.
5 Please take your seats. Court will come to order. The jury is
6 present.

7 Ms. Allard, please continue with your examination.

8 MS. ALLARD: Thank you.

9 THE COURT: You're welcome.

10 DIRECT EXAMINATION

11 BY MS. ALLARD:

12 Q. Ms. Courtney, I was --

13 THE COURT: Okay. You need a microphone.

14 MS. ALLARD: I'm sorry.

15 BY MS. ALLARD:

16 Q. Exhibit 7, which is the Parent Manual, at the very back of
17 it is copied and pasted what looks to be like an Arizona
18 regulation. Are you familiar with that page?

19 A. It would be helpful to see it.

20 Q. Okay. Without even seeing it, do -- you're the owner of
21 the school, do you understand that there are regulations that
22 need to be posted at the school?

23 A. Yes.

24 Q. Okay. What regulation is that?

25 A. I couldn't cite it accurately off memory.

1 Q. And have -- in fact, have you been cited by Arizona for
2 inaccuracies in what you have at the school reflecting that
3 regulation?

4 A. Yes, we were cited twice. Once, the surveyor did not like
5 where we had our evacuation map. And on another occasion, one
6 of the departments, I think it was Child Safety Department,
7 used to be called Child Protective Services, and we overlooked
8 changing that language on the posting.

9 Q. Well, you have been cited for a lot more than that, haven't
10 you?

11 A. We have been cited, yes.

12 Q. I'm going to put back for display the --

13 THE COURT: Which -- what is that, 311?

14 MS. ALLARD: This is Exhibit 145 where we left off
15 yesterday.

16 THE COURT: Has it been received?

17 MS. ALLARD: It has.

18 THE COURT: Yes, go ahead, please.

19 BY MS. ALLARD:

20 Q. So yesterday on page 1 here -- let's see if I can zoom out.
21 I'm having problems here.

22 THE COURT: You have to put auto focus on and then let
23 it focus.

24 MS. ALLARD: I think it needs some time.

25 THE COURT: Molly, can you help her out, please?

1 MS. ALLARD: Sorry, I followed your instructions.

2 THE COURT: Hold on.

3 MS. ALLARD: There we go.

4 MS. SWEIDY: Yes.

5 BY MS. ALLARD:

6 Q. Okay. So yesterday I asked you about January 23rd, 2018,
7 and it appears you were violated for failing to have a quality
8 management program pursuant to that cited regulation?

9 A. No. The way -- and it would be helpful if I had this that
10 I could look at, because there are other documents associated
11 with this.

12 What happens is they cite you on the rule. Where you
13 may have not had everything needed, maybe a component of the
14 language, like a date or something of that nature, so not
15 having a quality management process -- these can be misleading
16 in that way, if that makes sense.

17 Q. Okay. I am going to direct your attention specifically to
18 what's written on the paper here. It is -- there are six
19 columns. In the middle column to the right, that right column
20 there.

21 It says there: Findings include, number 1, the
22 facility quality management plan indicated that reports would
23 be submitted to the governing authority on an annual basis.
24 Number 2, no documentation indicating that the reports had been
25 submitted to the governing authority was available for review.

1 During an interview with employee number 6 -- let me ask you
2 that. Are you employee number 6?

3 A. I don't know who employee number 6 is.

4 Q. That person stated, quote, unquote, "We don't have that."

5 Does that refresh your recollection on why you were
6 cited for this?

7 A. It does not. As I said before, I would need to see more
8 information to speak thoroughly.

9 Q. In you look at the column below, it says: Based on record
10 review and interview of the administrator failed to ensure for
11 3 of 3 sample records that a resident provided evidence of
12 freedom from tuberculosis.

13 Does that refresh your recollection at all?

14 A. It does not.

15 Q. And moving to the next page, page 2. Under R10-720, which
16 is the second column on the right: Based on documentation
17 reviewed and interview, the administrator failed to ensure --

18 THE COURT: Whoa, whoa, whoa, stop. First of all,
19 several people are taking notes. Stop speed reading into the
20 record, please.

21 MS. ALLARD: I'm sorry. I apologize.

22 BY MS. ALLARD:

23 Q. Do you see the column there?

24 A. Yes.

25 Q. Looking at the column where it says, Survey Text.

1 R9-10-720.

2 Does that refresh your recollection regarding this
3 violation?

4 A. Recalling the specific surveys for annual years dating back
5 many years is difficult to do, as I said before.

6 Q. Do you have anybody else that represents or represented
7 Spring Ridge Academy as the administrator or employee number 6?

8 A. Well, I don't know who employee number 6 is without seeing
9 other information. Over the years we've had different
10 administrators. Most recently Erin Smith served as our
11 administrator.

12 Q. On page 3 of this same document, it indicates that the
13 surveyor was Cindy Beckham. Do you know who she is?

14 A. I do.

15 Q. Does that refresh your recollection?

16 A. It does not.

17 Q. Moving to page 4. I think we talked about this yesterday.
18 The column to the lower right, Survey Text R-10-716. That was
19 the citation for the child that cut herself with a knife. Do
20 you recall that?

21 A. I do.

22 Q. And it says: During an interview, employee 1 acknowledged
23 the resident had access to equipment that presented a threat to
24 the resident's health and safety.

25 Are you employee 1?

1 A. I don't know who employee 1 is.

2 Q. Do you have any recollection of talking to someone at the
3 Arizona Department of Health Services on or about that time
4 yourself?

5 A. If I was available, I would often sit in on the meetings
6 with our surveyors.

7 Q. And who was present at the meetings other than you and the
8 surveyor?

9 A. It would change year to year, but often it was whoever was
10 the appointed administrator, as long as they weren't on
11 vacation or out ill or traveling for a conference.

12 Q. This has a correction date of December 11th, 2019, which is
13 two days before Rearden arrived. Do you recall any meeting on
14 that date?

15 A. I don't recall that specific date.

16 Q. I am showing you page 42. At the top it says the
17 individuals responsible at Spring Ridge Academy for corrections
18 were Leslie Filsinger and Erin Smith. Does that refresh your
19 recollection on who would have been in any meetings?

20 A. I would just repeat my same answer that I just gave you.

21 Q. It appears that you were to correct and provide the State
22 monthly aggregate incident reports. Do you recall having to do
23 that?

24 A. I don't recall specifically.

25 Q. Have you ever reviewed any monthly aggregate incident

1 reports prepared by your staff?

2 A. Yes, we reviewed incident reports very consistently in our
3 meetings.

4 Q. My question is about -- specifically about a monthly
5 aggregate incident form that's referenced in this letter.

6 A. As I said, we reviewed them frequently in meetings,
7 probably more than monthly.

8 Q. I am now showing you page 46. Have you seen 46 before?

9 A. Yes.

10 Q. Is that a monthly aggregate incident report for Spring
11 Ridge Academy?

12 A. Well, this would be an annual, it looks, or semi-annual
13 incident report aggregate.

14 Q. Okay.

15 A. Going by month.

16 Q. So I'm looking at it, and I want to ask for your help in
17 interpreting it. It says there were 8 AWOL incidents. What is
18 "AWOL"?

19 A. AWOL is when a student leaves campus without it being a
20 pass or a field trip.

21 Q. Are those usually picked up by the sheriff?

22 A. Our protocol, when a student leaves campus, to call the
23 sheriff immediately for safety, yes. They are not always
24 picked up by the sheriff, but we alert the sheriff for safety.

25 Q. And the second one is Physical Altercation. Do you recall

1 the nature of that altercation?

2 A. I do not.

3 Q. What is disclosure of information? Why is that listed as
4 as an incident?

5 A. Because that is a significant event in a young person's
6 life, like there was a sexual assault that I experienced in my
7 past. I -- usually it's of an abuse or neglect nature in their
8 history.

9 Q. What about -- it says there were 24 physical injuries.
10 What kind of physical injuries are reported to this form?

11 A. Any physical injury that requires us to seek medical
12 attention.

13 Q. And when you say, "seek medical attention," what do you
14 mean by that?

15 A. Either take them to a physician, to the emergency room, to
16 urgent care, some sort of healthcare facility.

17 Q. Under "inappropriate sexual relations" there are 4
18 incidents. What -- are these law enforcement actions or not?

19 A. No.

20 Q. These are relations between the students?

21 A. Correct.

22 Q. Do they include relations between the students and staff?

23 A. Absolutely not.

24 Q. Have you had reports of inappropriate relations between
25 students and staff?

1 A. No.

2 Q. Have you received any complaints from students regarding
3 inappropriate contact by any teacher?

4 A. About 15 years ago we had a student make a report that she
5 was uncomfortable around a teacher. We called the police and
6 they handled the investigation, which was unsubstantiated.

7 Q. Did you ever receive any reports or complaints regarding a
8 teacher by the name of Dr. Ted?

9 A. What kind of complaint are you referencing?

10 Q. Complaints from female students he was being inappropriate
11 or making inappropriate advances or comments to them?

12 A. No.

13 Q. Did he work for Spring Ridge Academy?

14 A. He did.

15 Q. How long?

16 A. I don't recall his length of tenure.

17 Q. Do you know why he left?

18 A. Yes.

19 Q. And what is your information as to why he left?

20 A. We were concerned with his supervision in the science lab
21 and so we terminated our relationship.

22 Q. It says -- I'm going back to this exhibit here.

23 Medication error. What was the medication error?

24 A. A medication error could range from someone dropped a
25 medication on the floor, someone didn't sign the medication

1 record in the right spot, a student didn't take a medication
2 off campus with them. It could be a variety of things, and I
3 don't know specifically what this medication error was.

4 Q. And the next -- I see there's possession of contraband and
5 you had 3 cases of that. My next question is a walkabout.

6 What is a "walkabout"?

7 A. It is where a student leaves campus without being on a
8 field trip or a visit, but comes back.

9 Q. So there were 21 walkabouts?

10 A. Looks like it.

11 Q. And how did you handle the fact that the students left
12 campus and came back on their own?

13 A. Typically we have a staff member walking alongside them in
14 those situations.

15 Q. Well, it's reported here because they walked somewhere by
16 themselves; is that correct?

17 A. Well, the staff member is frequently with them.

18 Q. I'm sorry, why is it characterized as an incident?

19 A. Because we wanted to track it.

20 Q. You wanted to track when a staff member went walking with a
21 student?

22 A. When a student needs to take a walk to blow off steam, move
23 their body, yeah, we wanted to track that.

24 Q. There were -- I'll move on to medication refusal. There
25 were 2. What constitutes medication refusal?

1 A. When a student, for a variety of reasons, doesn't want to
2 take their medication.

3 Q. Are they forced to take their medication?

4 A. No.

5 Q. And then there were 14 medical emergencies. What's the
6 difference between a medical emergency on this and the other
7 category you had up top regarding physical injury?

8 A. A medical emergency would mean that at the time of whatever
9 was happening medically, we either needed to transport them to
10 emergency medical care or have an ambulance do that.

11 Q. So there were 14 of those in one school year?

12 A. There were 14 between October and June.

13 Q. And do you remember any of those?

14 A. I would need to look into the record to recall accurately.

15 Q. Well, without looking into the record, do you remember any
16 of them?

17 A. I wouldn't be guaranteeing accuracy if I were just to make
18 one up.

19 Q. Then there's a category for property damage, and you
20 reported 2. Do you remember what kind of property damage that
21 was?

22 A. I don't, but I could give you some examples of what
23 property damage would be, if that's helpful.

24 Q. Sure.

25 A. So it might be a desk broke or a drawer got pulled, you

1 know, off the tracks, or a -- something in the science lab got
2 broken. It could be a variety of things breaking.

3 Q. Would that be reported because it was as a result of a
4 violent outburst?

5 A. I would say no.

6 Q. Then why is it an incident that a drawer broke?

7 A. Because we want to track things of that nature, physical
8 plan is a very important part of the care and well-being of our
9 clientele.

10 Q. I am very curious about this number. It says 46 other.
11 What is "other"?

12 A. We would need to look in the record to see.

13 Q. What record?

14 A. So this is an aggregate of reports, and it looks to me like
15 there are 46 of those that are "other," and so those individual
16 reports would tell us what those "other" are.

17 Q. Do you know why there are so many of them in March of '21,
18 April of '21, and May of '21?

19 A. I don't recall what we surmised or problem solved in March,
20 April, or May of '21.

21 Q. And then there's the category of police involved, 5. Do
22 you know why the police were involved in five incidents this
23 school year?

24 A. I would guess that two of them would be AWOL associated,
25 and the other I couldn't speak accurately about without looking

1 at more information.

2 Q. And would it be fair to say that you did not start keeping
3 reports on this information until the Department of Health
4 Services told you to?

5 A. That's not accurate.

6 Q. Okay. Wasn't the preparation of this report the result of
7 a citation for not keeping the records?

8 A. From what I remember and what we read on the other page,
9 the citation was about not submitting the monthly aggregate.

10 Q. I'm showing you page 76, just the top of it right now. At
11 the top there's an unsubstantiated lack of sufficient evidence
12 finding.

13 And in the second category, where it says:
14 Administration personnel substantiated state deficiencies
15 related to the allegations are cited. Quality management.

16 And again, it cites R9-10-704. And we see a reference
17 here again to a method to identify, document, and evaluate
18 incidents.

19 Do you recall this document?

20 A. No, it would help me to have a minute to read it.

21 Q. When you are done, let me know and I can turn the page.

22 A. Thank you.

23 Q. I turned to page 77. And I see at the top there's a due
24 date of 9-21-21. Do you see that?

25 A. Yes.

1 Q. So this report then is different than the one on page 1,
2 which is dated 2018?

3 A. Correct.

4 Q. But they appear to be for very similar issues regarding
5 incidents, would you agree?

6 A. No.

7 Q. Okay. Can you explain the difference between what you were
8 cited for in 2018 and then what happened again with this
9 complaint and report in 2021?

10 A. So year to year, some of the revised statutes change, and
11 as part of our annual review with our surveyor, that's often a
12 time where the surveyor may go over any changes in the revised
13 statute that's occurred from year to year.

14 At that point, collaboratively, you come up with a
15 plan to address the changes that may have occurred from a year
16 or two to five, however many years ago. And so the documents,
17 some of which we're looking at, are the communication tool for
18 that process.

19 And so the State uses terms like "deficiency" and
20 "citation" for anything that's just not at standard during that
21 process, and they give you time to come up with a plan, a
22 corrective plan. And these documents are how that
23 communication is tracked so it's very clear and so you have a
24 record of it.

25 Q. Okay. I'm going back to page 1 and I'm looking at the

1 number of the revised statute, as you say, or regulation. And
2 at the top right column -- or the second column on the right it
3 says, R9-10-704.1 and they were talking about the "e" section
4 there. And then on the top column, same statute but the "a"
5 section.

6 So I'm going to move to the one in 2021, to the center
7 section, and again, it's R9-10-704, and then it has Sections 1,
8 2, and 3. So it's the same statute, correct?

9 A. It may be the same statute in number, but the language
10 could change from year to year.

11 Q. Is it your testimony that the language changed?

12 A. It is not.

13 Q. So if the language didn't change, it appears that Spring
14 Ridge Academy violated the same statute twice.

15 A. I would need to look at the statute side by side to look at
16 the language.

17 Q. Do you look at statutes?

18 A. I do.

19 Q. So what -- when you are cited here in 2021, what new things
20 did you do with your data on incidents that you weren't doing
21 before?

22 A. I couldn't recall from memory.

23 Q. It says at the bottom of this page 76: The documentation
24 provided did not include an identification of each concern
25 about the delivery of services related to resident care, and

1 any change made or action taken as a result of -- and I am
2 going to turn the page -- the identification of a concern about
3 the delivery of services related to resident care.

4 And there's an interview, on number 3: E1 reported
5 incidents were reviewed at weekly team meetings and
6 acknowledged the report provided to surveyor did not include
7 documentation concerning the monthly review of incidents and
8 documentation of each concern about the delivery of services
9 related to resident care, and any change made or action taken
10 as a result of the identification of a concern about the
11 delivery of services related to resident care.

12 How did you interpret this citation language?

13 A. So we were reviewing incident reports on a weekly basis in
14 our meeting. At those meetings, we would look for correlating
15 factors, events, maybe time of day, and come up with a plan if
16 something needed to be addressed or changed.

17 As I referenced earlier, changing our policies or our
18 Parent Manual frequently. We were doing it weekly and
19 documenting in our meeting notes.

20 What the State asked us to do is document it on a
21 monthly basis and incorporate those sections in one specific
22 report rather than in our meeting notes. So we happily
23 complied.

24 Q. Was it the case that the State was not getting the same
25 information that you were sharing with each other in your

1 meetings?

2 A. No.

3 Q. Isn't an interpretation of this language that they wanted
4 not only the incidents documented, but they wanted to know what
5 you were going to do about fixing it?

6 A. Yes, they wanted it all in one specific report.

7 Q. And you were cited because you only documented the
8 incidents, you did not come up with a plan on how to remedy the
9 problems?

10 A. No.

11 Q. Did you provide the State with a plan on how to prevent
12 AWOLs?

13 A. So that's not what they were looking for.

14 Q. Do -- what's your understanding of what they were looking
15 for?

16 A. What they are looking for is an aggregate monthly of any
17 incident reports and specific information of what we discussed,
18 our findings, and any changes we made because of that.

19 Q. Changes to what?

20 A. Maybe our protocol. Sometimes we would change our daily
21 schedule. We might change our staffing pattern. We might
22 change when we do a field trip. Lots of things came out of
23 those discussions.

24 Q. And the State wanted the information of what you were doing
25 to remedy the problem, correct?

1 A. They wanted it in a different format.

2 Q. I'm showing you page 173. Would it be fair to say that the
3 state scrutiny came up because of your attempt to relicense and
4 rebrand under a new name?

5 A. No. We were not under any state scrutiny. When we changed
6 the name, we had to reapply for licensure. There was nothing
7 scrutinous about it. It was a typical process, protocol, and
8 procedure.

9 Q. As part of this process and procedure -- and if you need to
10 refresh your recollection, I'm showing you page 208. You were
11 told by the State that your facility was inadequate; isn't that
12 true?

13 A. No.

14 Q. It says here: The required square footage per resident is
15 60 square feet.

16 Then it said that: 78 square feet will not suffice
17 for a privacy room.

18 A. So what it's saying is that -- hang on a sec. Let me read
19 this again. What it's saying is we needed to pick another
20 space to be called the "privacy room."

21 Q. What's the "privacy room"?

22 A. The standards say that there needs to be a room available
23 where if a family is visiting they could hang out in there, if
24 we needed to have -- let's say, a young person discloses a
25 sexual assault that happened in their history, the sheriff

1 would come out to interview them. That would be a good use of
2 the privacy room. And so we identified another space that met
3 the standard for square footage.

4 Q. I'm showing you page 227, and the first page, for a date
5 reference -- first off, do you recall seeing this document?

6 A. Yes, this is a checklist. Yes, I do.

7 Q. And it says: The following items were determined to be out
8 of compliance during the on-site initial inspection conducted
9 October 19, 2022.

10 Do you see that?

11 A. I do.

12 Q. And was this for the rebrand?

13 A. This was for the initial license application, absolutely.

14 Q. Going to the top of page 228, it says: On page 48 of your
15 policy and procedures mentioned clinical oversight being
16 provided to both BHTs and BHPPs, however, BHPPs cannot provide
17 behavioral services alone and therefore do not receive clinical
18 oversight.

19 Do you understand what that means?

20 A. I do.

21 Q. What did that mean?

22 A. So it means that our behavioral health paraprofessionals do
23 not need to be provided clinical oversight and document it in
24 the record.

25 Q. It also says that they can't do behavioral services alone,

1 correct?

2 A. Correct.

3 Q. At Spring Ridge Academy, were those types of individuals
4 doing therapy alone?

5 A. Well, a behavioral health paraprofessional would never do
6 therapy.

7 Q. Okay. Did you have individuals doing therapy at Spring
8 Ridge Academy that were not BHTs?

9 A. No.

10 Q. Is Brandon Courtney, your husband, a BHT?

11 A. Correct.

12 Q. And what qualifies him to be a BHT?

13 A. There's policy written about training, background, years of
14 experience, degrees, et cetera. So additionally, what this --
15 this is not anything about therapy. This is about providing
16 behavioral health services.

17 Q. What do you understand that to mean?

18 A. Behavioral health services are inclusive of the general
19 supervision that's provided day-to-day.

20 Q. Further down in the same document under "administration,"
21 where it cites R-10-703, it says: Please update the resident
22 rights to match those currently in rule.

23 Now, the resident rights, that's the statute that you
24 put in the back of the Parent Manual, correct?

25 A. I think I said I wanted to see it to be accurate.

1 MS. ALLARD: Can I have a moment, Your Honor?

2 THE COURT: Sure.

3 BY MS. ALLARD:

4 Q. Do you recognize, at least the top of this document, which
5 is page 36 of Exhibit 7?

6 A. I do, thank you.

7 Q. Do you recognize that as language taken directly from the
8 Arizona statute on residents' rights referenced in the previous
9 exhibit that I showed you?

10 A. Yes, and I think there's an important piece to note that on
11 a sometimes consistent basis the State will update the language
12 in the residents' rights, and as a result, we then update all
13 of our materials.

14 Q. Okay. Well, this would have been 2019, this version we're
15 looking at here, correct?

16 A. I can't specifically remember the exact details from 2019
17 to other years.

18 Q. Well, we know that this was put in your manual in 2019,
19 correct, because it was handed to my client -- or given to my
20 client by email?

21 A. Correct.

22 Q. So this is the statute that in 2022 you're being cited as
23 being -- it says: Please update the resident rights to match
24 those currently in the rule.

25 And I'm going to ask you about one particular

1 representation that you have made in your Parent Manual about
2 this statute regarding phone calls. And let's just talk about
3 what the rights are.

4 On 3 it says that: Unless restricted by the
5 resident's representative -- who do you understand that to be?

6 A. Typically it's a guardian.

7 Q. Or a parent, correct?

8 A. Uh-huh.

9 Q. Is that a yes?

10 A. Yes.

11 Q. The resident is allowed to: "a," associate with
12 individuals of the resident's choice, receive visitors, and
13 make telephone calls during the hours established by the
14 behavioral health facility. Have privacy, under "b," in
15 correspondence, communication, visitation, financial affairs,
16 and personal hygiene.

17 So I want to talk about your Parent Manual's policy
18 that restricts phone calls to Phase 1 and Phase 2 and Phase 3
19 and Phase 4 students. How is that in compliance with the
20 language of this regulation?

21 A. Because the parents okay it.

22 Q. But the State doesn't?

23 A. Yes, it does.

24 Q. How?

25 A. The State is very aware of our policy and that falls in

1 alignment.

2 Q. The State is very aware of your policy as reflected here
3 and told you to change it, correct?

4 A. No.

5 Q. I'm going to ask you, under "d," it says: Mail and
6 telephone usage as defined by SRA policy.

7 Now, did the State tell you to change their statute
8 and put SRA policy in their statute, or did you add that?

9 A. I honestly don't know.

10 Q. Isn't it true that the State in this citation is telling
11 you to take that out?

12 A. No.

13 Q. Then what change did you understand the State wants you to
14 make to your resident rights statement?

15 A. So what that is referencing is that the client rights in
16 the revised statute had been updated, and they asked us to make
17 sure that that updated version was in our materials. That's
18 what that means.

19 Q. I am going to ask you about page 145 [sic]. At the bottom
20 it says: Your policies and procedures mention body checks.
21 This is something that should only be done done by trained
22 licensed professionals; namely, medical practitioners and
23 registered nurses, and not by anyone else.

24 What body checks were you doing?

25 A. So when a student enrolls, they have a body check completed

1 to look for any wounds they may have coming from, let's say
2 they came from a wilderness program. If there are any scars,
3 those kinds of things. And then if we have a student who has
4 self-harmed, we check to make sure their wounds are well cared
5 for to see if there are any new wounds as part of our
6 responsibility for care.

7 Q. Who conducts those checks?

8 A. Typically the nurse conducts those checks.

9 Q. What did the State say you were doing wrong?

10 A. Well, the way we had it worded in our policy was that the
11 RN does the body checks. If it occurs at a bizarre hour when
12 the nurse is not on site, we had two personnel trained to do
13 body checks, which was acceptable in previous years. So they
14 asked us to update that to only have the RN.

15 Q. Who?

16 A. The State, and we happily complied.

17 Q. Who were the personnel, the two people that were doing the
18 body checks?

19 A. I wouldn't remember off the top of my head. It was a
20 number of years ago.

21 Q. Would it have been some person that worked in the dorms?

22 A. It would have been a behavioral health technician, female.

23 Q. And so what would happen? It was like a strip search, like
24 someone is going to jail?

25 A. Absolutely not.

1 Q. Well, did they have to take all their clothes off?

2 A. No. Would you like me to explain the process?

3 Q. Sure.

4 A. Okay. So we would ask the young person to -- in a restroom
5 with privacy to change into a hospital gown, leaving their
6 undergarments on.

7 At that point, we would check arms, neck area, legs,
8 and torso, with privacy, knowing that it's common -- we would
9 look for the common areas where young people have a tendency to
10 self-harm, so that we would accurately report to their
11 caregivers if there was any updated injurious behavior.

12 Q. Isn't it true that you made students bend over and blow out
13 their mouth to see if they were hiding drugs?

14 A. No.

15 Q. Did you obtain any consent forms from parents to do body
16 checks?

17 A. It's in the enrollment forms.

18 Q. What enrollment form?

19 A. The paperwork parents sign up front.

20 Q. Did Ms. Sweidy get that?

21 A. All families do.

22 Q. Was it emailed to her by -- does this come from Kate Deily
23 before enrollment?

24 A. I don't know when it comes.

25 Q. And what does it say exactly?

1 A. I would need to see the document.

2 Q. You don't know what it says?

3 A. Not off memory.

4 Q. Well, if the document doesn't exist, how would I be able to
5 tell you?

6 A. Is that a question?

7 Q. Yeah.

8 A. Can you rephrase it?

9 Q. Isn't it true that document does not exist?

10 A. No.

11 Q. Isn't it true that you didn't produce it in discovery?

12 A. I don't think I could answer that.

13 Q. I'm not done on this page. "Your policy and procedures,"
14 it says here on page 237, "mention residents who are a danger
15 to themselves or others. It says there should be no residents
16 like that in behavioral health residential facilities."

17 So my first question is: Is Spring Ridge Academy a
18 behavioral health residential facility?

19 A. Yes.

20 Q. "Any residents that are danger to self or danger to others
21 should be transferred to a behavioral health inpatient
22 facility." Do you understand what that means?

23 A. Yes.

24 Q. What did you interpret as -- what in your policy and
25 procedures drew the attention of the State such that this

1 comment was made?

2 A. We were a little confused by that also, and so in -- if I
3 remember correctly, the dialogue we had with the two gentlemen
4 who were the surveyors or inspectors, there was a little
5 misinterpretation in some of our policy as written.

6 The policy indicated if a student was active in
7 suicidality or active homicidality, they would be transferred
8 either to a psychiatric inpatient facility or an emergency
9 room. And if I remember correctly, we just adjusted some
10 language so that we both felt good about the policy as written.

11 Q. So I've heard testimony in this matter that you admit
12 students that have a history of suicidality and self-harm,
13 correct?

14 A. Correct.

15 Q. And there are citations here for inadequate supervision of
16 people at risk for cutting, correct?

17 A. There's one.

18 Q. One in this year, yes. Have you had more?

19 A. No.

20 Q. And so why is it that you advertise you're a college prep
21 residential school but yet take in children that have histories
22 of self-harm?

23 A. Because it's a common issue among the student body we
24 serve.

25 Q. But where in the Parent Manual does it say that this is a

1 common issue in the students that you serve?

2 A. I don't know. I would need to review it to see if it is in
3 there.

4 Q. Would you like to review the entirety of Exhibit 7?

5 A. If you would like me to.

6 MS. ALLARD: Your Honor, may she have a hard copy of
7 Exhibit 7?

8 THE COURT: Of course. How large is Exhibit 7?

9 MS. ALLARD: It is -- I don't have a page number. It
10 could be 40 pages.

11 THE COURT: You are asking her to --

12 MS. SWEIDY: Excuse me, Your Honor, if I may answer?

13 THE COURT: Hold on. Hold on. You are asking her to
14 read through this 40-page document on the stand?

15 MS. ALLARD: Well, I wouldn't want to belabor the
16 time. I was assuming since she is -- it is her document, she
17 might know where it is. But if she doesn't, I can move on. It
18 is 41 pages -- or 42.

19 THE COURT: Molly, thank you very much.

20 THE CLERK: You're welcome.

21 THE COURT: Ms. Allard, I am just confused. So is she
22 refreshing her recollection of her admin admissions document?
23 What are we doing?

24 MS. ALLARD: Your Honor, she had requested to review
25 that document for a description that I requested in my last

1 question, whether parents are informed -- and I would have to
2 have a readback, because I don't have my exact words on it.

3 THE COURT: Well, let me stop you. My apologizes for
4 interrupting you. If there's -- since it's in evidence right
5 now, if there's a section that you would like to directly refer
6 her to, that would be very helpful. We don't have time to sit
7 here and have her read through 42 pages.

8 MS. ALLARD: I understand. Okay. Could I have a
9 readback of the last answer?

10 THE COURT: Yes, please if you can, Court Reporter.

11 COURT REPORTER: Question: Would you like to review
12 the entirety of Exhibit 7?

13 Answer: If you would like me to.

14 MS. ALLARD: Okay. I'm sorry. It would have been the
15 answer before that.

16 COURT REPORTER: Answer: I don't know. I would need
17 to review it to see if it is in there.

18 MS. ALLARD: Okay.

19 BY MS. ALLARD:

20 Q. Ms. Courtney, do you know what you are looking for?

21 A. Indications of self-harm.

22 Q. Yes, notice to the parents that students who go to Spring
23 Ridge Academy have histories of self-harm?

24 A. The one place that I think indicates is the inappropriate
25 item list by not being able to have razors or other sharp

1 objects.

2 Q. Okay. Thank you.

3 A. Yeah, you're welcome.

4 Q. Do you know whether or not the Sheriff's Department was
5 called to Spring Ridge Academy July 20th, 2019 for a suicide
6 attempt?

7 A. I don't recall that.

8 MS. ALLARD: Your Honor, I would ask to publish
9 Exhibit 146?

10 THE COURT: Is it received?

11 MS. ALLARD: Yes, I understand it to be.

12 THE COURT: Go ahead.

13 BY MS. ALLARD:

14 Q. Would it refresh your recollection to look at the
15 description from Sergeant Lopez on page 7 of 146?

16 A. It would be helpful.

17 I'm finished.

18 Q. Does reviewing the report refresh your recollection?

19 A. It does.

20 Q. So you remember that there was an incident where a student
21 cut her wrists with glass from a broken light bulb?

22 A. Yes.

23 Q. And that she ingested soap and swallowed glass?

24 A. That was her report.

25 Q. Was she okay?

1 A. She was.

2 Q. Did she come back to school?

3 A. I don't believe she did.

4 Q. Do you recall that on August 17th, 2019 a student ran away
5 and was detained by the sheriffs? And my specific question is
6 going to be for the final paragraph, when you are ready.

7 A. Thank you. I am complete reading it.

8 Q. It appears there's a student who has run away and then your
9 staff informs the police that she has been, quote, "engaging in
10 self-harm at the school by biting herself and generally trying
11 to hurt herself."

12 Is that correct?

13 A. That is what it says.

14 Q. Pursuant to Arizona licensing, shouldn't that student have
15 been dismissed from the school and sent to lockdown facility or
16 home?

17 A. No. The statute indicates active suicidality or active
18 homicidality. Self-harm alone does not fall into that
19 category. There's a difference between self-injurious behavior
20 and suicidal behavior.

21 Occasionally, suicide is done through cutting
22 oneself's risk or neck, but self-injurious behavior is
23 typically not suicidal. And then moving ahead to page 14, it
24 appears another child ran away on September 29th, 2019 and the
25 Sheriff's Deputy had to go look for her in a wash walking

1 towards Cordes Lake; is that correct?

2 A. I will need a moment to review. I have read it.

3 Q. Do you recall this incident where a student ran and kicked
4 a law enforcement officer in the face?

5 A. I don't remember the exact incident, no.

6 Q. Okay. You don't know who this student is?

7 A. I don't.

8 Q. And now I'm asking you on page 20 of 72 about a reported
9 suicide attempt again at Spring Ridge Academy on October 13th,
10 2019. Was that the same girl who had cut herself that I asked
11 you about earlier or a different one?

12 A. Give me a minute to read it, please.

13 Can you repeat the question?

14 Q. Was -- I think we had a police report about a suicide
15 attempt in 2019 before this one. Was this the same girl or a
16 different girl?

17 A. I don't know.

18 Q. Do you know whether this girl returned to Spring Ridge
19 Academy or did she go home?

20 A. I believe this young person may have gone to a different
21 program that was a little more restrictive. And for clarity,
22 any kind of self-harm the Sheriff's Department refers to as
23 "suicidal behavior" when I might disagree. They are not as
24 familiar with self-injurious behavior.

25 Q. Now I am talking about October 28th, 2019, page 26. It

1 appears that -- it is a rather long report, and you were
2 interviewed. Do you recall an incident where one of your
3 students had a concussion on the volleyball court, was
4 suffering head injuries, had a seizure, was taken by ambulance
5 to the hospital?

6 A. Let me read this.

7 Q. Okay.

8 A. This notes that Susan Coatney was talked to. I am Suzie
9 Courtney.

10 Q. Is there a Susan Coatney?

11 A. There was at one point.

12 Q. So you don't recall this incident?

13 A. I do recall the incident.

14 Q. What do you recall about it?

15 A. I recall that a young -- a student needed to be transported
16 after having a concussion, and we always have a staff member go
17 with a student obviously. And while waiting for medical
18 treatment, she disclosed to our staff member that she believed
19 that one of the EMTs touched her inappropriately, so we made a
20 report.

21 Q. Well, the report actually says that she had suffered a
22 concussion either days or weeks prior, had been suffering
23 symptoms at Spring Ridge Academy, and then was taken because
24 she had a seizure. Wouldn't that be more accurate?

25 A. I don't recall that.

1 Q. It was also reported by your staff that this was Spring
2 Ridge Academy's regular ambulance driver that they knew?

3 A. I don't know if a staff member reported that. I can tell
4 you that the Mayer Fire Department and associated ambulance
5 crew is a small crew, and we were very familiar with them, as
6 they would come over for barbecues. We cooked them
7 Thanksgiving dinner. We had a great relationship and in close
8 contact. They also did our fire inspections, so we knew them
9 well.

10 Q. Did you have the same relationship with the Yavapai County
11 Sheriff's?

12 A. We had a pretty close relationship, yes.

13 Q. Is there any reason that in most, if not all, of the
14 reports when a girl runs away, that they are informed that
15 Spring Ridge Academy is their legal guardian?

16 A. They are not informed that Spring Ridge Academy is their
17 legal guardian. They put us in that category because the
18 guardians aren't present. We do not inform them of that. They
19 are very aware with our practices.

20 Q. Now, I'm going to April 1st, 2020. And just to set the
21 time period for you, this is when Ms. Sweidy is in the middle
22 of getting ready for a court hearing on April 7th, 2020 so we
23 got some context.

24 MR. SMITH: I beg your pardon, Counsel. What page are
25 we on?

1 MS. ALLARD: I'm sorry, page 42.

2 MR. SMITH: Thank you.

3 BY MS. ALLARD:

4 Q. Do you know anything about a Jenny Velasquez who showed up
5 at Spring Ridge Academy during COVID to get her daughter
6 removed from campus because she had no idea that she was even
7 there?

8 A. I am going to take a moment to read this.

9 Q. Okay.

10 A. I'm finished reading.

11 Q. Do you know who Jenny Velasquez is?

12 A. I do.

13 Q. How did you come to find out who she was?

14 A. I saw this document in the information that you supplied to
15 us in anticipation of this trial.

16 Q. So one assumption that I am going to make is that before
17 Jenny Velasquez went to the Yavapai County Sheriff's Department
18 to retrieve her daughter, she called Spring Ridge Academy. Did
19 you get a call from her?

20 A. I do not think we got a call. I am not aware that we did.

21 Q. So other than seeing her name in a police report, you don't
22 know who she is?

23 A. I believe I know the relationships.

24 Q. What do you know about this situation where she claims that
25 her daughter was illegally taken out of California and placed

1 at Spring Ridge Academy by her father without her knowledge?

2 A. I don't feel very comfortable talking about another
3 family's issues publicly.

4 Q. Do you feel comfortable in keeping the child of a mother
5 without understanding the law in California?

6 A. In this situation, the child was very appropriate to be
7 with us, and I think it says very clearly that she didn't have
8 custodial rights. And if I read this correctly, I think this
9 was a phone call, not a personal visit.

10 Q. My question wasn't what your interpretation of a custodial
11 order is. My question is: Do you feel comfortable as an
12 administrator of a residential boarding school in the middle of
13 the desert, keeping somebody's child from them without knowing
14 the law in California?

15 A. I would like to answer this question, but I don't really
16 want to give a lot of private information about this family or
17 potentially someone's mental health.

18 Q. Well, I'm going to ask you more specific questions that may
19 help you. Do you know the law on move-aways in California?

20 A. No.

21 Q. Do you know the law on ex partes in California?

22 A. No.

23 Q. Do you know anything about the law in California?

24 A. No.

25 Q. Did you consult an attorney in California or a judge in

1 California in keeping this daughter from her mother?

2 A. Why would I consult an attorney on something that didn't
3 come to my attention until getting ready for this trial?

4 Q. Shouldn't you be understanding custody agreements when you
5 enroll a student at Spring Ridge Academy?

6 A. If there is a custody agreement that's not clear, we have
7 our counsel review it.

8 Q. Somebody who doesn't practice family law in Arizona? Is
9 that who that is?

10 A. The attorney I use is competent in that area of reviewing
11 those kinds of documents.

12 Q. Is he a California family law attorney?

13 MR. SMITH: Objection. Relevance.

14 THE COURT: Overruled.

15 You may respond.

16 THE WITNESS: He's an Arizona attorney.

17 BY MS. ALLARD:

18 Q. Who does not practice or has never practiced family law,
19 correct?

20 A. I don't know.

21 Q. Showing you exhibit -- I'm sorry, wrong one. Well, we can
22 start with that one.

23 Have you seen Exhibit 77 before?

24 THE COURT: Hold on. Don't publish exhibits until you
25 ask for publication so we can make sure that it's received into

1 evidence. 77 has been received. You may publish.

2 MS. ALLARD: Thank you.

3 THE COURT: You're welcome.

4 MS. ALLARD: I'm sorry to bother the Court, but I
5 actually put the wrong one on there. I'm going to have to give
6 you another number.

7 THE COURT: Ladies and gentlemen, this is actually the
8 perfect time to take our morning recess. Court is in recess
9 until 10:45. Please don't talk about the case.

10 All rise for the jury. Court is in recess until
11 10:45.

12 MS. SWEIDY: Ms. Williams? May I please have
13 permission to -- I beg your pardon, Your Honor.

14 (The jury leaves the courtroom.)

15 THE COURT: We are on the record.

16 MS. SWEIDY: I thought we were off.

17 THE COURT: Court will come to order. The jury is
18 leaving the courtroom.

19 Yes, Counsel.

20 MS. SWEIDY: Oh, I am so sorry, Your Honor. I was
21 just going to ask Ms. Williams permission to approach with the
22 impeachment envelopes that I needed to give her for the
23 documents that you had indicated this morning.

24 THE COURT: Of course.

25 MS. SWEIDY: I'm so sorry. I didn't mean to bother

1 you.

2 THE COURT: It's my job to answer questions.

3 MS. SWEIDY: Thank you so much.

4 THE COURT: All right. Court is in recess.

5 (Recess taken at 10:22 a.m.; resumes at 10:47 a.m.)

6 THE COURT: Court will come to order. The jury is
7 present. Please continue.

8 BY MS. ALLARD:

9 Q. Going back briefly to your Parent Manual where you
10 paraphrase or put portions of the 2019 residents' rights
11 regulation in the manual. I'm putting your brain on that
12 again.

13 In looking at that, it appears that consistently
14 throughout the years that the State requires that if you are
15 going to restrict phone calls and contact, you have to have a
16 specific reason documented in the resident's file, and that's
17 what you put in the Parent Manual, correct?

18 A. Can you rephrase that question for me?

19 Q. Sure. You know that you can't restrict phone calls at
20 Spring Ridge Academy according to state licensing without
21 documenting a treatment purpose for that in each child's file?

22 A. I have a little bit of a different interpretation based on
23 my relationship with the State.

24 Q. Well, is that a "yes" or "no"?

25 A. It's neither.

1 Q. Okay. So what's your interpretation of Section "c" and "d"
2 in 2019 of R9-10-711 as reflected and paraphrased in Exhibit 7
3 by you, page 36.

4 A. Can you give me the numbers again?

5 Q. R9-10-711, section "c" and "d" -- well, "b", "c," and "d."

6 A. I don't see anything about phone calls in those sections.
7 On page 36?

8 Q. I'm showing you page 36 -- yes, 36 at the bottom, it
9 says -- and you've paraphrased "c" and "d," but you call it 3f.
10 It says: If the therapist, at the direction of the clinical
11 director, determines that a resident's treatment requires the
12 behavioral health residential facility to restrict the
13 resident's ability to participate in the activities in 3.a.,
14 b., c., d., the therapist shall comply with the following
15 requirements.

16 So apparently -- and when I look up there, I see
17 associate in "a" that's associate with individuals of
18 resident's choice. In "b" that's have privacy in
19 correspondence and communication. So I read that as a
20 reference to restricting phone calls.

21 Do you read it the same way?

22 A. So, if you were to restrict -- let's, for example, a young
23 person's mail, so on rare occasion we would have a guardian, a
24 family member say, I need help with communicating with my
25 daughter by mail. They're writing me things. I'm not sure how

1 to, you know, respond.

2 So for us to be able to read that mail, incoming or
3 outgoing, we have something called a Client Right Restriction
4 Form that the family would sign that would go in the student's
5 file. And that's what that is referencing.

6 Q. Well, you have published Phase 1 conditions that the
7 children are not allowed to have privacy in the phone calls
8 with their parents, correct?

9 A. There is typically someone there unless the guardian says,
10 I'd like a private conversation, in which case we would allow
11 it.

12 Q. Ms. Sweidy asked you for a private conversation with her
13 daughter when she found out she was sick with viral symptoms
14 after COVID broke out; do you remember that?

15 A. No.

16 Q. In fact, she asked you specifically for that private
17 conversation and you did not respond to that request; do you
18 recall that?

19 A. I don't recall that request.

20 Q. So going back to what Spring Ridge Academy represents here
21 on page 36, if there's going to be a restriction in "a,"
22 associating with individuals, "b," privacy in communication,
23 "d," mail and telephone usage.

24 A. Uh-huh.

25 Q. So the time you use the telephone is different than the

1 manner in which you use the telephone, correct?

2 A. I'm not sure I understand what you're saying.

3 Q. You understand that it's your Phase 1 policy that the
4 students are only allowed to speak to their parents on
5 speakerphone? They have to have it on speakerphone to be
6 monitored? In fact, the manual says "monitored."

7 A. So yes, the students have a staff member there for
8 assistance if needed.

9 Q. And they have to have the phone on speaker, correct?

10 A. There are times it wasn't on speaker.

11 Q. Well, the manual says "monitored," correct?

12 A. Correct.

13 Q. So what specific treatment purpose was documented in
14 your -- in any of your students' records to justify that?

15 A. So the way you are interpreting this and the way the State
16 has given us discretion and --

17 MS. ALLARD: Motion to strike. Nonresponsive.

18 THE COURT: The objection is sustained.

19 Ladies and gentlemen, please disregard everything the
20 witness just started saying on the record.

21 Please ask the question again.

22 Ma'am, if you could kindly just listen to the question
23 and just answer the question.

24 THE WITNESS: Okay.

25 THE COURT: You tend to listen to a question and then

1 you go into this large narrative, and oftentimes you drift
2 around. So if you could just focus on the question, please.

3 THE WITNESS: Okay.

4 THE COURT: Thank you.

5 BY MS. ALLARD:

6 Q. What specific treatment purpose is documented in the
7 residents' medical record justifying the restriction of privacy
8 in telephone communication?

9 A. By the parents signing off on enrollment that includes the
10 acceptance of the protocols at hand, including the telephone
11 procedures.

12 Q. So again -- I take the answer to be that there is no
13 documentation of a specific treatment purpose in any of the
14 residents' medical files to justify restriction of privacy in
15 telephone communication?

16 A. Is that a question?

17 Q. Well, is any of that documented?

18 A. I have already answered that question.

19 Q. You didn't answer the question. The question is very
20 specific.

21 Is there -- or does Spring Ridge Academy document
22 specific treatment purposes in their residents' medical records
23 that justify restriction of privacy in phone calls?

24 A. Yes.

25 Q. And what is that?

1 A. By signing the documents to enroll in Spring Ridge Academy
2 that satisfies that need.

3 Q. You are referring to a Parent Manual and an Enrollment
4 Agreement?

5 A. Correct.

6 Q. Nothing else?

7 A. Consent to Treat is signed, additionally.

8 Q. So there is no note in Rearden Sweidy Stata's file, medical
9 file, anywhere that specifies why she needs to comply with your
10 phase program?

11 A. All those documents are a part of the medical record.

12 Q. So when you say "all those documents," I want to make sure
13 I understand what they are, it is the Parent Manual and the
14 Enrollment Agreement and that's it -- and the Consent to
15 Treatment?

16 A. The consent to treatment and the Enrollment Agreement.

17 Q. And does the consent to treatment, is there a Consent to
18 Treatment form?

19 A. Yes.

20 Q. And what does the form say?

21 A. Well, I would need to look at it to represent it
22 accurately, but it is noting typically the therapist and
23 treatment modalities.

24 Q. But it doesn't have any language about a reason to restrict
25 phone calls or anything like that, does it?

1 A. I would need to look at the document to accurately reflect
2 the entirety of the document.

3 Q. So how many times have you reviewed that document for year
4 to year working at Spring Ridge Academy?

5 A. Frequently.

6 Q. And so you would recall if there was a specific
7 acknowledgment that Spring Ridge Academy policies are not in
8 accordance with this particular Arizona Regulation R9-10-711?

9 A. Can you repeat the question, please?

10 Q. Did you have parents acknowledge that your telephone
11 policies are not in accordance with R9-10-711?

12 A. We are in alignment with the State regulations as it
13 relates to that specific statute.

14 Q. Did you inform the parents that you do not document a
15 specific treatment purpose in their child's medical record?

16 A. There's no need to do that. Your interpretation is
17 different.

18 Q. Back to court. I'm showing you what's been admitted as 77.

19 THE COURT: Go ahead.

20 BY MS. ALLARD:

21 Q. How did you become aware -- or how did you get involved in
22 a court hearing on Rearden Sweidy Stata when her mother removed
23 her from Spring Ridge Academy?

24 A. I was not involved in a court hearing.

25 Q. How did documents kept on Spring Ridge Academy's BestNotes

1 portal end up in California if Ms. Sweidy didn't provide them?

2 A. I don't know.

3 Q. Did you provide -- let me ask you this.

4 Documents like FYIs are not available to parents,
5 correct?

6 A. We've provided them to different parents at request over
7 the years.

8 Q. But they are not accessible on BestNotes from the parents'
9 end?

10 A. Correct.

11 Q. My first question is this: Exhibit A of this particular
12 document -- it starts on page 17. Do you recognize --

13 MS. SWEIDY: This is Exhibit B, please.

14 THE COURT: Who was just talking?

15 MS. SWEIDY: I apologize, Your Honor, Kimberly Sweidy,
16 co-counsel with Ms. Allard. I was --

17 MS. ALLARD: It's B.

18 THE COURT: We can't have random lawyers just talking
19 on the record. We have one lawyer at the lectern talking. If
20 you need to talk to her, just walk up to her. I can't have
21 random people just talking, okay?

22 MS. SWEIDY: I apologize, and I will respect your
23 protocol, of course, Your Honor. That makes sense. Thank you.

24 BY MS. ALLARD:

25 Q. It was marked as Exhibit B in family court in California,

1 but it appears to be a Spring Ridge Academy document; do you
2 recognize it?

3 A. Could you push it down so I could see the top?

4 Q. Sorry.

5 A. Thanks. I do recognize that document.

6 Q. What is it?

7 A. It's an application.

8 Q. To Spring Ridge Academy?

9 A. Correct.

10 Q. Did you give this to the Court?

11 A. No.

12 Q. Did you give it to Mr. Stata?

13 A. No.

14 Q. Did you give it to Mr. Stata's attorneys?

15 A. No.

16 Q. Do you understand -- do you know who prepared this
17 document?

18 A. It would be in the record prepared by the parents, I
19 assume.

20 Q. I will now show you Exhibit E. Do you recognize Exhibit E?

21 A. Could I see the top of the document? Thanks. It is the
22 enrollment.

23 Q. Where is that agreement maintained?

24 A. It's part of the record in BestNotes.

25 Q. Did you provide this document to Mr. Stata and his

1 attorneys and the court?

2 A. No.

3 Q. I am showing you Exhibit F. Do you recognize Exhibit F?

4 A. I do.

5 Q. What is it?

6 A. It's a form that at times we have families sign when they
7 withdraw a student.

8 Q. Were you present when it was signed?

9 A. I was not.

10 Q. Do you know the circumstances under which it was signed?

11 A. Can you rephrase that?

12 Q. Where is this form kept at the school?

13 A. After it's completed or before?

14 Q. Well, do you understand that Ms. Sweidy's signature is on
15 here the date that she took her daughter?

16 A. Yes.

17 Q. And do you have a policy as to -- that every student who
18 leaves needs to sign this form -- or their parent does?

19 A. Not every student.

20 Q. Do you know if this -- this is not -- this is a hard copy
21 form, like kept in a desk somewhere?

22 A. I would imagine it's kept electronically.

23 Q. And that in order for it to get signed, it's got to be
24 printed out?

25 A. I would think so.

1 Q. Okay. Do you know how this form ended up in Mr. Stata's
2 filing?

3 A. I don't.

4 Q. Did you provide it to him?

5 A. No.

6 Q. Did you instruct your staff to provide it to him?

7 A. No.

8 Q. I'm showing you Exhibit G. Do you recognize that document?

9 A. Yes.

10 Q. It's an SRA FYI record?

11 A. Yes.

12 Q. Is that a yes?

13 A. Yes.

14 Q. Maintained, as it indicates at the top, in BestNotes?

15 A. Yes.

16 Q. And it's your testimony parents do not have access to this
17 information on BestNotes?

18 A. Yes.

19 Q. So the only way this could have made it to court would be
20 through Spring Ridge Academy employees, correct?

21 A. I don't know.

22 Q. So how else would a document that's not available to
23 parents make it off BestNotes into the public forum of Superior
24 Court in California?

25 A. I don't know.

1 Q. Wouldn't you agree that someone at Spring Ridge Academy
2 would have had to download it from BestNotes?

3 A. No.

4 Q. Well, how else could it happen?

5 A. I have no idea.

6 Q. So why is it you say that, no, you wouldn't agree that it
7 would come from the school's end?

8 A. Because I have no idea how it happened, and if I were to
9 answer that question with a "yes," it would seem like I would
10 know how it happened.

11 Q. Okay. On page 44 it appears there's an FYI prepared by
12 Erin Smith; do you see that?

13 A. I do.

14 Q. And so she prepared an FYI, and if she did that, would she
15 be uploading it and making it available in BestNotes?

16 A. Typically, yes.

17 Q. Right. So it's possible that Erin Smith provided the
18 document?

19 A. That would be very surprising to me.

20 Q. On page 46 there's another employee, Stephanie Balictar.
21 Do you know who that is?

22 A. I do.

23 Q. Who's that?

24 A. She was our administrative person.

25 Q. So it appears this form was prepared by her and uploaded to

1 BestNotes, correct, or typed right into Bestnotes. How is that
2 done?

3 A. I think it can be done either way.

4 Q. Do you recall preparing a statement for Mr. Stata to use in
5 his ex parte filing?

6 A. No.

7 Q. Do you recall preparing a statement for him to use at the
8 hearing in April?

9 A. No.

10 Q. I'm showing you page 64. Do you know who Susan Dougherty
11 is?

12 A. I do.

13 Q. Do you know -- did you provide her with Mr. Stata's
14 personal email?

15 A. I did not.

16 Q. Do you know how it was that -- and why it was she was
17 communicating with him at 7:16 p.m. on the day Ms. Sweidy
18 removed her daughter?

19 A. No.

20 Q. I previously asked you if you recall making a statement for
21 Mr. Stata's filing. Do you recognize page 68 of his filing,
22 which is displayed currently for you?

23 A. Yeah, let me -- I'll take a look at it. Could you repeat
24 your question?

25 Q. Well, my previous question that you answered "no" to was

1 whether you provided a statement for him to use in his filing.
2 You answered "no." Are you going to revise that based on
3 looking at page 68?

4 A. No, I am not going to revise that.

5 Q. Why not?

6 A. Because this is an email I sent to Raymie.

7 Q. Was it -- does the language in the email appear addressed
8 to him, or does it appear to be addressed to a third party who
9 wants information?

10 A. Appears to be addressed to him.

11 Q. It says: The therapeutic program at Spring Ridge builds to
12 completion, allowing student and families the opportunity to
13 practice skills needed for managing life after treatment and to
14 have adequate support services in place before a student
15 transitions.

16 So your testimony is that was addressed to Mr. Stata
17 and not for him to use in court?

18 A. Correct.

19 Q. Then you wrote at the bottom: Lack of consistency and
20 continuity in therapeutic and academic work can be disruptive
21 to a young person like Rearden.

22 That's what you addressed to her father?

23 A. Correct.

24 Q. At some point in time, did you become aware that the first
25 court hearing on that happened -- was to be scheduled for

1 April?

2 A. I don't recall.

3 Q. After Rearden was returned, you drafted a letter of
4 conditions that cut off contact between the mother and
5 daughter. Why did you do that?

6 A. I didn't cut off contact. I gave Rearden the role of
7 indicating when she was ready for contact.

8 Q. I'm showing you Exhibit 59.

9 A. Okay.

10 Q. First, a little background --

11 THE COURT: 59 is in evidence. You may publish.

12 BY MS. ALLARD:

13 Q. How many versions of what ultimately was published to
14 Ms. Sweidy did you create?

15 A. I don't know.

16 Q. I'm going to show you page 4 of Exhibit 59. Do you recall
17 item number 4: Kimberly will not engage with any direct,
18 verbal, written, or electronic communications with current
19 parents or students or alumni parents or students.

20 Do you remember that being a version that you
21 prepared?

22 A. I don't honestly know.

23 Q. What's your recollection of Ms. Sweidy's ability to get
24 information about her daughter based on this letter?

25 A. Which letter are you referencing?

1 Q. The one dated February 25th that I just showed you.

2 A. Repeat your question, please.

3 Q. What's your recollection of how it was that this time,
4 February 25th, 2020, that Ms. Sweidy was either to get
5 information about her daughter or speak to her daughter?

6 A. So we -- I set up a protocol where she was to make a
7 request through me, and I would make sure that those requests
8 got handled.

9 Q. It says: In acknowledgment of Kimberly's rejection of
10 Spring Ridge Academy services, we will not provide therapeutic
11 services.

12 At any time, were you informed that Veronica Borges
13 had canceled her family therapy?

14 A. I don't recall that kind of specific.

15 Q. At any time did Veronica Borges ask for your direction on
16 what to do that -- with respect to family therapy and
17 Ms. Sweidy's participation?

18 A. I recall a little bit loosely us having some dialogue on
19 how to best engage with Ms. Sweidy.

20 Q. Do you recall reaching out to Ms. Sweidy at all to
21 reschedule family therapy with her?

22 A. I don't recall.

23 Q. The letter further states that Spring Ridge Academy will
24 provide Kimberly a written therapeutic and residential monthly
25 update via a third party.

1 Did you do that?

2 A. Yes.

3 Q. What third party?

4 A. BestNotes.

5 Q. And then the other term was: After Rearden has resettled
6 into the Spring Ridge Academy environment and engaged in her
7 therapeutic process, Rearden will determine a level of
8 communication with Kimberly that she is comfortable with,
9 telephonically and letter writing.

10 Is that a term you put in there?

11 A. Yes.

12 Q. Did you attempt to influence Rearden not to do that?

13 A. Not at all.

14 Q. Did it come to your attention from your staff that a court
15 investigator from California wanted to interview Rearden alone?

16 A. Yes.

17 Q. Isn't it true that you and your husband Brandon met with
18 her once or twice before she had the call with the court
19 investigator Matt Gibson?

20 A. So the court investigator contacted me directly to schedule
21 that call with Rearden, so I did meet with Rearden to schedule
22 that call between she and the court person.

23 Q. What did you say to her?

24 A. I told her that we needed to schedule a call, and that she
25 can choose the location of the call, and she gave me what would

1 work best for her. I returned the call to the investigator,
2 and then the call happened.

3 Q. Isn't it true that you and your husband both met with
4 Rearden more than once?

5 A. It would be common for me to meet with students all the
6 time.

7 Q. For the purposes of discussing what she would tell the
8 court, did you meet with her twice for that purpose?

9 A. No.

10 Q. Did you ask Veronica Borges to make a report especially for
11 court?

12 A. No.

13 Q. Is there any reason that she would have been emailing you
14 progress reports instead of uploading BestNotes?

15 A. I wanted to assure that the agreement we made with the
16 parent was being kept, so she -- I asked for evidence that the
17 reports were happening so that I knew we were providing our end
18 of the agreement.

19 Q. Isn't it true that Ms. Sweidy had no access to the progress
20 reports that Veronica Borges was making on a daily basis?

21 A. I am not aware of that.

22 Q. You are not aware of what?

23 A. That any -- that she had no access to the progress reports.

24 Q. Well, isn't it true that no parent has access to progress
25 reports?

1 A. Okay. I think I misunderstood your question. Could you
2 repeat it?

3 Q. Veronica Borges keeps a record called a "progress report"
4 every time she either meets with the child or the child's
5 parents, correct?

6 A. Yes.

7 Q. And Ms. Sweidy had no access to that information, correct?

8 A. No parent has access to that information.

9 Q. You also had a provision in number 3 that Kimberly will not
10 visit the Spring Ridge Academy campus.

11 Why did you put that provision in there?

12 A. Because Kimberly was highly disruptive to our entire
13 campus, students and faculty and staff when she showed up
14 unannounced with sheriff officers to remove her daughter. It
15 was highly disruptive. And based on previous communication we
16 had with her and the difficulty in communicating
17 collaboratively with her, we needed to set that boundary.

18 Q. Were you a witness to a feedback circle conducted
19 school-wide when her daughter returned to criticize Ms. Sweidy
20 in front of her daughter and the entire school?

21 A. No.

22 Q. And when you say Ms. Sweidy was disruptive when she picked
23 up her daughter, you don't mean to testify that she was
24 verbally disruptive when she showed up at the school now, do
25 you?

1 A. I didn't say "verbally disruptive."

2 Q. Okay. And you didn't mean to say that she was rude or
3 inappropriate with any of your staff now, do you?

4 A. No.

5 Q. What you are saying is that it was just disruptive that she
6 took her daughter?

7 A. It was disruptive, and it is an extreme situation to show
8 up with Yavapai County Sheriff's Officers to remove your
9 daughter. That's -- we have never in 25 years seen something
10 of that magnitude.

11 Q. You have girls cutting themselves and going to the
12 emergency room and running away and kicking police officers in
13 the face and you are saying a mother calmly taking her daughter
14 home is disruptive?

15 A. Showing up unannounced with sheriff officers is atypical.
16 We have a student body who has mental health needs. We treat
17 self-injurious behavior. Our students have difficulty with
18 impulsivity. They tend to be reactive and struggle to
19 emotionally regulate, and at times that leads them to making
20 impulsive decisions that they haven't thought through, like
21 running off campus.

22 Q. Then you have this provision: Any violation of these
23 protocols, verbal or written communication with Spring Ridge
24 staff that is combative, threatening, or a distraction from the
25 treatment process -- we just heard what your example is -- will

1 result in the termination of all communication between Spring
2 Ridge and the parent.

3 That's what you wrote?

4 A. Yes, I did.

5 Q. Where and what authority under the laws of any state do you
6 think that you have the authority to put a provision on like
7 that in this?

8 A. I have the authority over the facility, and we can ask for
9 a certain demeanor of behavior and expectation.

10 Q. So the court in California in April issued another order.
11 Do you recall getting that order?

12 A. I would probably need the specifics about the order to
13 recall.

14 Q. Well, the basics were that mother was to have the same
15 access to information and contact with her dad as father. Do
16 you recall the basics on that?

17 MR. SMITH: Excuse me, Your Honor. Foundation. She
18 is requesting to see the document. I would request --

19 THE COURT: Sorry, Counsel. Can you repeat whatever
20 you are saying?

21 MR. SMITH: Objection. Foundation. My client has
22 requested to see the document. I would request that she be
23 provided it so that she can answer the question.

24 THE COURT: That's overruled.

25 Please continue.

1 BY MS. ALLARD:

2 Q. Do you recall the judge in California, after the first
3 hearing in this matter, had to issue an order; do you recall
4 that?

5 A. I don't recall what the order said. There was lots of
6 paperwork in this case, and it's difficult to keep track of all
7 of it in my head.

8 MS. ALLARD: Exhibit 99, Your Honor.

9 THE COURT: Just one moment. 99 is in evidence. You
10 may publish it, and you may lead.

11 BY MS. ALLARD:

12 Q. You recognize this document?

13 A. I believe so.

14 Q. Ms. Sweidy emailed it to you when it was published by the
15 court?

16 A. I don't remember how I received it.

17 Q. Well, I mean, wouldn't it -- isn't it true that you
18 received -- on the day of the hearing, you received an email
19 from Ms. Sweidy representing the court's ruling; do you recall
20 getting that email?

21 A. I don't.

22 Q. And it takes a while for the courts to process a formal
23 order, so several weeks later you were provided a copy of the
24 formal order?

25 A. Okay.

1 Q. Now, Ms. Courtney, you worked with judges in chambers,
2 right?

3 A. I did a very long time ago when I worked for CPS, yes.

4 Q. And in that courthouse, you got invited in in the back to
5 make recommendations for child placement to the judges
6 directly, right?

7 A. At times, yeah.

8 Q. So you're familiar with the courts and how they work,
9 aren't you?

10 A. I'm not very familiar.

11 THE COURT: Sidebar.

12 (The following sidebar discussion is held:)

13 THE COURT: When the witnesses were all deposed, was
14 this similar to when they responded, that they basically know
15 nothing about anything?

16 MS. ALLARD: Yes.

17 THE COURT: Do we have additional witnesses that will
18 take just hours and hours because they don't know anything
19 about anything and every single line of everything has to be
20 brought to their attention?

21 MS. SWEIDY: Well, you have to ask -- Kimberly Sweidy.
22 You'll have to ask counsel, because those are not our
23 witnesses. Our witnesses will not be doing that, I assure you,
24 Your Honor. They will be concise, to the point, and I think
25 you will find it much more appropriate paced. Excuse me.

1 THE COURT: What I am going to do now, because of --
2 I'm sorry, Ms. Allard. I cut you off. Go ahead.

3 MS. ALLARD: I wanted to relieve the Court's concerns.
4 I have good-faith belief on my part that we will be done with
5 the SRA witnesses Monday.

6 THE COURT: Well, the reason -- we don't have court on
7 Mondays.

8 MS. ALLARD: I'm sorry, Tuesday.

9 THE COURT: So you guys can go back to California
10 wherever you are living.

11 MS. SWEIDY: Kimberly Sweidy, thank you, Your Honor.
12 We are going back every weekend.

13 THE COURT: Well, it's apparent to me from what I've
14 heard out of all of the witnesses, I mean, obviously they're
15 defense witnesses, but they are somewhat hostile. And, you
16 know, if you have additional witnesses that are defense
17 witnesses, if you request to take them as hostile witnesses,
18 you can lead and you can place information into the record, and
19 I think that will move it along.

20 MS. SWEIDY: Your Honor, Kimberly Sweidy. We have
21 people coming in, our witnesses, from all over the world,
22 including South Africa and England. And I would really like --
23 this has been delayed, I feel, on purpose, and maybe I'm wrong.

24 But we really do need to get our witnesses on the
25 stand on Tuesday because of the distance that all of them are

1 traveling. They are not local like these. So if we could do
2 something to just get the point across, exactly like you are
3 saying --

4 THE COURT: I don't -- I understand what you are
5 saying, Ms. Sweidy, and I certainly understand what Ms. Allard
6 is doing, but it's -- I mean, I'm pretty confident that these
7 two gentlemen didn't tell their witnesses to -- you know, that
8 you don't know anything.

9 I mean, you -- if you run an operation, you have
10 people that are working for the operation, but you would think
11 that the top people would know more, but I can't tell them, you
12 know, what to say on the stand.

13 I mean, I'm not saying any of the witnesses are being
14 false with what they're saying, it's just kind of difficult to
15 follow when there's almost nothing they know and you have to go
16 through every line of almost every single document.

17 Mr. Grasso or Mr. Smith, do you have any advice or any
18 guidance or any thoughts? Because the reason I bring it up is
19 I want -- if you have 37 witnesses, I think it's only fair to
20 make sure all 37 witnesses in the case have an opportunity, and
21 we have over 200 exhibits.

22 And I also want to make sure that the defense has
23 ample opportunity to do what they need to do, because we only
24 have three weeks, and I want to make sure everything is dealt
25 with.

1 And Mr. Smith, I really appreciate it how you, during
2 your cross-examinations of your own witnesses, you can -- you
3 did some direct examining to lay some foundational issues,
4 which I appreciate, because that saved some time so you are not
5 recalling all of the defense witnesses during the defendants'
6 case.

7 MR. SMITH: Yes, sir.

8 THE COURT: So thank you for that.

9 MR. SMITH: Yes, sir.

10 MR. GRASSO: May I?

11 THE COURT: Sure, both of you, if you're ready.

12 MR. GRASSO: Your Honor, Robert Grasso. We are very
13 much interested in moving this case along. We stipulated to
14 approximately 90 percent of the plaintiff's exhibits before
15 trial.

16 THE COURT: And trust me, the Court really appreciated
17 what you did. Thank you.

18 MR. GRASSO: We have --

19 THE COURT: Both sides.

20 MR. GRASSO: Thank you, Your Honor. We have
21 repeatedly reached out to plaintiffs because I had concerns
22 from the beginning about the number of witnesses and the pace
23 we're making, and I'm hoping that I can get a more accurate
24 layout before we leave today so that we can -- a lot of our
25 witnesses are from out of town, and we have been working very

1 hard to make them available.

2 They are traveling -- and I understand that it's an
3 inconvenience, but we are doing our fair share, even though
4 they are being called by the plaintiffs, to make sure that
5 things move along.

6 MS. ALLARD: I can just speak. I have no objection to
7 direct examination being done on cross, and I guess my inquiry
8 would be, is this the extent of what you are going to do or are
9 you re-calling them?

10 MR. GRASSO: Until I know more about what -- next week
11 they're calling a number of witnesses, Your Honor, that were
12 not deposed. It is possible that we may have to re-call
13 people. But I can assure the Court, in 31 years of practicing,
14 I try to get things to the jury as quickly as possible because
15 I believe juries get frustrated with things that are dragging
16 on.

17 THE COURT: Well, I certainly appreciate that. And in
18 33 years, I mean, I have just never seen this kind of pace when
19 I have four incredibly experienced lawyers and knowing who the
20 witnesses would be on the stand and this kind of thing going
21 on.

22 And I am not accusing you of telling your witnesses to
23 become obstructionists and say they know nothing about their
24 own operation, but it's tough to watch.

25 And I can't tell you what the jury is thinking, but

1 it's -- it's hard to follow, because everything is, "I don't
2 know," and then you have to drag a document out and you have to
3 refresh everything about their jobs basically.

4 But I am not accusing anyone of doing anything wrong.
5 I just want to make sure -- you all have 12 trial days and
6 that's --

7 MR. GRASSO: I wasn't done talking. Excuse me. I
8 have more --

9 THE COURT: Don't -- don't snap at --

10 MR. GRASSO: I didn't mean to, Your Honor.

11 THE COURT: Don't snap at her like that, okay? I
12 don't know what you are used to --

13 MR. GRASSO: She --

14 THE COURT: Whoa, whoa, whoa. Stop for a moment.
15 Stop for a moment. Stop for a moment. It is a really small
16 area. Don't snap at anyone here, okay?

17 Are you okay?

18 MS. SWEIDY: I am fine. Thank you, Your Honor.

19 THE COURT: Sorry, Mr. Grasso, go ahead, please.

20 MR. GRASSO: Your Honor -- and I do believe that a lot
21 of the questioning, we have been diving into issues and
22 licensing violations that were in 2022. Her daughter graduated
23 in 2020.

24 We have been trying to be very flexible to give
25 plaintiffs the opportunity to fully present their case based on

1 your ruling in the motion in limine that some of this stuff
2 could relate back to the core issues in the case.

3 But I do -- I do think we are venturing into a lot of
4 areas that are not really directly germane or relevant to the
5 key issues in the case.

6 Your Honor's ruling on the motion for summary judgment
7 did pare down the case, and during the final pretrial
8 conference, Your Honor, I have the transcript, counseled all of
9 us that the case has been substantially pared down, which
10 should give us an opportunity to be focused on the evidence for
11 the jury on the three remaining claims.

12 THE COURT: Well, let me stop you there. And I
13 appreciate what both of you are saying, and that's the reason
14 why I made the comments last fall, because we have three issues
15 to resolve. But I can't tell you all how to litigate your
16 respective positions.

17 But what I can tell you is that at this pace, there's
18 literally no way to get through this in five months, let alone
19 three weeks with four trial days each week.

20 MR. GRASSO: May I make a suggestion, Your Honor?

21 THE COURT: Go ahead.

22 MR. GRASSO: Your Honor, I suggest that once we get at
23 the end of the day today, I -- my practice is I would love to
24 have a discussion -- and sometimes the discussions have been
25 challenging -- and we lay out exactly what the plan is for next

1 week.

2 I will do everything in my power to help facilitate --
3 if there's witnesses that I can control. Get people to come
4 back. Get here early. I will do everything I can. I want to
5 get this case to the jury as quickly as possible.

6 But it's going to require some coordination. I need
7 advance notice of who they are calling and a layout of the
8 schedule.

9 In my experience, when we get to this stage, given
10 experienced counsel, I think they should know exactly who they
11 are going to call and a better estimate of how long they are
12 going to take with the witnesses and we can try to chart it out
13 as well as we can, and I will work cooperatively with them to
14 accomplish it.

15 THE COURT: Ms. Sweidy, you wanted to tell me
16 something a moment ago.

17 MS. SWEIDY: Yes. Kimberly Sweidy. The first thing
18 is that I know there's 37 witnesses listed, but we are not
19 calling 37 witnesses. So I hope that that puts your heart at
20 peace that it's way pared down.

21 THE COURT: No, my heart is at peace. I mean, if we
22 get to -- I am too old.

23 MS. SWEIDY: Me too, me too.

24 THE COURT: I am 58.

25 MS. SWEIDY: I am way older than you.

1 THE COURT: Well, I will just tell you, I am not dying
2 for any any of you.

3 MS. SWEIDY: I am so happy to hear that. But first of
4 all, it is not going to be that. Second of all, if they
5 haven't deposed people, that's on them.

6 These representations to the Court that we relied on
7 declarations, that's why we didn't depose. Well, how could you
8 rely on declarations that we created two and a half months
9 after the deadline?

10 THE COURT: But let me just stop you.

11 MS. SWEIDY: It has been impossible. They promise us
12 stuff and then they renege in front of you.

13 THE COURT: You need to stop.

14 MS. SWEIDY: There's not good will between counsel.
15 I'm sorry.

16 THE COURT: Let me just stop you all for a moment,
17 okay? Let's just get back to our roles as officers of the
18 court. None of us are young. None of us.

19 MS. SWEIDY: Or getting any younger.

20 THE COURT: We have been through all of this probably
21 hundreds of times in our respective cases. You only have three
22 weeks. Do what you can to meet and confer. Set aside any
23 animus you may have. No one is saying the other person is a
24 bad person. This case is very interesting, and I will just use
25 the word "interesting" at this point.

1 But do what you can so that we can get through it,
2 because if we can't get through it, it may be another year and
3 a half before you have another opportunity. Because I
4 literally am in trial in different cases -- I have 400 cases,
5 criminal and civil, and it will take a lot of time to get this
6 case back on the calendar.

7 MS. ALLARD: I am confident, Your Honor, given the
8 state of the evidence now, that we will get it done on the
9 three weeks that you scheduled.

10 THE COURT: That's great.

11 MS. ALLARD: I am confident.

12 MR. SMITH: Thank you, Judge. I try to stay back
13 because I have not been well, so I am not breathing on people.

14 THE COURT: That's all right.

15 MR. SMITH: Judge, we have experts that are going to
16 be appearing. They are our first witnesses. We are scheduled
17 to start on Friday. And one of them --

18 THE COURT: You mean today?

19 MR. SMITH: Next Friday.

20 THE COURT: Okay.

21 MR. SMITH: One of them is scheduled. He is coming in
22 from California. The other one though is coming in from United
23 Kingdom, which means he will be getting on a flight in a couple
24 of days. So we are counting on being able to start our case on
25 next Friday.

1 MS. ALLARD: Yes.

2 THE COURT: Well, just remember, if you contemplate
3 starting next Friday, that leaves us the following week, and we
4 have instructions, and none of you are short-winded. You are
5 all long-winded, so I am anticipating the closings will go for
6 hours and hours.

7 So I just want to make sure you all take the
8 instructions into consideration, because that will take two
9 hours for us to finalize instructions. And I would like to set
10 aside a few hours for closing arguments.

11 And in a perfect world, two weeks from today the jury
12 will already have the case. So if you guys can make that
13 happen, that would be terrific.

14 MS. ALLARD: We are.

15 THE COURT: And don't get all emotional and all this,
16 she touched me and all that. None of you make enough to get
17 this excited and angry. You don't. We are too old. We have
18 done all of this before.

19 None of us are five-year lawyers. We are in the
20 fourth quarter, all of us. We are almost retired.

21 MS. ALLARD: This is my last one.

22 THE COURT: This is it for you?

23 MS. ALLARD: I haven't taken a new case in two years.

24 THE COURT: Now you are rubbing it in.

25 MS. ALLARD: This is it. I am going to my ranch and

1 ride my horses.

2 THE COURT: Okay.

3 (Sidebar discussion concludes.)

4 THE COURT: Ms. Allard, you may continue, please.

5 BY MS. ALLARD:

6 Q. Have you had a chance to review the terms of the court's
7 order?

8 A. Correct, yes.

9 Q. "Mother shall have same ability to have access to minor at
10 SRA as father"?

11 A. Yes.

12 Q. Do you see that?

13 A. Yes.

14 Q. Did you understand that was what the judge ordered?

15 A. Yes.

16 Q. Okay. And did you comply with that?

17 A. Yes.

18 Q. Showing you Exhibit 60, page 13.

19 MS. ALLARD: Your Honor, do I have permission? It has
20 been --

21 THE COURT: It's received. You may publish it.

22 BY MS. ALLARD:

23 Q. Do you recall receiving an email from Kimberly Sweidy,
24 March 10th, 2020, demanding the return of her daughter?

25 A. I do.

1 Q. How did you respond to that?

2 A. I don't recall exactly what I wrote back to her.

3 Q. Page 15 at the top. Do you recall responding: I hope this
4 email finds you well. On March 2nd, 2020, you received our
5 message regarding the steps we're taking in response to the
6 Coronavirus outbreak. We continue to monitor the situation
7 closely and will update parents as we have different
8 information. We will make arrangements for Rearden in
9 accordance with court orders noting that Rearden may be
10 discharged with written consent of both parents or a court
11 order.

12 That was your response?

13 A. That was my response.

14 Q. Now, you had the Marital Settlement Agreement that outlined
15 and specified the custody status before Rearden was enrolled,
16 correct?

17 A. Correct.

18 Q. And you understood that Kimberly Sweidy had sole legal
19 custody and sole medical custody, correct?

20 A. I cannot recall all the details without looking at the
21 document.

22 Q. Did you consult with an attorney on her Marital Settlement
23 Agreement before you wrote this email back to her?

24 A. I did.

25 Q. Did you consult with a family law attorney in California?

1 A. I consulted with my attorney.

2 Q. The attorney that you referenced before?

3 A. Correct.

4 Q. And did that attorney review the Marital Settlement
5 Agreement?

6 A. Yes.

7 Q. Do you recall that the Marital Settlement Agreement
8 provided that Ms. Sweidy had sole medical decision-making?

9 A. I don't recall specifically. And this email happened after
10 Rearden was returned to campus, and it was my understanding
11 that both parents needed to agree if Rearden was discharged or
12 removed from the school again.

13 Q. Was it -- did -- was it your understanding that that judge
14 made any custody modification order?

15 A. My understanding -- and we just had the document up -- is
16 that both parents needed to agree if she was to be removed from
17 Spring Ridge Academy.

18 Q. Was it your understanding that Ms. Sweidy's custody was
19 changed at all?

20 A. I have already given you that answer. It's the same. I
21 just said twice.

22 Q. You don't know anything about the law, correct?

23 A. I don't know a lot about the law, no. That's why you have
24 attorneys.

25 Q. Do you recall that the governor in Arizona shutdown schools

1 during the pandemic?

2 A. I do.

3 Q. And you told your administrator to issue an email that said
4 that Spring Ridge Academy was excepted because it was medically
5 necessary?

6 A. Spring Ridge Academy was noted as an essential service
7 based on Governor Doug Ducey's, the governor at the time,
8 orders.

9 Q. Under what terms was Spring Ridge Academy an exception?

10 A. A licensed residential treatment center.

11 Q. A licensed residential treatment center?

12 A. Correct.

13 MR. SMITH: Your Honor, objection on the basis of
14 relevance.

15 THE COURT: Sustained.

16 Please disregard the last question and response from
17 the witness on foundational grounds.

18 BY MS. ALLARD:

19 Q. Spring Ridge Academy is not a licensed residential
20 treatment center, is it?

21 A. It is.

22 Q. It's a licensed behavioral health facility. Isn't there a
23 difference?

24 A. It's within the same -- I can't think of the word. Yeah,
25 we are a licensed residential treatment center.

1 Q. I was just showing you the licensing violations where they
2 said you are not licensed to keep girls that are -- have a
3 history of self-harm or are a danger to themselves or others,
4 correct?

5 A. So what you are referencing is --

6 MS. ALLARD: Motion to strike. Nonresponsive.

7 THE WITNESS: Could you rephrase it then?

8 THE COURT: The objection is sustained. Please repeat
9 the question.

10 Disregard the response from the witness, please.

11 BY MS. ALLARD:

12 Q. You were told by licensing that you were not a residential
13 treatment facility, correct?

14 A. No.

15 Q. What were you told?

16 A. We were told we were not a licensed inpatient facility.
17 There's a difference between a licensed inpatient facility,
18 which would handle young people who are actively suicidal or
19 actively homicidal, and the difference between that and a
20 licensed residential treatment facility, which is what Spring
21 Ridge Academy is.

22 Q. Did you have a lawyer review the governor's order and
23 definitions of what constitutes an exception, when you made the
24 decision to not allow the return of the children to their
25 parents?

1 MR. SMITH: Objection. Relevance, Your Honor.

2 THE COURT: How is this relevant, Ms. Allard?

3 MS. ALLARD: Their interpretation -- the grounds for
4 not allowing Ms. Sweidy to pick up her daughter like everybody
5 else was, is that they were medically necessary.

6 THE COURT: The objection is sustained.

7 Please disregard the last question.

8 MS. ALLARD: I have no further questions.

9 THE COURT: Is there any cross-examination?

10 MR. SMITH: There is, Your Honor.

11 THE COURT: Mr. Smith, come on up. If you can give
12 Ms. Allard just a moment to get her stuff.

13 MR. SMITH: Judge, I would like to have our assistant
14 Noel accompany me so she can manage the exhibits.

15 THE COURT: Of course. Come on up.

16 MR. SMITH: Thank you.

17 THE COURT: You're welcome.

18 THE WITNESS: You have very nice manners.

19 THE COURT: What's that?

20 THE WITNESS: You have very nice manners.

21 THE COURT: I have what?

22 THE WITNESS: Nice manners.

23 THE COURT: Oh, I have nice manners?

24 THE WITNESS: Yes.

25 THE COURT: Thank you for that.

1 THE WITNESS: I value that.

2 THE COURT: I appreciate that. You run out of water?

3 THE WITNESS: I will be okay. I think we are getting
4 close. Thank you for asking.

5 THE COURT: Mr. Grasso, your witness needs some more
6 bottled water. She doesn't want the government water out of
7 the container.

8 THE WITNESS: I was afraid I would spill.

9 THE COURT: No, I don't -- I mean, I am sure it's fine
10 water, but I don't drink it either.

11 THE WITNESS: Thank you. Thank you.

12 THE CLERK: Can I go up to help her?

13 THE COURT: Yes, please. Thanks, Molly.

14 Mr. Smith, take your time. Just let me know when you
15 are ready.

16 MR. SMITH: We are ready, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. SMITH:

19 Q. Ms. Courtney, I am going to kind of bebop around a little
20 bit, go back to some of the things that were covered so we can
21 make sure there's a clear record on this.

22 MR. SMITH: Permission to publish Exhibit 40, which
23 has been admitted?

24 THE COURT: It has been received. You may.

25

1 BY MR. SMITH:

2 Q. You see Exhibit 40 in front of you?

3 A. I do.

4 Q. Go to page 1, please.

5 So what is this exactly?

6 A. This is part of the Enrollment Agreement that guardians,
7 parents signed.

8 Q. And in this case, is this the one that was executed by the
9 plaintiff?

10 A. Correct.

11 Q. This is part of something that would have been executed
12 prior to the enrollment of their daughter?

13 A. Prior to or enrollment day on rare occasions.

14 Q. And on page 2, the fourth paragraph down, can we go ahead
15 and read what that says? It is kind of small: I/we understand
16 and agree that the student's personal effects and also her
17 person may be searched at the discretion of the treatment staff
18 for the purpose of revealing any prescribed or non-prescribed
19 drugs or medications or any other substances or items that are
20 not permitted. Body checks are performed at enrollment and if
21 needed through enrollment.

22 Did I read that correctly?

23 A. You did read that correctly.

24 Q. You were asked questions earlier about that issue, body
25 inspections. Do you remember testifying about that?

1 A. I do.

2 Q. And that was something that was brought to your attention
3 by the surveyor, I think you called him?

4 A. Correct.

5 Q. And your testimony, if you would tell us, is who performs
6 those body checks at the time that Ms. Sweidy was enrolled?

7 A. It was typically the nurse or two other staff members who
8 were trained specifically in this protocol by the nurse.

9 Q. And that particular surveyor correction or item that was
10 issued, how was that addressed when they called that out?

11 A. They asked that it just be performed by a medical
12 professional in the terms of the statute. And so a medical
13 professional would be a registered nurse, a doctor,
14 psychiatrist.

15 Q. So when you were asked earlier about the Parent Manual and
16 where in the Parent Manual it would talk about your daughter is
17 going to be undergoing these kinds of body searches, is there
18 anything that you are aware of in the Parent Manual that
19 addresses that?

20 A. I'm not.

21 Q. It is, however, in the Enrollment Agreement, isn't it?

22 A. It is, and I believe that was my statement.

23 Q. Let's talk about those surveys. How often would a surveyor
24 come out to Spring Ridge Academy?

25 A. So as standard, a surveyor will come unannounced annually

1 unless you are accredited by the Joint Commission. In that
2 case, the State no longer does the annual unannounced
3 inspections and they default to the Joint Commission.

4 The State will also come on the basis of a complaint
5 or in response to a filing that we self-filed reporting an
6 incident. Those two reasons for the State to come will happen
7 whether you are Joint Commission accredited or not. So a
8 minimum of annually before 2021.

9 MR. SMITH: Your Honor, I would like to publish a
10 portion of Exhibit 145, which has been admitted.

11 THE COURT: It is received into evidence. You may.

12 MR. SMITH: Thank you, Judge.

13 BY MR. SMITH:

14 Q. Showing you some of that exhibit. It is about 220-some-odd
15 pages long, which is the Department of Health Services
16 evaluations and then corrective action plans and so forth. And
17 this is a document from December of 2022, correct?

18 A. Correct.

19 Q. You were asked about inspection that was done when Spring
20 Ridge put into change its name to New Day Rising, correct?

21 A. Correct.

22 Q. And originally, were you told that -- what were you told
23 would need to be done when you originally put in to do that?

24 A. Well, when you initially submit for your licensure, there
25 are multiple kind of rounds, I will call it, back and forth

1 with your surveyors, at this point we had two gentlemen, that
2 kind of serves as a back and forth.

3 As you submit, they look over things. They might ask
4 for different things or revisions of things. And typically it
5 is about 120-day window from the time that back and forth
6 happens. And so I can't remember exactly everything on all of
7 those back and forths, but I believe that it's in the record.

8 Q. Well, by that point in time in 2022, you were the owner,
9 along with your husband Brandon Courtney, of Spring Ridge,
10 correct?

11 A. Correct.

12 Q. And you were going to continue to be the owners under a new
13 name, New Day Rising, correct?

14 A. Correct.

15 Q. And did the Department of Health Services require you to do
16 a whole new application?

17 A. That is correct.

18 Q. And so you were doing the kind of application that a
19 previously unlicensed facility would have?

20 A. Correct.

21 Q. When surveyors would come around prior to then and inspect
22 on those annual inspections, were there any things that maybe
23 would be out of compliance that they would not ding you on, for
24 lack of a better term?

25 A. Yes.

1 Q. Please, why would they overlook certain things?

2 A. So you -- when you hold a license for a length of time,
3 there are some statutes in which they just grandfather you
4 into. One example that we were grandfathered into was the
5 amount of square footage per client per bedroom, which changed
6 between our original license and our relicensing.

7 And so you'll note in one of those documents that we
8 couldn't have four girls to a room, so we changed it to three
9 to accommodate. And we were surprised when the fellows
10 mentioned that. And they said, oh, things like this you get
11 grandfathered into. The same is true with that privacy room
12 square footage, so we just accommodated and resubmitted.

13 Q. And if I'm remembering correctly what you were shown
14 earlier, that was an inspection that occurred in October of
15 2022 for New Day Rising?

16 A. I think so.

17 Q. Okay. Let's go back to --

18 A. I don't remember the day, exactly.

19 Q. Same document. Go back to the starting of that, October
20 2022.

21 So we are looking at page 227 of the Department of
22 Health Services' agreement?

23 A. Yes.

24 Q. And in this particular case it's talking about: The
25 following items are determined to be out of compliance during

1 the on-site initial inspection conducted on October 19, 2022.

2 Do you see that?

3 A. I do.

4 Q. Does that refresh your recollection as to when they did
5 their inspection?

6 A. Thank you, it does.

7 Q. Go back to where we were.

8 And then by December 20th, you are receiving this
9 letter from the Department of Health Services' inspectors --
10 licensing, correct?

11 A. Correct.

12 Q. And is this what -- what are they telling you in this
13 letter?

14 A. They are telling us that they've granted our license.

15 Q. In order for you to be granted that license, did you have
16 to comply with all of the things that they said these are
17 adjustments that you need to make?

18 A. Yes.

19 Q. And is this the license that was provided at that time?

20 A. Yes.

21 Q. You were able to continue your operation while this was
22 going on, and then you were licensed under a new name?

23 A. Correct.

24 Q. Thank you. When you were asked questions earlier about
25 those entries in the surveys, and there were these identified

1 individuals giving information, E1, R1, E2. Do you remember
2 that?

3 A. Yes.

4 Q. The Es, did those stand for employees?

5 A. I believe so.

6 Q. And the Rs, are those residents?

7 A. I believe so.

8 Q. And you kept saying, "I would have to see the additional
9 documents." What additional documents are you talking about?

10 A. So typically when you have the sheet with the three
11 columns, there is supporting documentation, whether it's an
12 incident report, if they are referencing an incident. There
13 might be a section of our policy if it's referencing a section
14 of our policy. There may be a roster of staff or students, and
15 so it's not a one-page kind of document or packet, if that
16 makes sense.

17 Q. Okay. So in the context of the full report, you would be
18 able to determine who they're talking about?

19 A. Yes.

20 Q. And is that why, as you look at that, you're not able to
21 say whether or not a particular statement is attributed to you
22 or somebody else on your staff?

23 A. Correct.

24 Q. Let's look at Exhibit 79.

25 THE COURT: Ladies and gentlemen, this is actually a

1 perfect time to take our lunch recess.

2 Court is in recess until 1:00 p.m. All rise for the
3 jury. Court is in recess.

4 (The jury leaves the courtroom.)

5 THE COURT: Be careful walking down the steps.

6 Court is in recess.

7 MR. SMITH: My apologies, Your Honor. We published
8 that before obtaining permission. I apologize.

9 THE COURT: That's okay. Have a nice lunch.

10 (Recess taken at 11:59 a.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 1st day of June, 2024.

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