

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Kimberly R. Sweidy,	)	
	)	
Plaintiff,	)	3:21-cv-08013-SPL
v.	)	
	)	Phoenix, Arizona
Spring Ridge Academy, et al.,	)	June 7, 2024
	)	9:30 a.m.
Defendants.	)	
	)	

BEFORE: THE HONORABLE STEVEN P. LOGAN, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL DAY 8 - (Morning Session)

Official Court Reporter:
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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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I N D E X

<u>DEFENDANT WITNESS:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
<u>MARTIN WILLIAMS, Ph.D.</u>				
By Mr. Smith	4		47, 52	
By Ms. Allard		28		51
<u>JARED BALMER, Ph.D.</u>				
By Mr. Smith	54			
By Ms. Allard		85		

P R O C E E D I N G S

(Whereupon the proceedings begin at 9:30 a.m.)

COURTROOM DEPUTY: All rise for the jury.

(Jury in at 9:29 a.m.)

COURTROOM DEPUTY: All rise.

(Back on the record at 9:30 a.m.)

THE COURT: Please take your seats. This court will come to order. All parties present when the court last closed are present again. The jury is present.

Please call your witness, Mr. Smith.

MR. SMITH: Thank you, your Honor.

Defense calls Dr. Martin Williams.

COURTROOM DEPUTY: You can come up to the front and I'll swear you in.

(Witness is sworn.)

THE COURT: Sir, once you get settled in your seat, please speak directly into the microphone. Okay?

THE WITNESS: Okay.

THE COURT: Mr. Smith, whenever you're ready.

MR. SMITH: Thank you, your Honor.

THE COURT: You're welcome.

DIRECT EXAMINATION

BY MR. SMITH:

Q. All set, Dr. Williams?

A. Yes.

1 Q. Could you please -- they've heard it, but could you
2 please introduce yourself to the jury and let them know who
3 you are?

4 A. I'm Dr. Martin Williams.

09:31a 5 Q. And, Dr. Williams, have you been retained as an expert
6 witness in this matter?

7 A. Yes.

8 Q. And are you here today to provide testimony based upon
9 your review of certain records in this matter?

09:32a 10 A. Yes.

11 Q. Before we get to that testimony, I'd like to explore a
12 little bit about your qualifications to give this testimony;
13 is that fair?

14 A. Yes.

09:32a 15 Q. So if you could, tell the jury when did you begin your
16 education and where?

17 A. Okay. I did my undergraduate studies at UCLA. I
18 graduated in 1968, and I graduated with highest honors in
19 psychology, Phi Beta Kappa, *summa cum laude*, and two
09:32a 20 peer-reviewed publications prior to graduation; and then I
21 attended University of California Berkeley where I got a Ph.D.
22 in Psychology doing original research in 1975, and in the
23 course of that I also completed a couple of clinical
24 psychology internships at the Veterans Hospital in Palo Alto,
09:32a 25 California, and San Francisco, California, and that concludes

1 my formal training.

2 Q. And then after that did you go into practice in
3 psychology?

4 A. Yes, I initially practiced under the supervision of a
09:33a 5 licensed psychologist, and then I became licensed
6 independently in 1976 and I've been practicing ever since.

7 Q. So when you first began your practice, you were not
8 licensed?

9 A. That's right. You have to have a period of time where
09:33a 10 you practice under the supervision of a licensed psychologist
11 before you can be independently licensed.

12 Q. And that's after obtaining your Ph.D.?

13 A. Right. After all your training is completed, yes.

14 Q. Had you done any therapy in that way prior to obtaining
09:33a 15 your Ph.D.?

16 A. Yes, I did therapy at the San Francisco Veterans
17 Hospital, at the Palo Alto Veterans Hospital, and there was a
18 small clinic on campus where we saw members of the community,
19 not students, for therapy in a training situation.

09:34a 20 Q. And was that -- was that while you had your Master's in
21 Psychology?

22 A. Well, I never got a master's. The UC Berkeley program,
23 you go from bachelor's to Ph.D., but it was before I got my
24 Ph.D. and we were all trainees doing therapy.

09:34a 25 Q. And so after your licensure, please, if you could, what

1 was the course of your career at that point?

2 A. Okay, I stayed with that private practice group in
3 Berkeley until 1980 at which point I was hired by Kaiser in
4 Santa Clara, California, as a clinical psychologist and I
09:34a 5 worked at Kaiser for 27 years until 2007; and during that time
6 I was also developing my own private forensic practice where I
7 would testify in various legal matters, and by 2008 I was
8 prepared to go into full-time independent practice; but then I
9 was recruited by the California Department of Corrections and
09:35a 10 Rehabilitation Board of Parole hearings, and I did parole
11 evaluations of life-term inmates for a couple of years. I
12 think from 2009 and 2010, and then that job came to an end
13 because of a change in the law.

14 Previously parole denials could last for five years
09:35a 15 before you got another hearing, and the new law allowed parole
16 denials to last for fifteen years. So they did the math, and
17 they figured they don't need that many psychologists so a lot
18 of us were laid off. So since then, about 2010, I've been
19 exclusively in private practice doing forensic psychology.

09:36a 20 Q. While you were working for the Department of Corrections
21 in California, were you also doing private practice?

22 A. Yes.

23 Q. So that was things being done simultaneously?

24 A. Yes.

09:36a 25 Q. And is there any particular area of private practice that

1 you were specializing in?

2 A. Now it's evaluations. I evaluate people for -- in
3 criminal courts. I'm court appointed in three California
4 counties to evaluate competency to stand trial and to testify
09:36a 5 regarding insanity defense.

6 I also evaluate people for emotional damages in civil
7 suits and fitness for duty, fitness to hold a security
8 clearance, fitness to parent in some custody matters.

9 That's what I do.

09:36a 10 Q. So when we look at the kinds of things that you're doing
11 currently, throughout your career have you actually treated
12 patients?

13 A. Well, yes, at Kaiser -- well, starting in -- before I got
14 my doctorate and up through 2007 I was in full-time clinical
09:37a 15 practice doing nothing but -- I mean, treating people full
16 time, in addition to any other activities, and then I've done
17 it off and on. Including recently, I'm part of the State Bar
18 of California Lawyer Assistance Program, and I think as
19 recently as 2022 I ran a treatment group for lawyers who had
09:37a 20 alcohol problems.

21 Q. And when we look at the kind of treatment that you
22 provided and compare it to the things that you're aware of
23 that are going on in this case, do you feel like that your
24 treatment and your education history give you the wherewithal
09:38a 25 to be able to comment on the things that were being done at

1 Spring Ridge Academy?

2 A. Yes, definitely.

3 Q. Why is that?

4 A. Well, I've been very active in the field of psychology
09:38a 5 and clinical psychology. I've been an office holder in the
6 American Psychological Association, and I've spent a great
7 deal of time discussing various forms of treatment and
8 considering policies governing various forms of treatment.

9 And in addition to that, at Kaiser I was on the Peer

09:38a 10 Review Committee for 11 years. That's a group that evaluates
11 standard of care problems or treatment problems or quality of
12 treatment problems. So I have a great deal of experience
13 knowing about various forms of therapy and having opinions
14 about it.

09:39a 15 Q. So when we talk about your experience at Kaiser, which
16 from what I've heard so far, that sounds like that's the
17 longest single employment exercise that you've been involved
18 in among all the different things you've done; is that true?

19 A. Yes.

09:39a 20 Q. And was it the same throughout that entire time or did it
21 vary over the years?

22 A. At Kaiser?

23 Q. Yes, sir.

24 A. At Kaiser initially I was a treating psychologist and

09:39a 25 then for a large number of years, I don't remember how long, I

1 was also a manager and I managed a treatment team that focused
2 on various kinds of problems. I think our emphasis was
3 couples and family therapy, and then for a couple of years I
4 managed the Intensive Outpatient Program.

09:39a 5 That's a program where people who don't need to go into a
6 mental health hospital, they can live at home, but do need a
7 lot of treatment and they come every day. It was five days a
8 week, four hours a day, and we offered individual and group
9 therapy and medication management.

09:40a 10 Q. Hence the term "intensive"?

11 A. Yes.

12 Q. And so in this -- in this range of treatments that you've
13 been providing, is it both inpatient and outpatient?

14 A. At Kaiser there was no inpatient that I was involved

09:40a 15 with. My inpatient experience goes all the way back to the
16 Palo Alto VA Hospital where I was involved with inpatient
17 treatment on both locked and unlocked units.

18 Q. And when we talk about the way things you would expect to
19 be done from a therapeutic standpoint, is -- is it different

09:41a 20 based upon whether a patient is inpatient or being seen on an
21 outpatient basis?

22 A. Well, there are differences, of course, yeah. When
23 they're an inpatient, you're also responsible for managing
24 their living situation and safeguarding their well-being.

09:41a 25 Q. But as far as the types of therapies that are used by a

1 therapist, would that depend upon whether the patient is
2 inpatient or outpatient?

3 A. No, not really. I mean, it's the same group of therapies
4 for inpatients and outpatients.

09:41a 5 Q. And in this case you were provided with various records
6 to review; is that correct?

7 A. Yes.

8 Q. Do you remember what the records were that you were
9 provided?

09:41a 10 A. There were so many of them. I saw the treatment records
11 for Rearden Sweidy. I saw depositions from numerous people
12 who were involved with her treatment.

13 Q. Did you see any of the pleadings, the complaint, the
14 answer?

09:42a 15 A. Yes, I saw all the legal stuff and I saw something that
16 was a description of the program at Spring Ridge.

17 Q. Like a brochure of some kind?

18 A. Yes.

19 Q. Did you also -- were you provided any California family
09:42a 20 court records?

21 A. Yes, I saw those, too.

22 Q. And were you given an opportunity to review all of the
23 things that you wanted to review before you rendered your
24 opinions in this matter?

09:42a 25 A. Yes.

1 Q. And without telling us anything specifically about the
2 opinions you hold, have you arrived at conclusions to a
3 reasonable degree of probability about the kinds of treatments
4 that were provided at Spring Ridge Academy?

09:42a 5 A. Yes.

6 Q. Let me ask you some questions that have come up that the
7 jury has heard quite a good deal about in different --
8 different categories.

9 THE COURT: Just one moment, Mr Smith.

09:43a 10 Teri, you okay?

11 THE REPORTER: Yes. I'm sorry, Judge.

12 THE COURT: No, you're okay.

13 Go ahead.

14 BY MR. SMITH:

09:43a 15 Q. First of all, you mentioned Rearden Sweidy Stata. You
16 saw her progress notes?

17 A. Yes.

18 Q. Would that include both individual and group therapy
19 notes?

09:43a 20 A. Yes.

21 Q. Did you see -- were you able to review the other notes
22 done, for instance, by the clinical life director when it
23 would go into their charting?

24 A. I believe so. It's been a while, but I believe so.

09:43a 25 Q. And were you able to review the notes that were done in

1 particular by Veronica Borges?

2 A. Yes.

3 Q. Would you tell the jury who is Veronica Borges in this
4 case?

09:44a 5 A. My understanding is she's one of the therapists at Spring
6 Ridge, and she was assigned as the therapist to Rearden.

7 Q. And the jury has heard testimony from Veronica Borges
8 herself that she was not licensed in the State of Arizona at
9 the time she was providing therapy. Were you aware of that?

09:44a 10 A. Yes.

11 Q. Did you review any of the Arizona Administrative Code
12 provisions that apply to the type of facility that Spring
13 Ridge is?

14 A. I don't believe I did.

09:44a 15 Q. And did you -- in your review of this case, though, did
16 you see testimony concerning the manner in which she was
17 supervised?

18 A. Yes.

19 Q. Would that have been from Leslie Filsinger, the clinic --
09:44a 20 was she the Clinical Director?

21 A. Yes.

22 Q. Was Leslie Filsinger a licensed therapist?

23 A. Yes.

24 Q. And what is your understanding as to the ability of a
09:45a 25 licensed therapist in the State of Arizona to supervise

1 qualified unlicensed individuals to provide therapy?

2 A. It's completely standard. It's completely normal. It's
3 similar to what I told you about myself, how I was seeing
4 patients before I was licensed, before I had my doctorate
09:45a 5 because I was working under the supervision of licensed
6 people. It's absolutely standard and normal and completely
7 appropriate.

8 Q. And how would somebody supervising like Leslie Filsinger,
9 how would she note in a patient's chart that she was actually
09:45a 10 supervising what was going on with a patient?

11 A. I'm sorry, I didn't hear the entire question.

12 Q. I'm sorry. How would a -- how would a supervising
13 psychologist like -- or supervising therapist like Leslie
14 Filsinger note -- annotate in the chart that she is actually
09:45a 15 reviewing what's going on with the patient and supervising the
16 care?

17 A. Well, I don't recall that there's any requirement to
18 annotate in the chart, and I really don't know the answer to
19 that question.

09:46a 20 Q. In your review of the different therapy notes for -- that
21 Veronica Borges put in, those would be signed at the bottom by
22 Veronica Borges?

23 A. It's my recollection. I haven't looked at that in a
24 while.

09:46a 25 Q. By the way, you rendered your report in this matter back

1 in June of 2022?

2 A. Yes.

3 Q. And so that's the time when you had reviewed all of
4 these?

09:46a 5 A. Yes.

6 Q. And when we look at those -- when the jury gets a chance
7 to look at some of those entries that were done by Veronica
8 Borges, would a notation signed by Leslie Filsinger
9 immediately under that indicate she had reviewed it?

09:46a 10 A. Yes, thank you. I had forgotten that, but that's
11 perfectly standard. You see it all the time. I've seen it in
12 numerous records, especially at the State Hospital in
13 California at Napa that I deal with quite a bit.

14 They use a lot of unlicensed people, and typically every
09:47a 15 report that the unlicensed person writes is co-signed by the
16 supervisor.

17 Q. With regard to the type of therapy that was provided, did
18 you remember that there was family therapy being offered?

19 A. Yes.

09:47a 20 Q. And did you remember that there was also individual
21 therapy that was given to Rearden Stata?

22 A. Yes.

23 Q. Now, the family therapy, there's been some testimony the
24 jury's heard about the appropriateness of conducting family

09:47a 25 therapy with fewer than all of the individuals in the family,

1 the parents and the daughter participating?

2 Are you aware from the plaintiff's experts reports that
3 that's an issue that they brought up?

4 A. Yes.

09:48a 5 Q. And in this case did you form an opinion as to whether or
6 not it was appropriate for them to -- for Spring Ridge
7 Academy's therapeutic team to continue with family therapy
8 that would just be between Mr. Stata and Rearden Stata?

9 A. Yes, I concluded that it was perfectly appropriate.

09:48a 10 Q. And why is that appropriate if you are talking about
11 family therapy?

12 A. Well, family therapy treats the family. The goal is to
13 make the family, I guess, more harmonious, more mentally
14 healthy, and often there's what we called an identified
09:48a 15 patient.

16 In this case the identified patient would have been
17 Rearden so that what was done was hopefully going to improve
18 Rearden's psychological adjustment, and when you're doing
19 family therapy you have many options depending on the needs of
09:49a 20 the family and on what's going on.

21 You might meet all together. You might structure
22 meetings where you, the therapist, meet with each one
23 individually; and you might also meet with various
24 combinations of people separately without meeting the entire
09:49a 25 family. There's no expectation that every session is going to

1 be with the entire family.

2 Q. Thank you, sir. So in this case are you aware of the
3 reasons why the therapy was conducted in this manner where
4 Rearden Stata and her father, Raymond, had therapy -- family
09:49a 5 therapy but Ms. Sweidy did not participate?

6 A. My recollection is that Ms. Sweidy elected to not
7 participate.

8 Q. And if she's just simply elected not to participate, is
9 that sufficient basis to proceed with the therapy without her?

09:50a 10 A. Yes.

11 Q. Why is that?

12 A. Well, because, as I said, the identified patient, the
13 person who they were trying to help is Rearden and I can't see
14 a basis for eliminating Rearden's treatment just because her
09:50a 15 mother does not want to participate. The need for treatment
16 was still there, and you have to work with what you can work
17 with as a therapist.

18 Q. During the -- during your review of the -- strike that,
19 let me just back up a minute.

09:50a 20 Among the records that -- and documents that you
21 reviewed, you reviewed the reports from expert witnesses James
22 Flens and John Hunter that the plaintiffs have disclosed?

23 A. Yes.

24 Q. And in those -- in those reports and in the testimony
09:50a 25 that the jury has heard, there is some criticism about the

1 idea that not all the therapies used at Spring Ridge were
2 evidence-based therapies. Do you remember reading that?

3 A. Yes.

4 Q. Tell the jury, what is an "evidence-based therapy"?

09:51a 5 A. Well, an evidence-based therapy is a therapy method that
6 has been supported by research. That's what it is.

7 Q. And so if -- if somebody is treating a patient, are they
8 required to use only evidence-based therapies?

9 A. Absolutely not.

09:51a 10 Q. Is there -- are there therapies out there -- apparently
11 there are therapies that are not evidence based?

12 A. Well, I would say that all therapies are based on
13 evidence that the clinician uses in the course of treating the
14 patient. The clinician sees what's helping, what's not

09:51a 15 helping. So in that sense everything is evidence based, but
16 what they mean by "evidence based" is based on research
17 studies; and you have to understand that there's factions
18 within the American Psychological Association.

19 There are some people who are hard-core researchers and
09:52a 20 we joke about them. We say if it moves, measure it. If it
21 can't be measured, it doesn't exist; and the hard-core
22 researchers say anything that has not been substantiated by
23 scientific research is worthless.

24 Then, on the other hand, you have clinicians, clinical
09:52a 25 psychologists, who have been practicing for a lifetime who

1 have used methods that have evolved without necessarily being
2 based on research, although almost every method has been
3 studied to some extent.

4 So there's a spectrum, and the two groups often don't get
09:52a 5 along; but ideally what a therapist does is use methods that
6 have been supported by research and blends those methods with
7 what the therapist learns about the person and what's best for
8 the person at this time.

9 Q. In your review of Rearden Stata's therapy records, did
09:53a 10 you arrive at a conclusion as to whether or not that scenario
11 that you just described as the ideal scenario took place?

12 A. Yes, the impression I got from reviewing the records was
13 that there was attention paid to using known, valid treatments
14 and those were delivered according to what was going on with
09:53a 15 Rearden.

16 So it was a combination of using knowledge about the
17 individual, knowledge about what's working, knowledge about
18 what treatment methods are available. They were all used in a
19 harmonious way.

09:54a 20 Q. And is that clear in the records or does -- or would that
21 be something that maybe was going on that would have eluded
22 somebody like Leslie Filsinger reviewing what was going on
23 with a patient?

24 A. I thought it was clear; but, on the other hand, if you're
09:54a 25 being a stickler and are gonna say, "There's nothing in the

1 records that points to a specific research study that supports
2 this particular intervention," that's probably true.

3 Q. Who makes the determination of what type of therapy to
4 use with a patient like Rearden Stata?

09:54a 5 A. The therapist.

6 Q. And who would that be in this case?

7 A. Veronica Borges.

8 Q. What role does Leslie Filsinger play in that?

9 A. Well, as a supervisor she talks to Ms. Borges about
09:54a 10 what's going on. They talk about treatment alternatives.
11 They talk about treatment planning. They just discuss things.
12 So it's a team effort.

13 So you could argue that someone who's being treated by an
14 individual who's being supervised, that person might be
09:55a 15 getting better treatment because there's a collaborative
16 effort. There's more than one mind involved, and there's
17 discussion about how to move forward.

18 Q. And when we talk about evidence-based therapies, Doctor,
19 in the spectrum of therapy available for psychological
09:55a 20 counselors, what is the percentage, if you know, that are
21 actually evidence based under that strict definition that you
22 gave earlier?

23 A. Well, the studies that have produced evidence-based
24 therapy or have confirmed evidence-based therapy are generally
09:55a 25 studies of very specific forms of treatment for specific

1 problems and usually -- you have to keep in mind the people
2 doing the research, they want to get their research done and
3 published.

4 So most research studies that have led to the
09:56a 5 evidence-based therapy body of research are short-term
6 therapy. So if you're a researcher, you're not going to study
7 a treatment that's taking ten years, which is necessary for
8 some people. You're going to study a treatment that could be
9 done in five weeks or so.

09:56a 10 So the evidence-based therapy methods are very specific,
11 and I can't estimate but I would say that -- I would say that
12 not even 50 percent of what any typical therapist does -- not
13 even 30 percent of what any typical therapist does is purely
14 derived from research studies.

09:56a 15 I mean, there are some therapists out there who
16 exclusively use cognitive behavior therapy, a brief treatment
17 that's supported by a lot of research; but in general,
18 therapists use a variety of interventions, some proven by
19 research, some not.

09:57a 20 MR. SMITH: Judge, with your permission, we'd like
21 to publish Exhibit 7.

22 THE COURT: You may.

23 BY MR. SMITH:

24 Q. Doctor, in your review of records that were provided,
09:58a 25 this is a part of the Parent Manual.

1 Were you provided with the Parent Manual?

2 A. Yes.

3 Q. And in particular there's a section in the Parent Manual
4 that talks about therapy on Page 5, which is where we are
09:58a 5 right now. Do you see that?

6 A. Yes.

7 Q. And if you go down to the third paragraph, it talks about
8 different types of therapy that are -- that are going to be
9 employed at Spring Ridge Academy. Do you see that?

09:58a 10 A. Yes.

11 Q. Where it says, "...evidence based modalities and
12 treatments such as EMDR, Somatic based therapies, and Post
13 Induction Therapy to resolve issues related to trauma," what
14 does that means?

09:59a 15 A. Well, it's saying that it uses a variety of
16 interventions, and these are some of the ones it uses and that
17 some of these are evidence based.

18 Q. And as a therapist approving that kind of language in a
19 Parent Manual like this, is that a promise to a parent that
09:59a 20 your child is going to be receiving these therapies?

21 MS. ALLARD: Objection. Argumentive, beyond the
22 scope of expert testimony.

23 THE COURT: I'm sorry, Ms. Allard.

24 MS. ALLARD: Your Honor, I think that the witness is
09:59a 25 being questioned about the sentence structure in the English

1 language, not any area of expertise as a psychologist when
2 he's asked how he interprets this sentence.

3 THE COURT: Mr. Smith.

4 MR. SMITH: I'll rephrase it, Your Honor.

09:59a 5 THE COURT: Very well. Sustained.

6 Please disregard the last question.

7 BY MR. SMITH:

8 Q. Have you seen similar representations like this in
9 descriptions of programs that you have reviewed?

10:00a 10 A. Yes.

11 Q. And what is the purpose of putting a description like
12 that into information about a program that people will be
13 reviewing?

14 A. Well, it's just to give the person reading this an idea
10:00a 15 of the realm of treatments that are possible.

16 Q. And in this particular case it's talking about EMDR.
17 What is that?

18 A. Eye motion desensitization and reprogramming. It's a
19 treatment for trauma that has been validated by research.
10:00a 20 It's an evidence-based treatment.

21 Q. And somatic-based therapies, what is that?

22 A. I actually don't know exactly what those are. I've heard
23 the term.

24 Q. You've not had any personal experience with that?

10:00a 25 A. No.

1 Q. And then there's this Post Induction Therapy the jury has
2 heard quite a bit about. What is that?

3 A. That's an intervention form of treatment that was
4 developed by Pia Mellody, who is known for doing a lot of work
10:01a 5 with trauma and families that have had trauma in them, and
6 that is a therapy that works with dealing with trauma,
7 recovering from it, and in the hopes of doing so resolving
8 forms of immaturity in the young trauma victim.

9 Q. Whether it's actually evidence based or not, do you have
10:01a 10 an opinion as to whether the use of Post Induction Therapy
11 would be appropriate on an adolescent?

12 A. Be perfectly appropriate.

13 Q. Who makes the determination whether or not to employ Post
14 Induction Therapy or EMDR or any other therapy?

10:01a 15 A. That would be the therapist.

16 Q. When you reviewed Rearden Stata's records, did you see
17 any therapy -- therapeutic modalities that were used that you
18 thought were questionable?

19 A. No.

10:01a 20 Q. Did you look for evidence that the therapeutic modalities
21 were having a positive effect?

22 A. Yes.

23 Q. What did you find in that regard?

24 A. Well, as I recall reviewing those records, it seemed like
10:02a 25 there was a good therapeutic relationship. It seemed like

1 Rearden was making progress. It seemed like Rearden was
2 developing insight into what had been inappropriate behaviors
3 and the kind of behaviors that are appropriate that should be
4 enforced. I just recall seeing a general trend towards
10:02a 5 positivity and growth.

6 Q. And when we talk about the therapeutic record, the jury
7 has heard a term "Initial Treatment Plan." Is that a -- is
8 that an actual type of document that is normally used in
9 therapeutic treatments?

10:03a 10 A. I know what the words mean, but I don't know that every
11 facility uses it; but I think some facilities have that as a
12 standard part of their program.

13 Q. And then if we begin with an Initial Treatment Plan, is
14 there something that is called a Master Treatment Plan?

10:03a 15 A. I'm not familiar with that term.

16 Q. In this case did you see a treatment plan that was
17 provided in January of 2020 that was formulated for Rearden
18 Stata?

19 A. I believe I did.

10:03a 20 Q. And what would that be based upon in January of 2020 if
21 she had just gotten there in December of 2019?

22 A. Well, that would be based upon the initial assessment by
23 the staff of what she needed based on her history.

24 Q. And once a treatment plan like that is put in place, is
10:03a 25 that like that's it, it's set in stone and doesn't change?

1 A. Absolutely not. You have to be able to modify the
2 treatment plan as you see how the individual is responding to
3 the treatment plan, No. 1.

4 And two, as you get to know the individual better, you
10:04a 5 might discover entirely new areas that need treatment.

6 Q. Based upon your review of the records, did you also see a
7 document that was signed by Ms. Sweidy on February 3rd of 2020
8 when she removed her daughter from the facility?

9 A. I think I recall seeing that. I can't picture it, but
10:04a 10 I've seen it.

11 Q. Okay. It's this document that's the -- where she is
12 signing that she's been notified against medical advice that
13 she's removing her daughter?

14 A. Yes.

10:04a 15 Q. The jury's heard quite a bit about that. Is that an out
16 of the ordinary document in your experience?

17 A. No. If someone deviates from the treatment plan in a way
18 where the therapist believes this is going to be harmful for
19 the patient, well, you can't prevent them from removing their

10:05a 20 child from treatment or you can't prevent an adult from
21 leaving treatment; but you generally get them to sign
22 something indicating they are aware that they are making a
23 treatment decision that goes against best therapeutic device
24 -- advice.

10:05a 25 Q. And this instance when she was removed from the facility,

1 are you aware of any treatment that she continued to have
2 before she was returned to the facility?

3 A. I believe there was treatment by phone or by Zoom while
4 she was away from the facility.

10:06a 5 Q. And if you recall, she actually moved to California in
6 June of 2020, correct?

7 A. Yes.

8 Q. And when she moved to California and was living with her
9 father, therapy was continued?

10:06a 10 A. Yes.

11 Q. Did you see those notes?

12 A. Yes.

13 Q. Were those notes -- did they reflect appropriate
14 treatment being provided?

10:06a 15 A. Yes.

16 Q. Does the fact that she was in California at that time and
17 the therapist was in Arizona, is that problematic for the
18 provision of the treatment?

19 A. No.

10:06a 20 Q. Doctor, based upon your review of the record in this
21 case, what is your final conclusion as to whether or not
22 Spring Ridge Academy complied with the norms and the
23 expectations for providing appropriate treatment to Rearden
24 Stata?

10:07a 25 A. When I reviewed the records, I was looking for something

1 that would indicate to me that there was a problem in the
2 treatment, that they had done something wrong, something
3 inappropriate. That's all I looked for and I didn't find
4 anything. Everything I reviewed seemed professional and
10:07a 5 appropriate and likely helpful.

6 Q. Thank you, Doctor.

7 MR. SMITH: That's all I have.

8 THE COURT: Is there any cross-examination?

9 MS. ALLARD: Yes, Your Honor, thank you.

10:07a 10 THE COURT: Come on up, please. You're welcome.

11 CROSS-EXAMINATION

12 BY MS. ALLARD:

13 Q. Okay. Doctor, I'm going to start and go kind of in a
14 chronology and ask you some questions about your background,
10:07a 15 training and experience.

16 You testified that you did original research at Berkeley.
17 What was that subject matter?

18 MR. SMITH: I'm sorry, Judge, I'm having a very hard
19 time hearing.

10:08a 20 BY MS. ALLARD:

21 Q. What was the subject matter of the original research you
22 did at Berkeley?

23 A. I forget the title of it, but it was a study of a
24 treatment for fear of flying; and the purpose of the study was
10:08a 25 not to see whether this method treated fear of flying. We

1 knew it worked, but the purpose of the study was to see two
2 things.

3 Was there an effect if the patient was led to believe
4 that this was a well-proven method, which it was, or was there
10:08a 5 an effect of telling the patient that this was an uncertain
6 method?

7 So it was a study of patients' expectations of outcome,
8 and it was an automated treatment that had been tape-recorded;
9 and the other thing we studied was did it make a difference
10:08a 10 whether a very experienced therapist delivered the treatment
11 and had a really good voice versus whether this young
12 psychologist who I got, who I thought had a very unappealing
13 voice, delivered the treatment.

14 So that's what it was a study of. It was treatment for
10:09a 15 fear of flying with the conditions of high or low expectation
16 of success and non-specific therapist factors.

17 Q. I see that was in 1975?

18 A. That was my doctoral dissertation, yeah.

19 Q. Also in 1975 you presented a paper "A Naturalistic
10:09a 20 Laboratory for Sex Research." "Paper read at the annual
21 meeting of the Society for the Scientific Study of Sex."

22 Is that what you were working on at that time?

23 A. Well, that was coming from my clinical experience at that
24 time because the place I was working at in Berkeley as a
10:09a 25 psychological assistant, and then I stayed there, was doing

1 sex therapy.

2 Q. So were you watching people have sex?

3 A. No.

4 Q. Okay. So then you authored a paper in 1977 on "Partner
10:10a 5 Factors in Premature Ejaculation"?

6 A. Yes.

7 Q. Now -- then in 1978 you wrote a paper on "Individual Sex
8 Therapy"?

9 A. Yes.

10:10a 10 Q. And then in 1991 you write a paper "One In Four of the
11 Incest Perpetrators Was Not An Adult," in 1991.

12 Do you recall that paper?

13 A. Vaguely, yes. That is something I published. I don't
14 remember what the point was, but I remember it.

10:10a 15 Q. And then in 1992 you wrote a paper "Exploitation and
16 Inference: Mapping the Damage From Therapist-Patient Sexual
17 Involvement"?

18 A. Yes, that was in a very prestigious journal, *The American*
19 *Psychologist*.

10:11a 20 Q. And in your forensic career, would you agree that a large
21 portion of your work has been defending psychologists accused
22 of inappropriate sexual relations with their clients?

23 A. No.

24 Q. Okay. Have you done that before?

10:11a 25 A. Defending psychologists? I've worked for the defense of

1 some psychologists who were accused of that, yes.

2 Q. I looked at your list of cases that you worked on, and I
3 see that primarily you've done a lot of work for one attorney
4 in Walnut Creek that defends people who are being -- having
5 their license challenged with administrative actions by the
6 State, correct?

7 A. Correct.

8 Q. And then when you're working with the criminal
9 population, you're working for the defense usually, correct?

10 A. Yes, I have.

11 Q. Have you ever worked for the prosecution in any expert
12 capacity regarding victim testimony?

13 A. I've been retained once or twice. None of those cases
14 went to trial.

15 Q. When you -- do you recall an article in 1995 in the
16 *American Journal of Psychotherapy* where you questioned how
17 useful are clinical reports concerning the consequences of
18 therapist-patient sexual involvement?

19 A. Yes.

20 Q. And do you recall citing in that article studies where
21 psychologists posited that incest had no additional traumatic
22 affect to a child who was in a physically abusive home?

23 A. That doesn't mean I agree with that, but I may have cited
24 a study like that.

25 Q. Well, weren't you trying to make an apology on damages

1 and really suggest in this article that it's difficult to
2 prove whether or not there's any damage to a patient who has
3 had sex with their therapist?

4 A. I wasn't making an apology to anybody. What these
10:13a 5 articles were about, that one in the American Psychologist
6 article, was about a small research point, which is that I
7 think some people have called it accidental sampling, but it's
8 a sampling bias issue.

9 I don't endorse therapist-patient sex, but I was
10:13a 10 concerned that the research on therapist-patient sex and its
11 harmfulness was affected by the fact that we typically only
12 know about those who were damaged by it.

13 So if, in theory, there are people who have had sex with
14 therapists who were not damaged, we might never know they
10:14a 15 exist. So this is not an article about right or wrong. This
16 is an article about sampling bias, about how do you do a
17 scientific study when one part of the population has an
18 incentive to come forward, like if they're suing someone, and
19 another part of the population has no incentive to come
10:14a 20 forward or to be discovered.

21 So it was a statistical article. It had nothing to do
22 with an apology, and it had nothing to do with endorsing
23 therapist-patient sex.

24 Q. What did you mean by the statement that these
10:15a 25 observations regarding childhood incest may apply as well to

1 the method by which some therapists attribute subsequent
2 damage to a prior episode of therapist-patient sex. The
3 causal link is often completely without substantiation.

4 A. I would have to look back at the article to see what
10:15a 5 point I was making.

6 Q. Well, the reason I'm asking you these questions is if you
7 reviewed the deposition testimony, as you say you did here, of
8 Brandon Courtney, Jeannie Courtney, you would know that many
9 of these children, including Rearden Sweidy Stata, were
10:15a 10 subject to Lifespring exercises.

11 Are you familiar with Lifespring, since you were old
12 enough to be familiar from the '70s?

13 A. Not at this moment. I mean, I may have been acquainted
14 with it when I reviewed the stuff, but it doesn't mean
10:15a 15 anything at this point.

16 Q. Well, Jeannie Courtney testified that's where she got her
17 exercises that she used in these workshops; and if you
18 reviewed her deposition, you would have seen that.

19 Did you see that?

10:16a 20 A. Well, I would have focused on the exercises, per se, and
21 not on the name Lifespring.

22 Q. Well, if you reviewed Brandon Courtney's deposition, you
23 would have known that he testified that he took students in a
24 van, blindfolded them at night, put them out in the desert and
10:16a 25 had them walk a mile alone on the road.

1 Did you see that testimony in that transcript?

2 A. I don't recall that at this moment.

3 Q. So if -- if you had read it -- and maybe you didn't read
4 it -- and if hypothetically speaking that's what it says,

10:16a 5 would that change your opinion about whether or not the care
6 that Rearden was receiving in this facility -- and if you read
7 that Master Treatment Plan where you saw that she was
8 recommended to do Commitment training, which is what
9 Mr. Courtney described, would that change your opinion about

10:17a 10 the standard of care in terms of what psychologists and
11 therapists, even those who disagree, would think?

12 A. If I read that, I would have to know all the details
13 about how it was done, if it was done and how it was
14 supervised and what methods were used to protect the children.

10:17a 15 Q. So the truth is you don't know because you didn't read
16 the deposition transcript?

17 A. I don't recall that aspect of it at this moment.

18 Q. I think I -- one part of my other question was whether
19 you understood what Lifespring was.

10:17a 20 Do you know anything about it?

21 A. It does not ring a bell. As I say, I might have looked
22 into the methods, but at the moment I don't recall what
23 Lifespring is as an overarching term.

24 Q. Well, when you offered testimony before this jury that

10:18a 25 you might have looked into the methods, did you or did you not

1 look into the methods?

2 You've been paid here for your testimony.

3 A. I don't recall offering an opinion about Lifespring -- I
4 mean, I know I didn't offer an opinion about Lifespring.

10:18a 5 Q. You said I may "have looked into the methods."

6 Do you have any evidence to support the fact that you may
7 have looked into the methods used at Lifespring?

8 A. Well, I think my task that I was assigned was to offer
9 opinions about the methods that were psychotherapy, and this
10:18a 10 thing you're talking about does not strike me as a form of
11 psychotherapy. So it might not have been something I really
12 looked at.

13 Q. Well, if you would have read the Master Treatment Plan,
14 which I believe you stated you did, you would have seen that
10:19a 15 Rearden's required treatment was attendance at Commitment and
16 Action and Teen Challenge.

17 So if you're offering testimony that that's appropriate
18 care, are you saying that you don't know what those treatment
19 modalities or recommendations were?

10:19a 20 A. My focus, what I was asked to offer opinions about, was
21 the psychotherapeutic methods that were used; and this does
22 not strike me as a psychotherapeutic method.

23 Q. So what psychotherapeutic methods were used on Rearden
24 Sweidy Stata?

10:19a 25 A. Well, I recall individual psychotherapy, family

1 psychotherapy and various forms of trauma discussion and
2 trauma work. That's what comes to mind. Group psychotherapy.

3 Q. So let's just take the notes from Veronica Borges that
4 you read. Do you recall -- and I think you were asked a very
10:20a 5 specific question today about how she did in her sessions
6 across state lines with Ms. Borges, and you said she did fine.

7 Now, do you recall specific incidents in Ms. Borges'
8 notes where it was reported that she had to deal with her
9 father, who was drunk?

10:20a 10 A. That rings a bell, yes.

11 Q. Do you recall reports that she appeared depressed?

12 A. Yes. The question I was previously asked was whether the
13 therapy was appropriate. I was not asked whether Rearden was
14 having a great time.

10:20a 15 Q. What therapy did Veronica Borges administer to Rearden
16 when she learned that she was living as a minor with someone
17 who was drunk?

18 A. I don't remember the specifics. I mean, I don't
19 appreciate this memory test. I'd like to see the notes, and I
10:21a 20 could offer you opinions.

21 Q. Well, when you prepared a report, you wrote conclusory
22 statements; and one of those was about Veronica Borges' work.
23 You documented what you reviewed.

24 Had you thought that there was a certain or particular
10:21a 25 example that you thought really supported your opinion,

1 wouldn't you have put it in your report?

2 A. No.

3 Q. You indicated, "The individual and group psychotherapy
4 records reveal what appears to be accurate and consistent
10:21a 5 record keeping." What did you mean by that?

6 A. It looked similar to the highest quality records that I
7 have reviewed in other contexts --

8 Q. Are you talking -- sorry.

9 A. -- and had the ingredients that I would expect to find in
10:22a 10 professional records kept by competent psychotherapists.

11 Q. In other words, there were words and a signature?

12 A. No.

13 Q. And then you write, "The therapy provided to Rearden as
14 reflected in those records was appropriate and met the
10:22a 15 standard of care for licensed clinicians providing therapy to
16 clients such as Rearden."

17 And so I think I've asked you what therapy was provided
18 in one particular narrow instance of having a problem with her
19 father. Can you state at all what therapy was being provided
10:22a 20 to Rearden?

21 A. Well, there was a therapeutic relationship between her
22 and the therapist, and that was probably the most important
23 thing that was being provided; and within the therapeutic
24 relationship the therapist was focusing on decreasing
10:22a 25 inappropriate acting-out behavior, increasing appropriate

1 behavior, being self aware of why you're doing certain things,
2 anticipating the consequences of the choices you make.

3 Those are the things that I recall.

4 Q. What acting-out behavior do you recall that they
10:23a 5 addressed?

6 A. I can't recall at this minute.

7 Q. I notice on the list of documents you reviewed that you
8 did not review Rearden's biosocial, which would have been her
9 intake; is that correct?

10:23a 10 A. I don't recall seeing that.

11 Q. If it's not here, you didn't review it?

12 A. I guess not.

13 Q. Isn't it true that in order to be able to make an opinion
14 on the quality of the therapy, that you should probably know

10:23a 15 how someone comes in and how someone leaves?

16 A. I don't necessarily agree. I thought that I had
17 sufficient basis to draw the conclusions that I drew.

18 Q. It's not that you weren't tipped off that there was a
19 concern about Lifespring, because in your report it appears

10:24a 20 you write, "Contrary to the Plaintiff's claims that the
21 therapy offered was akin to 'brainwashing,' the treatment
22 team, whether in group or individual psychotherapy sessions,
23 promoted themes that were supportive of continued growth and
24 increased mental health."

10:24a 25 So in those group therapy records, did you review that

1 Rearden was subject to peer observations regarding her
2 personal relationships with her mother?

3 A. I don't specifically recall that one way or another. I
4 recall reviewing the records long ago and finding them
10:24a 5 perfectly appropriate.

6 Q. In the deposition testimony did you review that it is a
7 practice at Spring Ridge Academy to subject individuals to
8 group feedback?

9 A. That sounds perfectly appropriate. I don't recall it,
10:25a 10 though.

11 Q. Would it be appropriate to solicit peers to observe a
12 student reenact their rape in front of the entire school?

13 A. I -- I think that's too vague for me to have an opinion
14 about. I would have to know more details -- I mean, the way
10:25a 15 you pronounce -- the way you describe it, it sounds crazy; but
16 if I had more details, I might understand what was actually
17 going on.

18 Q. Well, if the jury is to decide what the details are
19 because they heard the evidence in the case, you would agree
10:25a 20 that's crazy?

21 A. No, I did not say that. I would say the way you describe
22 it, it sounds crazy; but I'm having to react to it without
23 knowing the actual methods that were used and the details of
24 what took place.

10:26a 25 Q. Well, just so we're clear, you're a retained expert by

1 the defense in this case, correct?

2 A. Yes.

3 Q. And your hourly rate is \$550 an hour, correct?

4 A. Yes.

10:26a 5 Q. Were you put on a budget?

6 A. I created a budget how much I imagined I would be
7 spending, and I was paid that amount.

8 Q. Well, would it be possible that you had to do some
9 cutting and not review the hundreds of pages in this case in
10:26a 10 order to save money to the people who hired you?

11 A. Oh, no, no, there was no limit to what I could bill.

12 Q. You were asked about this ethical issue that's created in
13 a family therapy context. Were you -- would you agree that
14 when Veronica Borges spoke to my client, Kimberly Sweidy, in
10:27a 15 the context of therapy, that a relationship between a
16 therapist and a patient was established?

17 A. Sure.

18 Q. Okay. And so you've heard some testimony today that you
19 reviewed this letter that Ms. Sweidy received that she was not
10:27a 20 to contact her daughter, not to contact the school or
21 participate in therapy. That Ms. Sweidy was, in fact,
22 dismissed from therapy.

23 A. Is that a question?

24 Q. Did you understand that that's what that letter did?

10:27a 25 A. Yes.

1 Q. So the next question is: Shouldn't that be a situation
2 where the person, Veronica Borges, who is providing family
3 therapy says, "I cannot give therapy to any of you. I'm going
4 to need to refer you out because there's a conflict of
10:28a 5 interest between my clients"?

6 A. No.

7 Q. And why is that?

8 A. Why would -- why would she terminate the family therapy
9 under those cir -- I can't see why she would need to terminate
10:28a 10 it.

11 Q. Well, she has a duty to Ms. Sweidy.

12 A. She has a duty to Rearden to continue treatment.

13 Q. But --

14 A. She doesn't have a duty to discontinue Rearden's
10:28a 15 treatment just because the mother doesn't want to participate.

16 Q. Well, you were asked -- and I don't see that you actually
17 reviewed the Parent Manual on your list, but you were shown
18 that manual in court today and testified that you, in fact,
19 had. Is it possible you did not review it?

10:28a 20 A. Oh, no, I reviewed it.

21 Q. So did you see that it was described as a family therapy
22 program where parents had to come and go to mandatory
23 workshops, where parents had to be involved in weekly family
24 therapy?

10:29a 25 So isn't it from the Parent Manual really advertised as a

1 program that treats families?

2 A. Yes.

3 Q. So your distinction that you're carving out that Rearden
4 is the only client is something that is not at all based on
10:29a 5 the Parent Manual; wouldn't you agree?

6 A. No. The whole purpose of the Spring Ridge Academy is to
7 treat the children, and family therapy is one of the methods
8 that's used to treat the children.

9 Now, something happened here where Ms. Sweidy removed
10:29a 10 herself from the treatment, and I am saying that the treatment
11 should not have stopped and it did not stop; and it would have
12 been inappropriate to deprive Rearden, the person for whom
13 this entire project had been initiated, it would be
14 inappropriate to deprive her of treatment.

10:30a 15 Q. Is so it's your testimony that you believe that the
16 Spring Ridge Academy program is primarily designed only to
17 treat the child?

18 A. No, I don't think that's what I said. It's designed to
19 treat the child. That's why people come to the Spring Ridge

10:30a 20 Academy; but the treatment program, it is hoped, would benefit
21 the entire family and make the entire family more harmonious.

22 Q. What is the therapeutic benefit to a child of a father
23 being blindfolded, put into a room of strangers and finding
24 himself massaged by people he doesn't -- can't see?

10:30a 25 A. I'm not familiar with that method so I have no opinion

1 about it.

2 Q. Does that --

3 A. And I don't think it's a therapeutic method. It's some
4 other kind of method. It's a personal growth method, I would
10:31a 5 say, or something.

6 Q. Cult method?

7 A. That's not what I said.

8 Q. What about asking a child to walk a plank in front of her
9 peers in a dark room? Does that sound like therapy?

10:31a 10 A. Once again, that's out of the realm of the therapeutic
11 methods that I reviewed or considered and I have no expertise
12 in these kinds of methods.

13 Q. You've reviewed Community Life Director and phone call
14 notes. Did you -- so I take it you became aware that phone
10:31a 15 calls are monitored?

16 A. Yes, I think I knew that.

17 Q. And are you familiar with laws in the State of Arizona
18 that require a specific treatment purpose for any restriction
19 like that?

10:32a 20 A. I have no expertise in the area of Arizona laws regarding
21 telephone monitoring.

22 Q. But it says here on Items 10 and 11 you were given copies
23 of two Arizona statutes. Did you look at them?

24 A. I may have.

10:32a 25 Q. You were given Arizona Administrative Code Title 9,

1 Chapter 10, Articles 1, 7 and 10; and I think you were also
2 given Arizona Revised Statutes, Title 32, Chapter 33.

3 And I do not note that you made any comment on those in
4 your report so I take it you didn't find that the law of
10:32a 5 Arizona was relevant?

6 A. It was outside of my area of expertise. I might have
7 been given many documents for the sake of thoroughness, but I
8 didn't offer opinions regarding Arizona law.

9 Q. Well, if what you're saying is that it's okay for

10:33a 10 Veronica Borges to have therapy with just dad and child, to
11 the exclusion of mom, wouldn't you want to know whether that
12 was legal or not in Arizona?

13 A. Never occurred to me that it was not legal, and I would
14 be surprised to find that there's some law that would govern
10:33a 15 that kind of situation.

16 Q. It would be fair to say that you have absolutely no
17 experience at all in reviewing residential treatment
18 facilities like Spring Ridge Academy?

19 A. Residential treatment facilities are not my area of
10:33a 20 expertise. My area of expertise is therapy.

21 Q. And it would also be fair to say that you did not
22 evaluate the conditions under which Rearden lived in terms of
23 whether it had therapeutic value or impacted the therapy she
24 was receiving?

10:34a 25 A. I did not evaluate the conditions under which Rearden

1 lived.

2 Q. So you were looking at progress notes from Veronica
3 Borges in a vacuum?

4 A. I don't know that "in a vacuum" is accurate, but I was
10:34a 5 focusing on therapeutic methods and therapeutic
6 professionalism and things in the realm of psychotherapy.

7 Q. Now, we've used some terminology regarding evidence
8 based, and I think you stated a definition that it's based on
9 research; and we heard you say that there's a couple camps
10:34a 10 among your peers of people that are very research bound and
11 people that are more loose, or something to that effect?

12 A. Not more loose, but are based on more clinical experience
13 rather than research experience.

14 Q. But you would agree in your community when someone uses
10:35a 15 the term "evidence based," those are people that are talking
16 about published peer-reviewed studies tested over time?

17 A. It's not clear exactly what "evidence based" means. I
18 would not necessarily agree with that specific
19 characterization.

10:35a 20 Q. Well, would you agree with the characterization made by
21 the American Psychological Association?

22 A. Yes.

23 Q. Okay. So let me ask you about some other language.

24 If it's -- there's a difference, wouldn't you agree,
10:35a 25 between standard of care and clinically sophisticated therapy?

1 A. Well, yeah, those terms are used for different purposes.

2 Q. So in this particular case an unlicensed person is
3 counseling Rearden alone, right?

4 A. Yes.

10:36a 5 Q. Leslie Filsinger is never in the room, correct?

6 A. Correct.

7 Q. So would you consider that clinically sophisticated?

8 A. I actually don't know what the word "clinically
9 sophisticated" means. I would consider that clinically

10:36a 10 appropriate. I don't know how to use the word
11 "sophisticated."

12 It's perfectly appropriate, legitimate, correct, and it's
13 done all the time, and it's how I was trained.

14 Q. So "standard of care" is really a terminology that you
10:36a 15 use in your job to decide whether someone's negligent or not,
16 correct?

17 A. Yes.

18 Q. In this particular case we're talking about whether or
19 not what was represented and what was provided, and would you
10:36a 20 agree there could be a difference?

21 A. I'm sorry, a difference between what and what?

22 Q. What meets the standard of care and what is clinically
23 sophisticated.

24 A. I really don't know what this word "clinically

10:36a 25 sophisticated" means. It means nothing to me. I've used the

1 term "clinically appropriate." I don't know what "clinically
2 sophisticated" is.

3 MS. ALLARD: I have no further questions.

4 THE COURT: Is there any redirect?

10:37a 5 MR. SMITH: Briefly, Your Honor.

6 THE COURT: Come on up.

7 MR. SMITH: Thank you.

8 THE COURT: You're welcome.

9 REDIRECT EXAMINATION

10:37a 10 BY MR. SMITH:

11 Q. Dr. Williams -- excuse me. Dr. Williams, just a couple
12 of follow-ups on some of the things that were brought up.

13 Way back at the beginning of the cross-examination you
14 were put through kind of a memory test on the types of studies
10:37a 15 you were doing when you were earning your degrees.

16 Do you remember that?

17 A. Yes.

18 Q. And you talked about some sex-related studies?

19 A. Yes.

10:37a 20 Q. Tell the jury a little bit more. I mean, is this -- is
21 this something that is within the scope of normal
22 psychological studies for -- for somebody earning their Ph.D.
23 to pursue?

24 A. Yes. If we go back 50 years, which is when this took

10:38a 25 place, Masters and Johnson sex therapy was a very big thing.

1 It was the first evidence-based treatment for sexual problems.
2 They published a book called *Human Sexual Inadequacy* that
3 described a new approach to treating sex problems, and the
4 small clinic I was working in in Berkeley was using the
10:38a 5 Masters and Johnson approach; and as a result I had an
6 interest at that time in those sorts of things, and that's
7 what led to those publications.

8 Q. And so moving forward a little bit more, you were also
9 asked about the provision of family therapy with all but one
10:39a 10 of the members of the family being present.

11 Do you remember those questions?

12 A. Yes.

13 Q. And Ms. Allard put it into the context of whether it's
14 legal, whether the statutes would cover something like that;
10:39a 15 and I wrote down that you stated it never occurred to you that
16 there would be a statute that would address such a thing.

17 Can you explain to the jury what you meant when you said
18 that?

19 A. Yeah, I didn't mean that it never occurred to me 'cuz
10:39a 20 it's something I don't know about. What I'm saying is I have
21 never come across any laws governing the practice of
22 psychotherapy that are so specific that the law would say that
23 you can't do family therapy under these circumstances, but you
24 can under those circumstances. That kind of specificity does
10:40a 25 not exist in the laws and regulations that govern

1 psychotherapy.

2 Q. So then how do we determine whether or not psychotherapy
3 is being done appropriately?

4 A. Well, you have to ask the community of psychotherapists
10:40a 5 as to is it a recognized treatment? Is it something that is
6 known to be done? Does it have a rationale? Does it make
7 sense to professional therapists?

8 Q. And when you reviewed the therapeutic modalities that
9 were being used at Spring Ridge Academy, is that the standard
10:40a 10 that you applied?

11 A. Yes.

12 Q. You were also asked questions about things that you
13 repeatedly stated does not appear to be therapy, workshops,
14 the being dropped off at night with a bag of sand and things
10:40a 15 like that. Do you remember being asked about that?

16 A. Yes.

17 Q. Okay. So are -- why does that not sound like that's
18 therapy?

19 A. Well, those are some kinds of personal growth exercises
10:41a 20 that are outside the realm of the forms of therapy that are
21 generally recognized and generally considered to be therapy.
22 They may or may not be helpful, but they're not anything that
23 I or most therapists know anything about.

24 Q. And finally on this issue of evidence-based therapy, you
10:41a 25 agreed that if the APA has a definition of evidence-based

1 therapy, you would accept that definition for evidence-based
2 therapy?

3 A. Sure, absolutely.

4 Q. Is that the definition of the narrow group that you were
10:41a 5 discussing earlier of the scientifically studied specific
6 therapies?

7 A. No. In the guidelines and in the APA position on
8 evidence-based therapy, they try to appeal to both groups; and
9 they say you want to use evidence-based therapy in the context
10:42a 10 of methods that have been supported by research, along with
11 clinical judgment, along with knowledge you have about the
12 individual being treated and you use them all together.

13 So their ultimate statement takes into account both
14 camps. So they're not siding with the hard-core science
10:42a 15 people who say if it hasn't been proven by research it's
16 unethical to do.

17 Q. Thank you, Doctor.

18 MR. SMITH: That's all I have.

19 THE COURT: Subject to recall, defense?

10:42a 20 MR. SMITH: No, Your Honor.

21 THE COURT: Plaintiffs?

22 MS. ALLARD: I had a follow-up, Your Honor.

23 THE COURT: I'm sorry?

24 MS. ALLARD: Could I ask a follow-up question to
10:42a 25 Mr. Smith's question?

1 THE COURT: I'll allow you.

2 MS. ALLARD: I'm sorry, I didn't hear your answer.

3 THE COURT: Yes, come on up.

4 MS. ALLARD: Okay.

10:42a 5 THE COURT: Mr. Smith, Dr. Williams is your witness.

6 So when she finishes, I'll bring you back up.

7 MR. SMITH: Thank you, Judge.

8 THE COURT: You're welcome.

9 RECROSS-EXAMINATION

10:43a 10 BY MS. ALLARD:

11 Q. One of the issues -- you're indicating you're not
12 familiar and you have not seen any codes that govern family
13 therapy in the context you've been asked today, but if there's
14 confidence as you understand confidential communication -- you
10:43a 15 understand that level?

16 A. Yes.

17 Q. So if confidences are received from Ms. Sweidy and then
18 publicized through a report from Veronica Borges without her
19 permission to a court, would you agree that that is an ethical
10:43a 20 violation?

21 A. I would have to look at the specifics because this is not
22 something that I've been asked to consider as far as violating
23 the confidence or privacy of Ms. Sweidy.

24 Q. Well, would you agree that in a marriage and family
10:43a 25 counseling situation where there's a mother, father and a

1 child, that all the adult participants both need to consent
2 before anything that happens in that context goes out to third
3 parties?

4 A. Who do we mean by "third parties"?

10:44a 5 Q. Anyone else other than them.

6 A. Yes, I would say they have to give consent, sure.

7 Q. And that protects the confidential relationship between
8 all parties and the therapist, correct?

9 A. Yes.

10:44a 10 MS. ALLARD: No further questions.

11 THE COURT: Mr. Smith, anything else?

12 MR. SMITH: Just brief.

13 THE COURT: Come on up.

14 FURTHER REDIRECT EXAMINATION

10:44a 15 BY MR. SMITH:

16 Q. Doctor, with regard to what you were just asked about
17 confidential information that is conveyed during the course of
18 a patient and psychologist encounter, in that scenario, if
19 somebody who is not in that group obtains and then sends or
10:45a 20 publishes that information, is that the therapist's fault?

21 A. No, no.

22 Q. And if, in fact, the information that is conveyed is --
23 is not actually done -- provided in the course of a therapy
24 session, that it's just a general communication, is that
10:45a 25 something that would fall within this confidentiality

1 provision for lack of a better term?

2 A. Not if it's not within the context of psychotherapy.

3 Q. And in this case we know that Ms. Sweidy refused to
4 undergo psychotherapy, correct?

10:46a 5 A. Correct.

6 Q. Thank you, Doctor.

7 THE COURT: Subject to recall, defense?

8 MR. SMITH: No, Your Honor.

9 THE COURT: Plaintiff?

10:46a 10 MS. ALLARD: No, Your Honor, thank you.

11 THE COURT: Doctor, thank you so much for coming in
12 this morning. Please be careful with the stairs behind you,
13 and have a wonderful weekend.

14 THE WITNESS: Thank you.

10:46a 15 THE COURT: You're welcome.

16 Ladies and Gentlemen, this is a perfect time to take
17 our morning recess. Court's in recess until 11:00 a.m.

18 Doctor, can you wait for the jury to clear the box,
19 please.

10:46a 20 THE WITNESS: Sure.

21 THE COURT: Thank you.

22 Court's in recess.

23 (Jury out and recess taken at 10:46 a.m.)

24 COURTROOM DEPUTY: All rise for the jury.

11:01a 25 (Jury back in at 11:01 a.m.)

1 A. Yes.

2 Q. Did you prepare a report in this matter?

3 A. I did.

4 Q. And do you remember when that report was prepared?

11:03a 5 A. I don't exactly, but it was months ago.

6 Q. Okay. So we've had -- staff has placed in front of you
7 two exhibits. One of them is Exhibit 329.

8 Is that a copy of your report?

9 A. That's my vitae and -- okay.

11:04a 10 Q. Is that -- is that your report?

11 A. That's correct.

12 Q. Thank you, thank you. So before we start talking about
13 your report, let's let the jury know a little bit about your
14 background that would provide you the ability to give us some
11:04a 15 information that might be of relevance --

16 A. Sure.

17 Q. -- in this trial. Tell us, if you would, starting with
18 your education where did you go to school?

19 A. My undergraduate I completed in Switzerland. After my
11:04a 20 undergraduate degree in microbiology, I came to United States
21 where I completed a master's degree.

22 Q. And where did you have your master's degree?

23 A. Somebody's calling me, I'm sorry.

24 Q. That's one of those phones.

11:04a 25 A. I'm sorry.

1 Q. It's okay.

2 A. Came to United States, did a Master's Degree in
3 Educational Psychology, and then I completed a Ph.D. in
4 Marriage and Family Therapy --

11:05a 5 Q. And so --

6 A. -- at Brigham Young University.

7 Q. At BYU?

8 A. Correct.

9 Q. When did you -- when did you graduate in Switzerland from
11:05a 10 -- with your undergraduate degree?

11 A. Oh, I want to say that was probably in the late '60s.

12 Q. And then do you recall when you got your master's at BYU?

13 A. It was probably in '75, '74 and I finish my Ph.D. in '77.

14 Q. Okay. And after obtaining your Ph.D. -- or, actually,
11:05a 15 let's start before obtaining your Ph.D. Were you working in
16 the field of psychology?

17 A. Yes. As a graduate student, I was teaching psychology
18 curricula at the university for undergraduates; and I was also
19 conducting therapy in BYU counseling clinic as an intern,
11:06a 20 which was part of my Ph.D. program.

21 Q. And by "conducting therapy," was that actually providing
22 therapy to clients?

23 A. Correct.

24 Q. Were you being supervised somehow?

11:06a 25 A. Under the supervision of my professors.

1 Q. And when you would provide the therapy, would the
2 professors be in the room with you?

3 A. No.

4 Q. After you obtained your Ph.D., did you continue to
11:06a 5 provide psychological counseling services?

6 A. Yes, I moved to St. Louis where I had a private practice
7 to provide individual and family therapy, and I was also
8 starting a residential treatment program.

9 Q. And when you say "individual and family therapy," would
11:07a 10 that be providing individual therapy in the context of also
11 providing the family therapy or two different things?

12 A. It could be both. Obviously, when we talk about
13 individual therapy, we mean that the therapist talks to an
14 individual.

11:07a 15 When we talk about family therapy, it's a different --
16 family therapy is designed to deal with the entire system, the
17 entire family system. That could include mom, it could
18 include dad, it could include grandma, it could include
19 siblings, it could include grandpa, the whole system; and
11:07a 20 depending what the emergent issue is in family therapy, the
21 clinician may choose to only talk to certain members of that
22 circle.

23 Q. I see. So you were providing that on an outpatient
24 basis?

11:07a 25 A. Outpatient, yes.

1 Q. And I think I heard you mention a second ago while you
2 were in St. Louis you also were in a residential treatment
3 program?

4 A. That's correct.

11:08a 5 Q. What was that program?

6 A. That was the Educational Therapy Center, which was a day
7 treatment program for behavioral disordered kids that were
8 referred by the Court and the school district because of their
9 behavioral problems.

11:08a 10 So there I worked individually with -- with the students
11 and in that context also provided family therapy.

12 Q. And so the students were living at this center, the
13 educational treatment center?

14 A. We had both. We had day students and we had residential
11:08a 15 students. So we had both type of students there.

16 Q. And how long did you do that?

17 A. I did that for about eight, nine years.

18 Q. Okay. And where'd you go after that?

19 A. After that I moved to Salt Lake City where I was the
11:09a 20 executive director of a specialty psychiatric hospital for
21 adolescents.

22 Q. Is that an inpatient psychiatric hospital?

23 A. Inpatient, correct, 84-bed inpatient psychiatric hospital
24 for adolescents.

11:09a 25 Q. And while were you the executive director, did you also

1 provide any treatment?

2 A. Yes.

3 Q. So you were executive director and also providing
4 treatment --

11:09a 5 A. Correct.

6 Q. -- for the patients in the hospital?

7 A. Correct.

8 Q. How would an inpatient psychiatric hospital differ from a
9 residential treatment program such as the one you had been at
11:09a 10 in Illinois?

11 A. It's the level of acuity. So in an inpatient psychiatric
12 facility you typically have patients that may be suicidal or
13 have suicidal ideation or self-harm ideation. It also has
14 locked doors. So, in other words, kids cannot leave on their
11:10a 15 own accord. It has locked doors.

16 Typically, a residential treatment facility does not have
17 locked doors and you are not necessarily dealing with highly
18 acuate kinds of patients.

19 Q. Is it possible in that scenario, though, where you've got
11:10a 20 a residential treatment facility that's not a hospital with
21 locked doors that you will have patients who have engaged in
22 self harm?

23 A. You -- you may have -- in a residential facility that is
24 not locked you may have a patient that has some self-harm
11:10a 25 ideation or makes attempt; and in that case, obviously, you

1 typically refer that patient to a more acute facility, like a
2 hospital.

3 Q. Does the fact that a person had -- previously in a prior
4 time before coming to a residential treatment center had

11:11a 5 engaged in self harm or ideation for self harm, does that
6 disqualify them from being at a residential treatment center?

7 A. Not necessarily. It depends how long ago that happened
8 and what were the circumstances of that particular self-harm
9 incident.

11:11a 10 Q. And then so you were in Utah at this inpatient treatment
11 hospital -- psychiatric treatment hospital?

12 A. Correct.

13 Q. About how many beds?

14 A. 84 beds.

11:11a 15 Q. 84 beds, so 84 patients?

16 A. Yes.

17 Q. And after -- how long were you there and then what did
18 you do?

19 A. I was there about nine years.

11:11a 20 Q. And where'd you go from there?

21 A. I started my -- with a couple of other colleagues, we
22 started our own residential treatment program in Utah.

23 Q. And --

24 A. 112 beds residential treatment program.

11:12a 25 Q. So when we say "residential treatment program," we're

1 talking now about the kind of program that you had been
2 involved in outside St. Louis in Illinois?

3 A. That's correct.

4 Q. Not the hospital environment?

11:12a 5 A. Not -- not the hospital environment for the higher
6 acuity-type patients.

7 Q. What led you to decide to go do the residential treatment
8 -- back to the residential treatment program?

9 A. The issue there was that most insurance companies
11:12a 10 wouldn't pay for more than, like, five or six days of acute
11 care; and there isn't a kid on the planet that is going to be
12 cured in five days, and so we decided to create a program that
13 would be longer in terms of providing therapy so we could
14 actually see the child getting better as opposed to just
11:13a 15 stopping the suicide attempt.

16 Q. Well, why not -- in that scenario why not just provide it
17 on an outpatient basis? Why do they -- why do we create this
18 sub group that is now going to residential treatment centers?

19 A. Because a lot of -- many of these young adolescents
11:13a 20 refuse to go to outpatient therapy, and so the parents would
21 bring them to a residential facility where we had more control
22 of how the therapy and when the therapy is administered.

23 Q. I see. And what was the name of the center that you had
24 founded in Utah?

11:14a 25 A. Island View Residential Treatment Center.

1 Q. Island View Residential Treatment Center?

2 A. Yes.

3 Q. And did you stay with that or move on?

4 A. We sold that to a different company, and then I started
11:14a 5 another smaller psychiatric facility and I was there for
6 probably another two or three years; and then we started
7 another residential treatment center specializing in anxiety,
8 OCD and depression. That was way -- that was an academy that
9 I subsequently sold a year ago.

11:14a 10 Q. Okay, let me -- let me parse that out a little bit.
11 You were specializing in anxiety. Did you say OCD?

12 A. Yes.

13 Q. And depression?

14 A. Yes.

11:14a 15 Q. For the jury, what is "OCD"?

16 A. OCD is a problem where a person has particular things
17 that they want to do. You probably heard of somebody who has
18 germophobia. They think that the whole world is infected with
19 germs and they're gonna get infected with germs, and so they
11:15a 20 may hand wash 24/7 a day. That's OCD. There are all kinds of
21 different forms of OCD and it's very difficult to treat.

22 Q. Is that obsessive compulsive disorder?

23 THE WITNESS: Could I have a little water, please?

24 MR. SMITH: Oh, absolutely.

11:15a 25 THE WITNESS: Sorry. It's right there. It's just

1 got a little cup. All right, thank you.

2 BY MR. SMITH:

3 Q. So we're talking obsessive compulsive disorder?

4 A. Uh-huh.

11:15a 5 Q. Is that what you mean by "OCD"?

6 A. Yes.

7 Q. And then did you also say depression?

8 A. Depression.

11:16a 9 Q. Is this -- was -- you say it was a 120-bed facility. Was
10 this --

11 A. No, that was -- Island View was a 112-bed facility.
12 There we treated a wide range of disorders, anything from
13 depression, reactive attachment disorder, trauma, you name it.

11:16a 14 THE COURT: Mr. Smith, can you make sure when your
15 witness starts talking over your questions, can you please
16 correct that for the record.

17 MR. SMITH: Yes, Your Honor.

18 THE COURT: Thank you.

19 BY MR. SMITH:

11:16a 20 Q. Dr. Balmer, when we were just talking -- before we took
21 the little pause, we were talking about the facility that you
22 opened after Island View?

23 A. Yes.

24 Q. What was the name of that facility?

11:16a 25 A. That was WayPoint Academy.

1 Q. And so is WayPoint Academy where you were treating
2 patients that had anxiety, OCD, depression?

3 A. Correct.

4 Q. Was that a residential treatment facility?

11:17a 5 A. Correct.

6 Q. So would that also have patients who were outpatient,
7 would come and go --

8 A. No.

9 Q. -- or was it all inpatient?

11:17a 10 A. These were all inpatients.

11 Q. And how many -- would that be called a therapeutic
12 boarding school?

13 A. No, a therapeutic boarding school is -- maybe the best
14 way to explain this, a therapeutic boarding school is a school
11:17a 15 that has some augmented therapy involved.

16 A residential treatment center is a therapeutic facility that
17 augments the school, if that makes sense.

18 So the emphasis in a therapeutic boarding school is
19 school. The emphasis in a treatment facility is treatment and
11:18a 20 then school is augmented.

21 Q. Okay. So at WayPoint Academy, where was the emphasis?

22 A. Therapy.

23 Q. Therapy?

24 A. Right.

11:18a 25 Q. So there's a boarding school component to that?

1 A. There is a school component to it.

2 Q. School component. So children would live at home and
3 attend?

4 A. No, no, these are all kids that lived there 24/7.

11:18a 5 Q. Okay. Prior to that, had you been involved in a
6 organization called The Aspen Institute?

7 A. The Aspen Institute was the psychiatric hospital I opened
8 up prior to WayPoint Academy.

9 Q. And --

11:18a 10 A. That was a 28 bed, I think, facility that were treating
11 psychiatric patients, adolescents.

12 Q. That was adolescents, correct?

13 A. Yes, also adolescents.

14 Q. And then what's The Oakley School?

11:19a 15 A. The Oakley School was a therapeutic boarding school.

16 Q. And when did you operate that?

17 A. Oh, I operated that probably from -- I would have to
18 look. Sometime in the '80s.

19 Q. Okay. And so if you would look in front of you, staff
11:19a 20 has placed a copy of your curriculum vitae, which is, I
21 believe, 328. Would this help you put some dates on these
22 recollections?

23 A. Okay, we have WayPoint Academy, that is the most recent
24 one. The Aspen Institute was from --

11:19a 25 Q. If we could -- if you want to just catch up when you're

1 ready --

2 A. Okay.

3 Q. -- rather than talking because it will be hard for the
4 court reporter to --

11:20a 5 A. Okay.

6 Q. -- catch it all. Thank you.

7 So if we look at Page 2 down at the bottom, that's where
8 you're talking about Island View Treatment Center, correct?

9 A. That's correct.

11:20a 10 Q. And was -- that was handling adolescents or people of all
11 ages?

12 A. Adolescents.

13 Q. And then the next one on the top of Page 3 is The Oakley
14 School?

11:20a 15 A. Adolescents.

16 Q. And then starting in March of 2007 The Aspen Institute?

17 A. Adolescents.

18 Q. And then the last one you told us about is WayPoint
19 starting in April -- excuse me, August of 2012?

11:20a 20 A. Adolescents.

21 Q. And all of those were residential treatment --

22 A. Yes.

23 Q. -- programs?

24 A. They were all residential either at the acute level or at
11:20a 25 the therapeutic boarding school level or the -- the RTC level,

1 residential treatment center.

2 Q. Now, is there -- for these kinds of therapeutic boarding
3 school or therapeutic programs, residential programs, is there
4 a national group that either represents or that they can join
11:21a 5 so that they can exchange ideas?

6 A. Yeah, there are several potential organizations that any
7 of these treatment facilities can join. There is national
8 accrediting bodies that they could join or be accredited by
9 them. There is also NATSAP, the National Association for

11:21a 10 Therapeutic Schools and Programs, which they can join.

11 Q. So when we talk about NATSAP, did you have -- do you have
12 any involvement with NATSAP?

13 A. Yeah, I was one of the original founders of NATSAP.

14 Q. And when did that start?

11:22a 15 A. About twenty years ago. I think we just celebrated a
16 20-year anniversary.

17 Q. Congratulations. So when NATSAP started about twenty
18 years ago, what was the purpose?

19 A. The purpose was to provide the best care that we can
11:22a 20 possibly provide.

21 Q. How would creating an organization like that promote
22 providing the best care that you could possibly provide?

23 A. Well, you start by writing standards that governs the
24 entire facility, anything from how you -- the type of therapy
11:22a 25 you provide, plan technology and maintenance issues. The

1 entire facility is covered in terms of trying to provide the
2 very best environment and the very best care that is
3 available.

4 Q. Would -- would the NATSAP review or the NATSAP standards
11:23a 5 that you were talking about, would that apply to the
6 educational side of the facility?

7 A. Yes, there are standards in NATSAP that address the
8 educational part of what typically happens in a residential
9 treatment center.

11:23a 10 Q. Is -- does NATSAP, when it first began, do you know
11 whether or not Spring Ridge Academy joined NATSAP?

12 A. They later joined. I don't think they were part of the
13 original six facilities that joined in, but they joined later.

14 Q. And when they joined, did they have to show some sort of
11:23a 15 level of performance that would meet the NATSAP requirements?

16 A. They would have to sign off on the rules and the regs
17 NATSAP put forth, but NATSAP is not a -- we're not policing
18 ourselves, if you will, right?

19 So they simply agreed that they are going to perform
11:24a 20 based on the rules and the regs and the ethical standards that
21 we put together.

22 Later in NATSAP, NATSAP determined that we really need
23 somebody on the outside that will come in and see whether
24 we're doing the right thing. So we had a vote and we voted
11:24a 25 that if you want to be a NATSAP program, you would have to be

1 -- you have to seek an accreditation with a national
2 accrediting body, such as the Joint Commission. The Joint
3 Commission which provides hundreds of standards that would
4 guide and delineate what is good care.

11:25a 5 Q. And we've heard -- the jury has heard before some
6 references made to the Joint Commission.

7 A. Right.

8 Q. Is the full name the Joint Commission for the
9 Accreditation of Healthcare Organizations?

11:25a 10 A. That's correct.

11 Q. So people will also refer to it as JCAHO?

12 A. Correct.

13 Q. And did you have any affiliation yourself with JCAHO?

14 A. I was on the Advisory Council for JCAHO helping them

11:25a 15 draft rules and regs for the behavioral side of JCAHO.

16 Q. When was that?

17 A. Oh, that was probably beginning in '85 and probably
18 finished about two years ago.

19 Q. And when did NATSAP adopt this requirement for a NATSAP
11:26a 20 member to have a national accreditation with an organization
21 like JCAHO?

22 A. About two and a half years ago.

23 Q. And so from that point forward, has it been your
24 experience that NATSAP members have been applying and

11:26a 25 attaining those accreditations?

1 A. They have to or they won't be members.

2 Q. Okay.

3 A. It's a requirement now.

4 Q. And so when we talk about the accreditation -- NATSAP, I
11:26a 5 think you told the jury, is not an accrediting organization
6 itself?

7 A. No.

8 Q. But now it has this requirement for a national
9 accrediting organization for its members, correct?

11:26a 10 A. Yes, or it's an additional requirement for NATSAP members
11 to carry a national endorsement from an organization.

12 Q. And in the educational side, would accrediting
13 educational organizations be the equivalent of JCAHO for
14 NATSAP members to have that kind of accreditation?

11:27a 15 A. Depends on the jurisdiction of the state. Different
16 states have different requirements. Some states have a
17 requirement that you cannot operate an educational program
18 within a residential treatment center unless you have
19 certified teachers, for instance.

11:27a 20 There are other states that have different requirements
21 that are not necessarily subjective -- or subject to having
22 certified teachers.

23 Q. And one other question on this. Is -- are NATSAP members
24 required by its rules to be licensed to provide the kind of
11:27a 25 mental health care services that they are providing within

1 their state?

2 A. Well, that's -- yes and no. There are states where you
3 have to be licensed by the local jurisdiction to operate as an
4 RTC, as a residential treatment center, and they have statutes
11:28a 5 and standards that you have to meet.

6 I think that's the case in Arizona. It's the case in
7 Utah where I'm from. There are states where there are no
8 standards to operate a residential treatment center; and,
9 actually, for that purpose, we have determined that if you
11:28a 10 want to be a NATSAP member, you have to be at least accredited
11 by a national organization --

12 Q. I see.

13 A. -- because there is no standard within the state that you
14 operate.

11:28a 15 Q. I see. So in the instance of something like Spring Ridge
16 Academy operating in the State of Arizona since, as you just
17 testified, there is a requirement for -- to meet state
18 licensure to operate, would that then exempt Spring Ridge
19 Academy from becoming a member of JCAHO?

11:29a 20 A. No. In fact, I recall that Spring Ridge Academy applied
21 for JCAHO accreditation before NATSAP made the requirement --
22 made that a requirement.

23 Q. And we've heard testimony that they received that
24 accreditation in 2021?

11:29a 25 A. Correct.

1 Q. And do you know how long it took for that accreditation
2 to come through?

3 A. How --

4 Q. Do you know how long it took for that accreditation from
11:29a 5 JCAHO from application to being accredited by JCAHO, how long
6 it took?

7 A. It depends. It depends how fast an organization can get
8 ready for the survey, but typically it takes somewhere between
9 -- I would say about six months to get ready for the survey.

11:30a 10 Q. Was there a pause during the COVID pandemic in the
11 accreditation process?

12 A. There was, there was, and they moved to an on-line
13 accreditation process during that time.

14 Q. So in this case you were retained and authored your
11:30a 15 report. Your report is in front of you. It's Exhibit 329.
16 I'm wondering, could you maybe tell us what the date of that
17 report is?

18 A. I don't know if I have a -- I don't see a date on it.

19 THE COURT: Mr. Smith, you can lead him as it
11:31a 20 relates to the date if you know where it is.

21 MR. SMITH: Thank you, your Honor.

22 It's the second Page 8 is the signed page.

23 THE WITNESS: Okay, it's 6/7/22.

24 BY MR. SMITH:

11:31a 25 Q. So exactly two years ago today?

1 A. All right.

2 Q. Okay. So that's how long ago you wrote this report?

3 A. Right.

4 Q. Prior to writing this report, were you provided with
11:31a 5 materials to review?

6 A. Yes.

7 Q. And if you look at Page 2 of your report, there's a list
8 of various materials on there, isn't there?

9 A. Yes.

11:32a 10 Q. It includes the plaintiff's complaint that was filed and
11 the answer filed by the defendants?

12 A. (Nodding of the head.)

13 Q. Is that a "yes"?

14 A. Yes.

11:32a 15 Q. It also includes reports from plaintiff's experts,
16 Dr. Hunter and Dr. Flens?

17 A. Yes.

18 Q. And it also includes a list of depositions of Spring
19 Ridge Academy personnel, correct?

11:32a 20 A. Correct.

21 Q. There's eight of them?

22 A. I did not read every single of these documents that are
23 listed here.

24 Q. Well, I'm asking what's there and then we'll cover what
11:32a 25 it is that you reviewed. So there are -- there is a list of

1 eight depositions, correct?

2 A. Yes.

3 Q. Okay. And you just indicated to the jury you didn't read
4 every single document that you were provided?

11:32a 5 A. Correct.

6 Q. For instance, the complaint is over a hundred pages long.
7 Is there -- did you read that entire complaint?

8 A. I did read the complaint.

9 Q. Did you read every single page of the eight depositions?

11:33a 10 A. Of all, no.

11 Q. Were there specific depositions that you did read?

12 A. I read the deposition of the Clinical Director, Jeannie,
13 and -- I can't remember now, been too long.

14 Q. Okay. So the Clinical Director, would that be Leslie
11:33a 15 Filsinger?

16 A. Yes.

17 Q. And Jean Courtney?

18 A. Yes.

19 Q. Do you know Jean Courtney, by the way?

11:33a 20 A. Yes.

21 Q. How long have you known Jean Courtney?

22 A. I met her, I want to say, twenty years ago, met her
23 briefly.

24 Q. And what was the circumstance of you meeting Jean
11:33a 25 Courtney?

1 A. I was at the facility about twenty years ago helping them
2 get some policies of preparing them for the Joint Commission
3 accreditation.

4 Q. Twenty years ago?

11:34a 5 A. Yep.

6 Q. There's also listed on Page 3 some Arizona administrative
7 code provisions and Arizona statutes that you were provided.

8 Did you review any of those?

9 A. I did not.

11:34a 10 Q. And there's also listings of group therapy notes,
11 progress notes, new student daily progress report.

12 Did you review those?

13 A. Yes.

14 Q. Did you review the Master Treatment Plan that's listed
11:34a 15 there?

16 A. Yes.

17 Q. And then there's also some documents from the California
18 divorce court or family court proceedings for Ms. Sweidy and
19 Mr. Stata that are listed, the original Decree of Dissolution
11:34a 20 and a February 10th court order. Did you review those?

21 A. I -- yes, I remember.

22 Q. And finally there's an agreement signed by Raymond Stata
23 dated February 26, 2020. That would have been at some point
24 after Ms. Sweidy and Mr. Stata originally enrolled their

11:35a 25 daughter at Spring Ridge Academy.

1 Did you review that document?

2 A. I believe so.

3 Q. So when you reviewed those documents, what did you
4 understand your -- your goal was for being able to determine
11:35a 5 the basis of your opinions in this case?

6 A. I thought my goal was to evaluate the overall provision
7 of care that was offered to the patient.

8 Q. Were you -- were you investigating specifically just the
9 therapeutic care that was provided?

11:36a 10 A. No, I was also looking at other -- other things that were
11 provided for the patient outside of the core therapeutic
12 stuff, like individual therapy, group therapy and family
13 therapy.

14 Q. In addition to the therapies, what other kinds of care
11:36a 15 were you looking to review in these documents?

16 A. Well, they -- they offered some parent workshops. They
17 offered some experiential therapy; and those are very, very
18 typical of any residential treatment center that I've ever
19 come in contact with.

11:36a 20 Q. And when you reviewed all of these various documents,
21 were you focusing on the care provided for the entire family
22 or for one particular individual?

23 A. Well, the -- the primary care for any residential
24 treatment center is the patient; but within the circle outside
11:37a 25 of the patient, clearly, you have to deal with the family, and

1 that can happen in context of family therapy.

2 Q. And in this case as you reviewed the therapy notes, were
3 you made aware of the types of therapies that were provided to
4 Rearden Stata?

11:37a 5 A. Yeah, I think it's on CBT, cognitive behavioral therapy.
6 I think that's the core of what they provided. They provided
7 some other modalities of therapy.

8 Q. And as far as the experiential workshops, what's the
9 purpose of an experiential workshop? Is that therapy?

11:38a 10 A. Well, it depends what you define as therapy. It is not
11 formal therapy, but these are workshops that are designed to
12 improve yourself, to improve family relations, to identify
13 what may be wrong with that particular individual or with that
14 particular family system.

11:38a 15 So trying to figure out what's -- where is the pain and
16 then you engage in serious activities that will -- is aimed to
17 -- to correct these mishaps, if you will.

18 Q. And ultimately is -- are these experiential workshops, is
19 it fair to say the goal is for growth for the individual?

11:39a 20 A. Certainly.

21 Q. And if we look at the history of these kinds of
22 workshops, have you heard of a group called Lifespring?

23 A. I heard of it, but I am not really familiar with it.

24 Q. The types of experiential workshops that you saw

11:39a 25 described in the materials you reviewed for Spring Ridge

1 Academy, are you familiar with those kinds of activities?

2 A. Not particularly. The only thing that I recall reading
3 is that Jeannie, I believe, in the previous past before she
4 started the facility, she was a facilitator, I want to say, in
11:40a 5 one of these workshops; but I also understand that she changed
6 many of the elements and made it more palatable to what they
7 were doing at that facility.

8 Q. And with regard to the kinds of experiential workshops
9 that you're familiar with, do those -- do any of the

11:40a 10 facilities that you've run which you've used those kind of
11 growth activities with your own clients?

12 A. Any facility that I'm familiar with -- and I'm probably
13 familiar with as many as 120 different facility -- is using
14 experiential therapy, if you will, experiential experiences
11:40a 15 that are growth oriented.

16 In outdoor behavioral health, for instance, the child is
17 asked to bust a fire, to make a fire with bone arrow. Now,
18 what does that have to do with therapy? It has to do with the
19 notion that I did something, I achieved something of which I
11:41a 20 thought I could never do.

21 So many of these experiential therapies are designed for
22 the child to feel a sense of accomplishment. "I overcame an
23 obstacle. I did a blind walk, which I thought was horrible,
24 but I did it. What a success."

11:41a 25 You know, there's no end to these various experiential

1 therapies or, "Me and my family climbed a 10-foot wall
2 together. We could never thought we would do anything like
3 this, but now we doing this as a family. We make new
4 connections. We had a lot have fun together for the first
11:42a 5 time in a long time."

6 That's not core therapy. That's experiential therapy,
7 which is growth oriented.

8 Q. And in the context of a therapeutic environment, why is
9 that important?

11:42a 10 A. Because you're interested in the growth of the entire
11 person, not just getting rid of a particular single problem.
12 You're looking at the entire person. That's what you're doing
13 in a residential treatment center. That's why they go to
14 school in addition to having therapy. So you deal with the

11:42a 15 entire person. You deal from -- you deal with -- with food
16 issues, sleep issues. You're dealing with the entire person.

17 Q. And in the situation where you have a client -- a student
18 that's at the school -- at a boarding school, therapeutic
19 boarding school who's in therapy, receiving therapy, we've

11:43a 20 heard testimony that the therapists would go and observe these
21 workshops. Is that something that you're familiar with?

22 A. Sure, yeah. I think -- I think most facilities that I'm
23 familiar with, and there are lots of them, would have the
24 therapist observe these experiential workshops, if you will,

11:43a 25 glean some interesting and pertinent data from observing the

1 child, and then later that data is processed into individual
2 therapy session because there's certain things that you can't
3 see in a therapy session when a kid is sitting in front of you
4 on a chair; but if you see a kid climbing a wall and dealing
5 with the emotional baggage that it takes to climb that wall,
6 that's new and very important information that later on is
7 taken into the individual therapy session and processed.

8 So these are wonderful means to get additional data from
9 a person.

10 Q. If a -- if a participant in a workshop, as you've
11 described them, isn't up to the task and just can't perform,
12 is it appropriate to force them to stay and do it?

13 A. No.

14 Q. Is it -- then how do you deal with that?

15 A. You -- you ask them if they would like to leave. They
16 can leave and maybe later on you talk individually with that
17 person and process with that person as to why they felt like
18 they needed to leave.

19 Q. And in the context of a therapeutic boarding school where
20 we've got families that are visiting to participate in
21 workshops, I think you mentioned earlier that you were
22 familiar with -- or you had seen at Spring Ridge Academy they
23 had the family workshop?

24 A. Right, I -- I read that in the admission paperwork or the
25 program overview that they hand out to the parents.

1 Q. Now, in the context of family therapy is it necessary
2 that all three members of a three -- you know, a child plus
3 her two parents all participate simultaneously in the therapy?

4 A. In family therapy?

11:45a 5 Q. In family therapy.

6 A. No, no.

7 Q. Why not?

8 A. Family therapy, like I think I mentioned before, deals
9 with the entire system. Mom, dad, grandpa, siblings,

11:45a 10 grandparents, and the clinician makes a clinical decision as
11 to who should attend and who should not attend.

12 If you have a situation where the parents are at odds
13 with each other, it may -- it's clinically contraindicated for
14 a parent to be there because it may have a detrimental effect
11:46a 15 on the patient.

16 Q. So -- and I'm sorry, but taking that thought and then
17 looking at these growth opportunities, these growth workshops,
18 does that -- does that same thought process apply when you
19 have something that is a family workshop by design?

11:46a 20 A. Yes.

21 Q. So are there times when it's appropriate to have family
22 members do these workshops separately?

23 A. It's possible. In fact, I did this myself numerous times
24 where I just talked to the parents, and then we have another
11:46a 25 portion of that workshop where they work with the kid. So it

1 can be any different constellation of what's going on for a
2 parent workshop, including the child, not including the child,
3 depending what you're after.

4 Q. And for a -- for a therapeutic boarding school
11:47a 5 environment, what is the ultimate goal for the student?

6 A. Growth.

7 Q. Do you want to keep them there forever?

8 A. Emotional psychological growth.

9 Q. And is there a metric by which we measure to say, "Okay,
11:47a 10 you've reached sufficient" --

11 A. Well, the metric --

12 Q. -- "psychological growth so that you are now able to move
13 on from this environment"?

14 A. The metric is the treatment plan. So in a residential
11:47a 15 treatment center you have a Preliminary Treatment Plan, which
16 is if the treatment center is -- let's say is a one-year
17 program, you get preliminary information from the new child
18 that is coming in. You then form a preliminary treatment
19 plan, which is typically good for the first 30 days.

11:48a 20 During those first 30 days, you may conduct an additional
21 assessment that will shed additional light on the nature of
22 the problem of the child. So you don't necessarily want to
23 set everything down in hard ink, if you will, during that
24 initial period because you are constantly looking for
11:48a 25 additional information, not only from the child, but perhaps

1 from the family as well.

2 After 30 days, then you create what's called the Master
3 Treatment Plan, which typically has long-term objectives and
4 short-term goals, short-term objectives. The long-term

11:49a 5 objective is the objective that is defined by what do we want
6 this child to look like when he or she leaves? That's the
7 long-term objective, but in order to get to the long-term
8 objectives we have to make small steps.

9 You can't get to the end in a day so you have small steps
11:49a 10 and these are -- these are objectives that are typically put
11 together. They are good typically for 30 days, and after 30
12 days you review the treatment plan with the entire treatment
13 team, and you're trying to figure out how is the child coming
14 along relative to the objectives that we have put on paper.

11:49a 15 And so the treatment team may determine that we are going
16 to keep this objective but we're going to retire this
17 objective because the child has achieved this objective, and
18 you add new objectives. So the treatment plan is a living
19 document, if you will. It changes every month.

11:50a 20 Q. I see. So once a treatment plan -- Master Treatment Plan
21 is put into place, it -- did you say it evolves?

22 A. It evolves. Every month you have either an objective
23 accomplished and new objectives added. So the Master
24 Treatment Plan is not a static instrument, and you measure the
11:50a 25 progress of the child relative to his or her accomplishment of

1 the short-term objectives.

2 Q. And those are the short-term objectives that evolve. The
3 ultimate goal is set down and this is what we're going to hope
4 to achieve so the child can move on from this point?

11:50a 5 A. Exactly. The other thing I think that is important, it
6 is a Joint Commission standard which I did see at -- if you're
7 Joint Commission accredited standard. The child has to agree
8 to those objectives. The child has to be informed of those
9 objectives, okay?

11:51a 10 Q. And so in this instance --

11 A. So it's not something we shove down the child's throat.
12 We talk with the child. We find out what the -- we make
13 suggestions. We get the feedback from the child, and we
14 arrive of what should be the next objective.

11:51a 15 Q. What if one of the parents does not agree to the Master
16 Treatment Plan?

17 A. Then that may be an issue in the family -- that may be an
18 issue that will come up in the family therapy session.

19 Q. So does that mean we don't pursue the goals that are on
11:51a 20 the Master Treatment Plan?

21 A. Of course not.

22 Q. You saw the Master Treatment Plan in this case?

23 A. Yes.

24 Q. And did it appear to you to embrace the kinds of goals

11:51a 25 you would expect to see --

1 A. It had all -- it had all the elements that the Joint
2 Commission requires. Long-term goals, short-term objectives
3 signed off by the treatment team and the child.

4 Q. And in your review of the type of services that were
11:52a 5 provided to Rearden Stata while she was at Spring Ridge
6 Academy, did you arrive at a conclusion as to whether or not
7 they were appropriate?

8 A. I would say I didn't discover anything that was not
9 appropriate.

11:52a 10 Q. Is there variety and variability built into it based upon
11 the decisions that the treatment team makes?

12 A. Absolutely.

13 MR. SMITH: That's all I have, thank you.

14 THE WITNESS: All right.

11:52a 15 THE COURT: Is there any cross-examination,
16 Ms. Allard?

17 MS. ALLARD: Yes, Your Honor.

18 THE COURT: Come on up.

19 MS. ALLARD: Thank you.

11:52a 20 THE COURT: You're welcome.

21 CROSS-EXAMINATION

22 BY MS. ALLARD:

23 Q. Dr. Balmer, we have about five minutes here before lunch
24 but --

11:53a 25 THE COURT: Actually, I'm not breaking until 12:15.

1 MS. ALLARD: Okay, thank you.

2 BY MS. ALLARD:

3 Q. I want to ask you about NATSAP and your role at NATSAP.

4 A. Okay.

11:53a 5 Q. So I'm looking at some publications from an individual
6 from Montana Academy that he made recently. Do you know who
7 that person is?

8 A. I think John Santa, is that who you're referring to?

9 Q. Yes. Who is he?

11:53a 10 A. He is a licensed psychologist operating in the State of
11 Montana. At one time he operated a residential treatment
12 center. That treatment center has been sold, and I don't
13 think it exists anymore.

14 Q. Do you know anything about his open letter to critics of
11:53a 15 the industry that you work in?

16 A. No.

17 Q. And you would agree that you work in the same industry
18 that Spring Ridge Academy does?

19 A. Generally speaking, yes.

11:54a 20 Q. And that's your source of income?

21 A. Uh-huh, yep.

22 Q. And you make quite a bit of money?

23 A. That's debatable.

24 Q. Okay. So one of the first things I noticed you said in
11:54a 25 your report is that you read the complaint in this matter and

1 you believed that Kimberly Sweidy was trying to take down the
2 whole industry?

3 A. I -- I do not recall those specific words.

4 Q. Do you have your report in front of you and maybe I'll
11:54a 5 quote it more directly.

6 A. Sure, where is it?

7 Q. Well, I'll read from it. It says, "Many of the
8 allegations in her lengthy Complaint and discourse in the
9 expert reports she has provided have no relation to either
11:54a 10 Spring Ridge Academy as an institution," --

11 A. Okay.

12 Q. -- "or the treatment provided..." and then you -- you
13 said at the very top, "At the outset, I note that much of what
14 Plaintiff is alleging is tantamount to taking on the entire
11:55a 15 residential treatment industry."

16 A. Based on her -- what I read, that's precisely what she's
17 trying to do.

18 Q. And that's you?

19 A. Sure.

11:55a 20 Q. Okay. So you're coming into this matter with a financial
21 stake in the outcome of this case; wouldn't you agree?

22 A. I don't think it's a financial issue.

23 Q. Well, you own one of these residential treatment
24 facilities that you believe that this lawsuit will threaten,
11:55a 25 correct?

1 A. Yeah, but my -- my -- when I read this I thought, "What
2 does that have to do with the particular patient that we're
3 talking about?"

4 Q. I just wanted to know why you thought you needed to write
11:55a 5 that in your report about this particular patient?

6 A. Because when I read her complaint, to my -- in my
7 opinion, it went far afield of what the core issues are of
8 this particular patient.

9 Q. Well, in that lengthy complaint she described word for
11:56a 10 word her experience at Parent Challenge, correct?

11 A. Yes.

12 Q. Did you think it was appropriate for Jeannie Courtney
13 to -- in front of a room full of people ask -- tell her she
14 was responsible for her own divorce?

11:56a 15 A. I can't be a judgment of that. I wasn't there. I don't
16 know the circumstances. I don't know what she said. I don't
17 know what Courtney said. I don't --

18 Q. Well, in court we're told when we look at complaints,
19 before we get to a trial, that we assume everything's true.

11:56a 20 So if you're gonna make that assumption, is that methodology
21 something you think is helpful to her daughter as treatment?

22 A. I don't know. I -- I -- I have no opinion about that. I
23 don't know the exact circumstances that were present at this
24 time.

11:57a 25 Q. So what I think I hear you saying is you're not sure you

1 believe her?

2 A. I don't know if I believe her or not. I would have loved
3 to be there and observe it myself because anybody can write
4 down anything they want.

11:57a 5 Q. Like you can do that, too, right?

6 A. That's very true.

7 Q. Okay. So what I'm asking you to do is to put yourself in
8 the position that I just referenced, where you assume the
9 facts are true; and when you do that, can you tell me why you

11:57a 10 think it's appropriate for Jeannie Courtney to publicly
11 announce personal details about a parent at a group workshop?

12 A. Again, I -- I wasn't there. I can't -- I can't speak to
13 that particular issue.

14 Q. Well, in that complaint it was detailed a statement from
11:58a 15 a former student by the name of Molly Dickin. Did you read
16 what she had to say about Spring Ridge Academy?

17 A. I cannot remember her.

18 Q. Did you read it?

19 A. I think I did, but I do not remember.

11:58a 20 Q. Do you think it's appropriate for a residential school to
21 engage in circles where students are asked to disclose
22 publicly their prior sexual assaults?

23 A. It's too broad of -- of a statement. It could be and it
24 could not be. It all depends on the circumstances, what is

11:58a 25 being discussed, what -- what are the elements of that

1 discussion.

2 Q. Well --

3 A. When you conduct group therapy --

11:58a 4 Q. Okay, I'm going to ask you. "Mr. Balmer, I heard that
5 you molested children. I want you to get down here right now,
6 and I want you to pretend I'm the person you molested and I
7 want you to tell me what you -- why you did it and I want you
8 to tell this whole jury that you did it."

9 Do you think that's appropriate therapy?

11:59a 10 A. No, not in that particular case the way you're describing
11 it.

12 Q. Because my voice is elevated?

13 A. Not only that, you have an audience here.

14 Q. Correct. These girls have reported -- and you read it in
11:59a 15 the complaint, and if you read Jeannie Courtney's deposition
16 you knew that they were regularly being told that they needed
17 to be subject to criticism, humiliation of their peers for
18 things that they did in their past which many times included
19 sexual either victimization or sexual conduct.

11:59a 20 A. I have no evidence in anything that I read that
21 Ms. Courtney told these kids that they need to be confronted
22 in the way you're describing.

23 Q. So when you say that you have no evidence, if the
24 evidence did show that, in fact, these events occurred, would
12:00p 25 you agree that that is not therapy?

1 A. It's probably not okay.

2 Q. NATSAP spoke in 2006 or '7 to Congress. Do you know why?

3 A. Yes.

4 Q. Why?

12:00p

5 A. Because there are people out there who don't like or
6 didn't like their experience in these treatment facilities.
7 They got the ear of legislator -- legislators and they wanted
8 to know what research NATSAP has provided up to that point to
9 verify the effectiveness of what they do. That is essentially

12:01p

10 the core of it.

11 Q. Well, I always like to talk about the facts.

12 A. Okay.

13 Q. So there were parents there of children and some who were
14 -- died in some of these facilities. You recall that?

12:01p

15 A. I -- I wasn't there. I only heard what happened. I
16 never read a report on it. I don't know.

17 Q. Jan Moss, the Executive Director of the National
18 Association of Therapeutic Schools, was the representative
19 that Congress talked to?

12:01p

20 A. I'm aware of that. Yes, I am aware of that.

21 Q. And the parents got to speak, correct?

22 A. I believe so, yes.

23 Q. And some of these parents described that their children's
24 medical needs were ignored, that they were -- they died.

12:02p

25 Do you recall that?

1 MR. SMITH: Excuse me. Objection, hearsay.

2 THE COURT: Overruled, please continue.

3 BY MS. ALLARD:

4 Q. Do you recall that?

12:02p 5 A. I do not -- I do not know the specific of what these
6 parents said or did not say.

7 Q. Why didn't you bother to read what's a public record to
8 see what the criticisms were?

9 A. Because I am well familiar with the criticism at large.

12:02p 10 Q. But what about the details? Why didn't you read what
11 happened?

12 A. Because I have know these various details from different
13 facilities for years, and that report is not shedding any new
14 light of what the criticism is and was and continues to be on
12:03p 15 these treatment facilities.

16 Q. Well, one of the members of the committee, Mrs. McCarthy
17 is what she's referred to says, I am also shocked that the
18 owners and program leaders are not required to disclose if
19 they had previously had to shut down a program and under what
12:03p 20 circumstances.

21 Now, I was interested to see that there was some evidence
22 provided from a representative of Spring Ridge Academy that
23 there were no licensing violations that required Spring Ridge
24 Academy to shut down. So I imagine that this senator's
12:03p 25 comment here was subject of your policy discussions.

1 Was it?

2 A. I don't know.

3 Q. So you don't know whether or not people at NATSAP came
4 back from this hearing and had a meeting where they discussed,
12:03p 5 "Looks like the Congress wants us to disclose if we've ever
6 been shut down"?

7 A. I don't think that was the discussion in NATSAP.

8 Q. Do you know what it was?

9 A. I was -- I was at the board. I do not recall that
12:04p 10 discussion at NATSAP.

11 Q. So were you on the board of NATSAP during this hearing?

12 A. No, I was not during. I was on the board after the
13 hearing, about two years after.

14 Q. And then the other question that this representative of
12:04p 15 Congress asked is: Do you think these residential treatment
16 facilities should have to disclose violent incidents,
17 accidents and deaths in their marketing materials or to the
18 parents of enrolled children on an annual basis?

19 Do you think that they should have to do that?

12:04p 20 A. No, I don't because every single hospital have accidents
21 in a hospital. There are accidents that happen in treatment
22 centers, okay, and they happen -- they happen to all
23 facilities, and just because there is an accident does not
24 require a program to shut down. There are Plan of
12:05p 25 Corrections.

1 Whenever you have a problem, the State comes in, the
2 supervising authority come in. They ask you to provide a Plan
3 of Correction. You write the Plan of Correction, you
4 submitted it, and they say, "Okay, fine, you can continue to
5 operate." In some cases they say, "No, you can't."

12:05p

6 Q. Is it true that NATSAP has a standard that it instructs
7 its member schools, like Spring Ridge Academy, "That when a
8 parent comes, you tell them to go check with the local
9 licensing, the state licensing, to see if there's been any
10 violations?" Is that what NATSAP trains administrators to do?

12:05p

11 A. No, I don't think so.

12 Q. Then why did Ms. Moss testify before Congress, quote, "On
13 the question of disclosure, one of the things that we always
14 recommend when a parent calls is they need to check with the
15 state licensing agency to see if there is anything in the
16 background of that program"? Why did she say that?

12:06p

17 A. She probably meant that when a parent comes, they always
18 have questions about the operation, right? And so we ask them
19 typically two things. We ask them, "Look, here is a list of
20 parents that either have kids in treatment now or used to have
21 kids. You are more than welcome to call them. You are also
22 welcome to call any government facility or oversight people to
23 find out whether there is a problem."

12:06p

24 Q. Yes, but this --

12:06p

25 MR. SMITH: Excuse me.

1 MS. ALLARD: I'm sorry.

2 MR. SMITH: Please let him finish.

3 MS. ALLARD: Okay.

4 BY MS. ALLARD:

12:06p

5 Q. The dialogue here in Congress went further, though,
6 because the Congresswoman addressed this issue and said, how
7 do we get this information to these parents? I mean,
8 obviously, usually the parents are so distressed by the time
9 they even come to this situation where they are trying to find
10 the best treatment for their child and there are so many
11 programs out there. Half of them are not even registered with
12 the state. It's kind of hard to guide these parents.

13 And Ms. Moss said, "Yes, it's very difficult."

14 So the other question was --

12:07p

15 A. It's difficult in what way?

16 Q. Well, the Congresswoman goes on to say they did due
17 diligence, they asked the right questions and, yet, they ended
18 up with, unfortunately, their children dying.

19 And Ms. Moss responds, "I do not think any of our NATSAP
12:07p 20 programs would be opposed to disclosure on that."

21 So it would be suggested that it was represented to
22 Congress that after this hearing, going forward, programs that
23 had licensing violations were going to tell parents about it
24 rather than making them do their due diligence?

12:08p

25 A. That was never -- that was never implemented.

1 Q. Why not?

2 A. Because -- because nobody does this. Not a single
3 hospital on the planet, nor a treatment center is reviewing
4 all the little Plans of Corrections they have dealt with over
12:08p 5 the years.

6 Q. Well, why not?

7 A. It's just standard practice.

8 Q. Well --

9 A. If -- if -- if -- if you're going to a hospital, okay, is
12:08p 10 the admissions director at a hospital telling you, "Oh, by the
11 way, you ought to know that two years ago a surgeon operated
12 on the wrong knee of a patient?"

13 You never hear that from a hospital.

14 Q. Well, this is not --

12:08p 15 A. If the parent wants to find out -- if the parent really
16 wants to find out, they'll go to the various authority and dig
17 around and find it.

18 Q. Well, there's -- I get that that's how NATSAP responded,
19 but Ms. Moss represented something different to the United
12:09p 20 States Congress.

21 So what I am gonna talk about specifically in this case
22 is whether or not you reviewed the licensing violations that
23 Spring Ridge Academy had.

24 A. Not personally. Not me personally.

12:09p 25 Q. And you're aware that they are confidential, names are

1 redacted?

2 A. Yeah.

3 Q. So there's no privacy concerns with sharing them,
4 correct?

12:09p 5 A. I don't know that. I -- I never investigated them.

6 MS. ALLARD: Your Honor, I would move for admission
7 of Exhibit 21, which is the hearing before Congress.

8 THE COURT: Defense?

9 MR. GRASSO: Hearsay.

12:09p 10 THE COURT: Sustained.

11 BY MS. ALLARD:

12 Q. So isn't it true that Jeannie Courtney was a founding
13 influence of NATSAP?

14 A. I don't think she was a founding member. I could be
12:10p 15 wrong, but I do not believe she was -- there was six of us
16 originally, and Jeannie wasn't a part of that group.

17 Q. Wasn't Spring Ridge Academy's representative a member of
18 the first board?

19 A. I -- I do not recall.

12:10p 20 Q. Is it possible?

21 A. It's possible, but I do not recall.

22 Q. So when you were asked about what you knew about
23 Lifespring, in your report you said, "These workshops appear
24 to be an outgrowth/adaptation of Life Spring, a very popular

12:10p 25 personal/relationship enhancement seminar/workshop, taught by

1 facilitators."

2 A. Yep, that's my understanding. I never been to one. I
3 never observed one. That's about the only thing I know; and
4 when Ms. Courtney decided to use certain elements of that
12:11p 5 program, then she did.

6 Q. You stated in your opinion that the workshops were a
7 commonly-accepted practice?

8 A. What workshop?

9 Q. These --

12:11p 10 A. Workshops in general?

11 Q. The Lifespring workshops.

12 A. No, no.

13 Q. Well --

14 A. I probably indicated that workshops within residential
12:11p 15 treatment center is a commonly-accepted practice.

16 Q. I'm going to direct your attention to your report, Page 4
17 under the No. 2 where it's the heading "Resource Realization
18 (Jean Courtney led Parent/Client Workshops)."

19 A. Okay.

12:11p 20 Q. Do you want to take a moment to review it?

21 A. Where is it?

22 Q. Page 4, No. 2.

23 A. No. 2. Yeah, it's a -- I suppose it's a
24 commonly-accepted practice at Spring Ridge Academy. It is
12:12p 25 certainly not a commonly-accepted practice across the

1 industry. Different facilities use different workshops.

2 Q. How many members -- NATSAP member schools are there now?

3 A. There are about 150.

4 Q. Do you know whether or not any of these workshops are
12:12p 5 being used at any of those facilities?

6 A. All facilities are using workshops. The nature of those
7 workshop, I do not know the details.

8 Q. No. 3 in your report, you were asked to address the
9 isolation, public shaming and food deprivation aspects of the
12:13p 10 program. What did you review in order to do that?

11 A. Well, generally I think what I meant to say is, generally
12 speaking, you cannot do this. However, there are
13 circumstances where you may put limitations on, for instance,
14 food. Not that you are not providing food, but under the
12:13p 15 circumstances where the food is taken in.

16 Q. Did you look at the Spring Ridge Academy Parent Manual?

17 A. I believe I did.

18 Q. And you saw restrictions on communication between parents
19 and children?

12:13p 20 A. Yes.

21 Q. Is that commonly done at these other facilities?

22 A. It's commonly done because if you have a toxic
23 relationship between a parent and child --

24 MS. ALLARD: Motion to strike, non-responsive.

12:14p 25 THE COURT: Sustained. Please disregard the

1 witness' last answer.

2 Ladies and Gentlemen, this is a perfect time to take
3 our lunch recess. Court will be in recess until 1:30.

4 All rise for the jury. Court's in recess until
5 1:30.

6 (Jury out at 12:14 p.m.)

7 *(Whereupon the proceedings adjourned at 12:14 p.m.)*

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REPORTER'S CERTIFICATION

I, TERI VERES, 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 7th of June, 2024.

s/Teri Veres
TERI VERES, RMR, CRR