

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE WILLIAM H. ORRICK, JUDGE

PLANNED PARENTHOOD FEDERATION OF)	
AMERICA, INC., et al.,)	
)	
Plaintiffs,)	
vs.)	No. C 16-0236 WHO
)	
CENTER FOR MEDICAL PROGRESS,)	
et al.,)	San Francisco, California
)	Friday
Defendant.)	November 1, 2019
)	7:30 a.m.

TRANSCRIPT OF JURY TRIAL PROCEEDINGS

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PROCEEDINGS

P R O C E E D I N G S

November 1, 2019

7:31 a.m.

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(The following proceedings were held outside of the presence of the Jury)

THE CLERK: Please come to order.

THE COURT: Good morning, everybody.

(Counsel greet the Court)

THE COURT: Please be seated.

All right. With respect to the newspaper articles -- can we all calm down?

Mr. Kozina, do you have a chair?

MR. KOZINA: I'm sorry. I was just trying to get chairs in order, Your Honor.

THE COURT: That's what I saw. Now everybody's sitting.

So with respect to the newspaper articles, I'm not inclined to change my ruling. I think the -- at least under 403, they wouldn't come in. And Mr. Daleiden testified that he didn't review them; they didn't refresh his recollection. This is all stuff that is fairly far afield from the issues that the jury really needs to focus on. So, that's where I am.

MS. TROTTER: Your Honor, may I, just for the record?

THE COURT: Yes, please go ahead.

MS. TROTTER: So just for the record, Mr. Daleiden

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1 testified that he had done extensive research as to what had
2 happened after reading the Congressional hearing transcript and
3 viewing the 20/20 program. And that there was no news
4 whatsoever about any followup to that.

5 The Court permitted the jury to review the entire 20/20
6 clip, and Mr. Daleiden's testimony about the contents of that
7 clip, and how and why they affected his state of mind in his
8 reasonable belief. And the news articles are simply for
9 purposes of refuting his alleged reasonable belief based on the
10 20/20 clip which the jury saw in its entirety.

11 And, you know, it's our position there's no opening of the
12 door to other materials that I know was part of the briefing
13 that was submitted by the defense, because the news articles
14 had nothing do with any of those other materials that are on
15 the roadmap demonstrative that Mr. Daleiden testified he relied
16 upon.

17 So I understand the Court's ruling with respect to 403,
18 but the plaintiffs believe that it's really the only way in
19 which we could challenge the reasonableness of the belief.
20 Otherwise we're just sort of left to, you know, hear from
21 Mr. Daleiden's side, "This is what affected me," with no
22 ability to cross-examine or test it.

23 And so that's our position.

24 **THE COURT:** All right.

25 **MS. TROTTER:** Thank you.

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1 **THE COURT:** So it's -- I hear you. And I don't -- I
2 didn't -- I didn't think either of the cases that you cited,
3 *Duncan* or *Secor*, were persuasive. And for the reasons that I
4 gave, I'm going to stay with my view.

5 **MS. TROTTER:** Thank you, Your Honor.

6 **THE COURT:** But, stay here for a moment. I have
7 questions for you, both sides.

8 What's left in this case? Who is -- who is going to be
9 testifying now for the plaintiffs?

10 **MS. TROTTER:** So we have -- next up is Vikky
11 Graziani, who's been testified about in terms of security at
12 conferences and vetting, and those sorts of issues.

13 After Ms. Graziani -- I might have to have my co-counsel
14 help me on the order.

15 **THE COURT:** Yes. Ms. Sterk.

16 **MS. STERK:** We also have today Michelle Davidson,
17 David Cohen, and Kevin Paul. And I will say we are trying our
18 best to get through all of those today. I don't know that
19 we've yet had four witnesses in one day.

20 I don't know if it's possible to go a little bit long to
21 try to fit them in. I know that the jury probably has other
22 things, so just wanted throw that out there.

23 **THE COURT:** Yeah.

24 **MS. STERK:** So that's today. And then for next week
25 we have two more witnesses on Monday.

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1 And I -- two more witnesses, and perhaps a couple videos.
2 And that should be the end for us, assuming we get through
3 everything we've planned to today.

4 **THE COURT:** All right. And then for the defense,
5 who -- what else do we have?

6 **MR. LIMANDRI:** Good morning, Your Honor. Charles
7 LiMandri.

8 **THE COURT:** Good morning.

9 **MR. LIMANDRI:** It's been largely dependent upon who
10 the plaintiff calls, and what they say, obviously.

11 I expect we will be calling Mr. Perkins, our security
12 expert. We may call Mr. Prendergast, the expert on video
13 technology.

14 I don't know if we are going call Mr. Zimmer. It would
15 depend upon if they call Mr. Regan and what he has to say. He
16 is an economist.

17 And then at this point, I'm not sure, what additional
18 percipient witness testimony. We're weighing that, based upon
19 who the plaintiffs call. I expect there will probably be one
20 or two video clips, at least, beyond that. But they really
21 have put on most of our case, or had us put on most of our case
22 in the context of theirs.

23 **THE COURT:** That's what I thought.

24 **MR. LIMANDRI:** So I don't think we're going to
25 have -- I don't at this point see us planning to recall any of

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1 the defendants, unless something comes up in terms of rebuttal
2 today or Monday. I have to confer, obviously, with my
3 co-counsel on that, but I don't think that's intended at this
4 point.

5 So we may only be talking about another two days for the
6 defense, Your Honor, at this point.

7 **THE COURT:** So here's what -- I'm just trying to plan
8 the rest of this trial. It seems to me -- we've got a long
9 weekend coming after next week. And so unless we can get the
10 case to -- unless everything finishes, the evidence all
11 finishes on Wednesday, I'm thinking that we won't want to start
12 the argument until the following Tuesday, so that we don't
13 split it up over the -- the weekend.

14 And so I'm going to suggest to the jury then that they
15 plan on spending full days that following week, so that we get
16 all of the -- that we at least get the case to them by the
17 following Wednesday, so that they -- they're time-qualified
18 through November 15th. So I'm just conscious of that, as we
19 move forward.

20 Mr. Mihet, you look like you want to make a suggestion.

21 **MR. MIHET:** Just providentially, I can't be here
22 Wednesday and Thursday next week, so I'm totally in line with
23 the Court's new plan. I was going to have my co-counsel
24 Mr. Nic Cocis fill in for me. But I just want to say that I'm
25 very supportive of the Court's plan.

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1 Please don't change your mind.

2 **THE COURT:** You're giving me all this incentive,
3 Mr. Mihet. So it's next week that you can't be here on
4 Wednesday and Thursday.

5 **MR. MIHET:** Right. But -- so if things are finishing
6 on Wednesday and starting again Tuesday, that would be perfect
7 for me, personally, but not that that should matter.

8 **THE COURT:** Ms. Sterk.

9 **MS. STERK:** A couple of things. One -- as I said, we
10 have four witnesses today. One of those witnesses who we are
11 planning to put on last, if he cannot finish today, is not able
12 to come back until Tuesday. This is his second time coming
13 out, so next week will be his third time.

14 So I just wanted to check with the Court whether, first,
15 it would be permissible for -- if we otherwise rest on Monday,
16 whether we would be able to have him testify on Tuesday, given
17 the order that's happening anyway as Mr. LiMandri as just said,
18 they've called most of their case within the plaintiffs' case.

19 So I just wanted to raise that as a potential issue if we
20 can't finish today.

21 **THE COURT:** Well, so, I don't think we're going to be
22 done before Tuesday. So I imagine --

23 **MR. LIMANDRI:** I'm sorry. Go ahead, Your Honor.

24 **THE COURT:** So I -- I don't know that there's --
25 there would be any prejudice to switching things around.

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1 **MR. LIMANDRI:** Probably not, although we would prefer
2 they call that person today, while they're here.

3 **THE COURT:** Of course.

4 **MS. STERK:** We would prefer that, too. If we can get
5 through it all.

6 **MR. LIMANDRI:** And it would be helpful if we knew who
7 their two witnesses are on Monday.

8 **MS. STERK:** On Monday it should be Brandon Minow and
9 Greg Regan.

10 **MR. LIMANDRI:** Okay. Fine.

11 Thank Your Honor.

12 **MS. STERK:** And then the other issue, Your Honor,
13 that I wanted to raise, we are planning to bring a motion to
14 exclude Mr. Prendergast, as this case has not come in as maybe
15 it was originally thought it may at motion-in-limine stage.

16 He's here. He would be called, we believe, just to
17 testify about the videos and what was posted and that they were
18 authentic. And I think at this point, Mr. Daleiden's testified
19 to that; other witnesses have testified to the long-form videos
20 being posted. And it seems cumulative and unnecessary.

21 **THE COURT:** If you want to file a motion, do that.
22 If you want to talk with the defendants after today and see
23 whether they're thinking of calling him, do that.

24 **MR. LIMANDRI:** What I suggested is a simple
25 stipulation that the short videos were not manipulated in terms

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1 of splicing or dubbing, and the long videos were made
2 available. If we can just have a stipulation to that effect,
3 we can avoid calling the witness.

4 **MS. STERK:** Mr. Prendergast --

5 **THE COURT:** You should talk -- talk amongst
6 yourselves. And if I need to decide something, then I will.

7 **MR. LIMANDRI:** Okay.

8 **THE COURT:** And then the other thing that I'm
9 concerned about are the jury instructions. We have an
10 instruction conference on Monday afternoon. The instructions
11 that everybody drafted were drafted right after the
12 summary-judgment motion. But we -- no one had the benefit of
13 this trial, and all the evidence that's come in.

14 And so what I would like is that by Saturday night, you
15 file a document that tells me what instructions you think
16 should be withdrawn -- or that you are withdrawing, I should
17 say; what instructions you want to give me revised instructions
18 on. And provide those to me.

19 And then list the top ten issues that you want me to
20 address at the jury instruction conference on Monday. We may
21 have to have a couple of these to get things ironed out. But
22 there are hundreds of pages of instructions. And I'm confident
23 that you'll be wanting to winnow them. And I'm also confident
24 that I will want to winnow them. But I'd rather that you start
25 the process before I have to address it.

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1 **MR. LIMANDRI:** As for the verdict forms, Your Honor,
2 did you want us to try to do something with those before
3 Monday? It would be a tall order, inasmuch as we're already
4 talking about quite a bit we're going to try to get to you by
5 Saturday night.

6 **THE COURT:** I agree with you. So let's worry about
7 the instructions first. I think the verdict form in some way
8 will be easier, and it will flow from the instructions.

9 **MR. LIMANDRI:** Okay. When does the Court intend to
10 make a decision regarding the schedule? Because if the parties
11 wanted to file any type of motions at the close of all the
12 evidence, I think it would be helpful if we knew what the
13 timing would be for that.

14 **THE COURT:** Well, I guess a couple of things. I
15 mean, it really depends on how long the case is -- the evidence
16 is going to take.

17 If -- if it's going to go into Thursday, then we could
18 have the motions -- we would have a little more time to deal
19 with the motions on Thursday or Friday. If we could get the
20 case to the jury earlier, I would like to do that, in which
21 case we would have the motions, some afternoon at the close of
22 evidence.

23 And the other thing -- well, no, I think in this case, I
24 would like to have the parties, at least in short form,
25 identify the issues that -- that they would want to address.

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1 Usually at the end of evidence, I just -- I deem the
2 motions made, so that we can move on, and then people can file
3 things afterwards. But if there are any particular issues that
4 people feel strongly about that would affect what the jury
5 reviews, those I do want to hear about.

6 **MR. LIMANDRI:** Okay. Thank you, Your Honor.

7 **MR. MAYER:** Your Honor, one question. Steve Mayer.

8 Is the Court contemplating a joint submission tomorrow
9 night?

10 **THE COURT:** I think that would be impossible.

11 **MR. MAYER:** Okay.

12 **THE COURT:** Regrettably. So I'm just -- I'm really
13 interested in, now that you've heard the evidence, and
14 considered things further, are there -- are there revisions
15 that you think are appropriate. And then, really, what are --
16 where's the real battleground on these instructions.

17 **MR. MAYER:** Thank you, Your Honor.

18 **THE COURT:** Okay, thank you.

19 Mr. Millen.

20 **MR. MILLEN:** Your Honor, just on your scheduling, I
21 see the Friday; I see your Monday conference.

22 Especially in light of the fact that Thursday and Friday
23 may not happen, I was going to suggest to the Court that
24 Thursday or Friday, if the Court is going to consider having --
25 penciling in a second conference for this. Because I can't

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1 imagine that on Monday, this thing is going to be solved.

2 **THE COURT:** I am so with you on that, Mr. Millen.
3 But it just -- it does depend a little bit on how quickly
4 things go. Because the -- we could meet again on Tuesday --
5 for my scheduling purposes, we could meet on Tuesday afternoon
6 or -- and Wednesday afternoon. And I can fit stuff in.

7 Thursday and Friday, I won't be able to do a thing after
8 the 1:00 time.

9 **MR. MILLEN:** Just knowing Tuesday and Wednesday
10 afternoon is very helpful. Thank you.

11 **THE COURT:** Yeah. Okay.

12 **MR. LIMANDRI:** Thank Your Honor.

13 **MS. STERK:** One more thing. I realize that I forgot
14 when I was listing our witnesses, it's possible that we'll have
15 a rebuttal expert, depending on who the defendants put on.

16 **THE COURT:** Okay.

17 Ms. Bomse.

18 **MS. BOMSE:** Two small items for today's evidence.

19 Your Honor, first, I did a little bit of research. And it
20 appears to me that the Ninth Circuit doesn't have a strict rule
21 on the question of tendering -- asking the Court -- tendering
22 an expert witness for the Court to deem them an expert.

23 I wondered if this Court as a practice. Is that approved?
24 Disapproved?

25 **THE COURT:** My practice is never to say that I deem

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1 anybody as an expert, but I do say "You may proceed."

2 **MS. BOMSE:** Very well. So it's acceptable for me to
3 ask that question, but -- and then your response would be just
4 that I can proceed.

5 **THE COURT:** I've already made that determination, but
6 yes, you can do that. And I will say what I say.

7 **MS. BOMSE:** Okay. Thank you.

8 And then the other question is I know the Court has made a
9 ruling that we're not to use certain language, including the
10 word "murder." There's going to be factual testimony from our
11 expert, Professor Cohen, today about murders.

12 And I am capable of using synonyms, but it starts to
13 become a little bit silly when I keep saying "killing,
14 killing." So the question is: Is it permissible, when
15 describing factual events?

16 **THE COURT:** Yes.

17 **MS. BOMSE:** Thank you.

18 **THE COURT:** The issue is not referring to the
19 defendants as anything other than "the defendants."

20 **MS. BOMSE:** Absolutely understood.

21 **THE COURT:** I don't want them referred to in terms
22 that are -- would -- I'm not going to find the right word. But
23 I'll know it when I see it.

24 **MS. BOMSE:** That's acceptable. We will refer to them
25 as "the defendants."

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1 And lastly, Your Honor, last night defendants provided us
2 with three videos that they propose to show during Professor
3 Cohen's testimony. And there's one of the three that we do
4 object to. So if the Court would like to address that now, I
5 would be happy to.

6 **THE COURT:** Go ahead.

7 **MS. BOMSE:** So there are three videos. The one that
8 we object to is a short clip from a news report about --
9 apparently about an abortion provider who was -- there were
10 protesters in front of the clinic, and the abortion provider is
11 in his car. And he pulls -- it looks like he pulls a gun on
12 the protester. And then apparently he was arrested.

13 The issue with this is, first of all, there's no
14 foundation. Professor Cohen doesn't know anything about this
15 events. It doesn't appear to me to have any relevance.

16 And in addition, it's out of any context. And my
17 understanding is this is actually an event that happened fairly
18 recently. There's been no determination as to whether what the
19 doctor did was appropriate or not appropriate. So on top of
20 everything else, it lacks foundation, it's confusing, it's
21 prejudicial, and it's not relevant.

22 **THE COURT:** Okay.

23 **MR. LIMANDRI:** Mr. Cohen has said he's an expert in
24 abortion-related violence, and is prepared to recount every
25 incident of violence that ever occurred to an abortion

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1 provider, apparently, in history.

2 But when asked if there's ever any violence towards
3 pro-lifers he said: Well, I'm not aware of that; I don't study
4 that. And if it happens, it's probably just a boyfriend of
5 someone trying to take them into an abortion clinic, who gets
6 mad at someone.

7 So our purpose was to show that if he's indeed an expert
8 and he is as informed as he says he is on these issues, that he
9 should also be aware of newsworthy events where there has been
10 violence against pro-lifers. We believe it goes to the issues
11 of bias and prejudice and professed expertise.

12 That particular clip they're talking about was a news
13 broadcast. I assumed it would be as noteworthy as many of the
14 other things that Mr. Cohen does talk about in his book as
15 being threats. Even if it's someone receiving an email that
16 would otherwise appear relatively innocuous.

17 This was not innocuous. In the news report, they show the
18 doctor being -- you know, I don't know if he's being sentenced
19 or there's a conviction, but he's certainly on probation, and
20 there's no question he pulled the gun as he was leaving the
21 clinic in his car, on abortion providers. And it's shown on
22 the video.

23 So, I don't want to overstate it. It's not clear to me
24 he's holding a gun, but, you know, he doesn't deny it when he's
25 brought into court.

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1 So in any event, that was the purpose, Your Honor.

2 **MR. MIHET:** I just note that Mr. Cohen is in the
3 courtroom. If that matters.

4 **THE COURT:** Okay. You know, it does actually for
5 this. Mr. Cohen, if you -- I'm not sure who --

6 (A hand is raised)

7 **THE COURT:** Hello, Mr. Cohen. How are you?

8 Would you mind stepping out for a moment?

9 Thank you.

10 (Request complied with by Mr. Cohen)

11 **THE COURT:** All right. Well, let's -- so I'm going
12 to wait and see how Mr. Cohen testifies. If he denies that
13 there -- that there had been incidents that -- where -- any
14 sort of incident where abortion providers have, you know,
15 committed violent acts or, you know, that there's some untoward
16 bias that he shows in his testimony, then I think I -- I might
17 allow the clip. And otherwise, I'll probably reject it.

18 **MR. LIMANDRI:** Understood, Your Honor. We'll see how
19 it goes.

20 **MS. BOMSE:** Thank Your Honor.

21 **THE COURT:** Mr. Kozina.

22 **MR. KOZINA:** I just want to make sure of something
23 here.

24 I believe the Court was very clear that Mr. Cohen is not
25 in any way, shape or form, to allude to or make reference to

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1 these defendants being involved in any of the violent history
2 that he's going to be testifying upon.

3 Now, I want to make sure this is very, very clear. And
4 it's been my understanding that's the manner in which the
5 evidence is to be presented. He's going to be able to testify
6 on the history of abortion -- anti-abortion violence up to
7 2014, but he's not to make any inference, one way or the other,
8 that the defendants in this case are involved in any of that.

9 Is that correct?

10 **THE COURT:** Well, I think it depends on -- he's going
11 to talk about Operation Rescue, I suspect.

12 **MR. KOZINA:** Well, yes -- well, here's the point. I
13 don't want to get into a situation where I will be standing up
14 and saying I want a mistrial because it is such an egregious
15 error.

16 You know, we've had the discussion before regarding how
17 far these people go, even when they're advised by counsel. And
18 so if he starts saying: Well, this is because Mr. Newman did
19 it, this is because Mr. Rhomberg did it, bet your bottom dollar
20 I'll be up making a motion.

21 But the point is he should be well advised to stay within
22 the parameters that the Court has previously outlined. And I
23 just want to make sure we are clear on that.

24 **THE COURT:** I'm confident that he's been advised.

25 **MR. KOZINA:** Well, yes. But he needs to be

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1 admonished again, because he is a slippery sort. So I want to
2 make sure that's done. So --

3 **THE COURT:** Mr. Kozina, thank you for --

4 **MR. KOZINA:** Thank you very much.

5 **THE COURT:** -- your concern. I'm confident that he's
6 been apprised of what the Court's ordered.

7 **MR. KOZINA:** I appreciate that, Your Honor. Thank
8 you.

9 **THE COURT:** Thank you.

10 **MS. BOMSE:** And for the record, he does not need to
11 be admonished again, counsel.

12 **MR. KOZINA:** What did you say?

13 **MS. BOMSE:** I said he does not need to be admonished
14 again.

15 **THE COURT:** Mr. Mihet.

16 **MR. MIHET:** Speaking of experts, Your Honor,
17 defendants believe that the plaintiffs have opened the door for
18 us to be able to call Dr. Deisher to testify. By attacking her
19 credentials, her credibility, the work that she did, the
20 questions that she asked or didn't ask, we think it's unfair
21 for the jury to hear that criticism through Ms. Trotter's
22 questioning of Mr. Daleiden, but not allow Dr. Deisher to come
23 in for a brief few minutes to explain what she did, what she
24 advised Mr. Daleiden on, and what the basis was for that
25 advice.

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1 So we would ask the Court to allow us to do that.

2 **THE COURT:** Ms. Trotter, do you want to say anything?

3 **MS. TROTTER:** Plaintiffs object to that.

4 Mr. Daleiden did testify about what Dr. Deisher told him, and
5 how that affected his state of mind.

6 And I simply did -- I think there were probably four
7 questions that even had Dr. Deisher's name in it. She's not a
8 medical doctor. A non-controversial issue.

9 **THE COURT:** Yeah. Mr. Mihet, your motion is noted
10 and denied. The -- nothing that happened yesterday would
11 change -- open that particular door.

12 **MR. MIHET:** Thank you, Your Honor.

13 **MS. TROTTER:** Thank you.

14 **THE COURT:** All right. We'll be back -- oh,
15 Ms. Short.

16 **MS. SHORT:** Sorry, Your Honor.

17 Yesterday you said you were going to be taking a second
18 look at whether the NAF abortion numbers -- I mean not
19 abortion, excuse me -- violence and disruption numbers should
20 come in, or whether they were hearsay. And --

21 **THE COURT:** Yeah. So I'm satisfied that they can
22 come in, in the manner that I've already addressed. So --

23 **MS. SHORT:** Okay, thank you.

24 **THE COURT:** And you're free to make objections as you
25 think appropriate.

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1 **MS. SHORT:** Thank you.

2 **THE COURT:** All right. We'll be back when the jury's
3 here.

4 (Recess taken from 7:55 a.m. to 8:05 a.m.)

5 (The following proceedings were held outside of the
6 presence of the Jury)

7 **THE CLERK:** Please come to order.

8 **THE COURT:** All right. Are we ready? Let's get the
9 jury.

10 (The following proceedings were held in the presence
11 of the Jury)

12 **THE COURT:** All right. Please be seated, everybody.

13 Good morning, ladies and gentlemen. Welcome. I hope you
14 enjoyed last night with all the trick-or-treaters. It was a
15 mess getting home for me.

16 Let me just tell you -- first, thank you again for being
17 as prompt as you are. I wanted to tell you a little bit about
18 the schedule, and make a strong suggestion to you. And if this
19 doesn't work for you, let Ms. Davis know at a break.

20 So this case is moving well along. And at some point
21 during next week, the evidence will be completed. It is clear
22 to me that you will probably be doing some work in this case
23 during the week of November 12th through the 15th. So that's
24 right after Veterans Day. There are four days that week.

25 And my strong suggestion to you is that you make

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1 arrangements so that you can spend full days working on the
2 case so that it is -- I think that will be helpful to you and
3 to everybody else. But if there are issues that need to be --
4 that make that not possible, please let Ms. Davis know.

5 Next week we'll be in session all week in our normal
6 schedule. Unless, you know, the evidence ends up not going
7 quite as long. But you can plan on a normal week next week
8 from 8:00 to 1:00. But then the week following, if you can
9 arrange your schedules for full days, I think that will be very
10 helpful.

11 All right. Ms. Sterk.

12 **MS. STERK:** Before we call our first witness, I just
13 wanted to mark as Court Exhibit 5, the transcript of the video
14 that played at the end of yesterday for Phillip Moore --

15 **THE COURT:** Okay.

16 **MS. STERK:** Or Phillip Cronin, sorry.

17 (Court Exhibit 5 marked for identification)

18 **MS. STERK:** And the plaintiffs call Vikky Graziani.

19 **THE COURT:** Great.

20 **VIKKY GRAZIANI,**

21 called as a witness for the Plaintiffs, having been duly sworn,
22 testified as follows:

23 **THE CLERK:** Please be seated. Try to keep this about
24 four inches from your mouth, and then state your full name for
25 the record, and spell it out for the court reporter, please.

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1 **THE WITNESS:** Vikky Graziani. V-I-K-K-Y. Graziani,
2 G-R-A-Z-I-A-N-I.

3 **THE CLERK:** Thank you.

4 **DIRECT EXAMINATION**

5 **BY MS. STERK**

6 **Q.** Ms. Graziani, where do you work?

7 **A.** I work at Planned Parenthood Federation of America.

8 **Q.** And what is your current job at PPFA?

9 **A.** I'm the director of administration for the healthcare
10 operations team.

11 **Q.** What are your responsibilities in that role?

12 **A.** I have budget -- I manage budgets, project management,
13 things like that.

14 **Q.** And when did you first start working at PPFA?

15 **A.** I started out as a temp in late 1999, and started as a
16 full-time employee in 2000.

17 **Q.** And what was that first job you had with PPFA?

18 **A.** I was a temp, and then an admin coordinator for the
19 planned giving department in the development office.

20 **Q.** If you can slow down a little bit, our court reporter
21 needs to take everything down.

22 So can you just repeat what your job title was?

23 **A.** I was administrative coordinator for the planned giving
24 department in the development office.

25 **Q.** And what was your next position at PPFA after that?

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1 A. After that, I was a coordinator for the advertising team.

2 Q. And what was your role at Planned Parenthood in 2014 and
3 2015?

4 A. I was an administrative manager for the medical services
5 department.

6 Q. When did you start in that role?

7 A. In 2009.

8 Q. What were your responsibilities as the administrator for
9 the medical services department?

10 A. I managed conferences, budgets, and production of the
11 medical standards and guidelines.

12 Q. And who was the head of the medical services department at
13 that time?

14 A. Deborah Nucatola.

15 Q. And Ms. Graziani if you could pull your microphone a
16 little closer.

17 A. Sorry. Deborah Nucatola.

18 Q. And was she your boss?

19 A. Yes.

20 Q. You mentioned that you -- part of your job
21 responsibilities were dealing with conferences. Is that right?

22 A. Yes.

23 Q. And what conferences do the medical services department
24 host?

25 A. We manage the North American Forum on Family Planning, and

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1 the Medical Directors Council meeting, also known as MeDC.

2 **Q.** And for the fora meeting, did PPFA host that by itself?

3 **A.** No. We were in partnership with the Society for Family
4 Planning.

5 **Q.** And was the fora meeting open to the public?

6 **A.** No, it was not.

7 **Q.** Who was invited to attend?

8 **A.** Planned Parenthood staff and volunteers, and members of
9 the Society for Family Planning.

10 **Q.** And was it publicly advertised for people to be able to
11 come?

12 **A.** No. There was a notification on the Society for Family
13 Planning website. But other than that, there was no
14 advertising.

15 **Q.** And in order to get a link to -- let me back up. Did you
16 have to register for that conference ahead of time?

17 **A.** Yes, you did.

18 **Q.** And how did you -- how did people register for the
19 conference?

20 **A.** We would send that to our individual lists, so our Planned
21 Parenthood staff and our Society for Family Planning members.
22 If you're not part of that membership, you needed to request
23 it.

24 **Q.** And if you were not part of that membership, what did you
25 have to do in order to be able to attend?

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1 **A.** You needed to provide two references from either of those
2 organizations.

3 **Q.** So turning to the MeDC conference, was the process for
4 registering the same?

5 **A.** Yes.

6 **Q.** And who was invited to attend at the MeDC conference?

7 **A.** Planned Parenthood medical directors and lead clinicians.

8 **Q.** And could anyone from the public attend that meeting?

9 **A.** No.

10 **Q.** Were you involved in working with the forum conference in
11 2014?

12 **A.** Yes.

13 **Q.** And were you involved in working with the MeDC conference
14 in 2015?

15 **A.** Yes.

16 **Q.** What was your involvement in those conferences?

17 **A.** I managed the logistics. So working with registration,
18 working with the hotel to make sure the space was there.
19 Things like that.

20 **Q.** And prior to hosting the conference, did you visit the
21 hotels?

22 **A.** Yes. We would do site visits in advance before we would
23 sign a contract with the hotel.

24 **Q.** What was the purpose of those site visits?

25 **A.** To ensure that the space met our needs for both the

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1 meetings, itself, as well as that security was comfortable with
2 the space.

3 **Q.** And did security go on those site visits as well?

4 **A.** They did.

5 **Q.** Were there exhibitors that were allowed to attend the
6 forum and MeDC conferences?

7 **A.** Yes.

8 **Q.** And what types of companies typically exhibited at those
9 conferences?

10 **A.** Pharmaceutical companies, medical device companies.
11 Residency programs.

12 **Q.** What was the purpose of having exhibitors?

13 **A.** It was a marketing opportunity for exhibitors so that they
14 could talk about their products with attendees, and so that
15 attendees would have opportunity to talk to the vendors about
16 their products.

17 **Q.** Would exhibitors have to be invited in order to attend the
18 conferences?

19 **A.** Yes.

20 **Q.** And how are the exhibitors typically invited?

21 **A.** They were typically invited from lists of previous years.

22 **Q.** And when you say "lists of previous years," what lists are
23 you talking about?

24 **A.** Lists from previous attendance at other conferences that
25 we've hosted. So the national conference, the forum

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1 conference, the MeDC conference.

2 **Q.** And so PPFA had a list of people or companies who had
3 previously exhibited at their prior conferences.

4 **A.** Correct.

5 **Q.** And an invitation would go out to those companies.

6 **A.** Yes.

7 **Q.** Could exhibitors who had never exhibited at a Planned
8 Parenthood conference sign up to be an exhibitor?

9 **A.** Not directly.

10 **Q.** And so what was the process for becoming a new exhibitor?

11 **A.** We would -- generally, we would do a background, so look
12 for references, so check with our partner organizations to see
13 if they had a previous relationship, or see if our organization
14 had a previous relationship with the company.

15 **Q.** And was there anything else that you would typically do in
16 terms of vetting potential new exhibitors?

17 **A.** Yeah, we would google them.

18 **Q.** And would you ever talk to those companies?

19 **A.** Yes. Our senior director, Deb Nucatola, would often meet
20 them at other conferences, and so would talk to them to
21 determine whether or not they were a good fit.

22 **Q.** What were you generally trying to learn through the
23 vetting process about the exhibitors or potential exhibitors?

24 **A.** That they were a known company, and that they had previous
25 relationships, and that they were friendly to Planned

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1 Parenthood.

2 **MS. STERK:** May I approach, Your Honor?

3 **THE COURT:** Yes.

4 (Binder handed up to the Court)

5 (Binder tendered)

6 **BY MS. STERK**

7 **Q.** Ms. Graziani, can you turn to the first tab of your
8 binder, which is Exhibit 4051.

9 (Request complied with by the Witness)

10 **Q.** Do you recognize Exhibit 4051?

11 **A.** Yes.

12 **Q.** And is the first email that's shown an email from you?

13 **A.** Yes.

14 **MS. STERK:** Your Honor, I would like to move Exhibit
15 4051 into evidence.

16 **THE COURT:** Any objection?

17 **MS. DHILLON:** No objection, Your Honor.

18 **THE COURT:** All right. It is admitted.

19 (Trial Exhibit 4051 received in evidence)

20 (Document displayed)

21 **BY MS. STERK**

22 **Q.** Ms. Graziani, if you can turn to the very first email on
23 the chain, which is on the-second-to-last page.

24 **A.** Uh-huh.

25 **Q.** You see that is an email from briannaallen@biomaxps.com?

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1 **A.** Yes.

2 **Q.** And was this email sent to you?

3 **A.** Yes.

4 **Q.** Did you know at the time that you received this email who
5 Brianna Allen was?

6 **A.** No.

7 **Q.** She says in the first sentence of the email:

8 "Dr. Nucatola at PPFA suggested that we get in touch
9 with you about exhibiting at the PPFA/Society of
10 Family Planning meeting in Miami."

11 Were you surprised to see that somebody was emailing you
12 and referencing Dr. Nucatola?

13 **A.** No.

14 **Q.** Why were you not surprised about that?

15 **A.** Because Dr. Nucatola typically would meet people at other
16 medical conferences, and talk to them to find out whether they
17 should attend our conference.

18 **Q.** And so you had gotten information from Dr. Nucatola before
19 about potential exhibitors.

20 **A.** Correct.

21 **Q.** After receiving this email from Brianna Allen, what did
22 you do?

23 **A.** I would have checked with Deb Nucatola to see if that was
24 true.

25 **Q.** And when you -- so did you in fact check with Dr. Nucatola

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1 after you received this email?

2 **A.** Yes.

3 **Q.** And what did she tell you about BioMax?

4 **A.** That she had met them at NAF, and thought that they would
5 be a good fit for our conference.

6 **Q.** After hearing from Dr. Nucatola that BioMax had exhibited
7 at NAF and that she had met them, what did you do next?

8 **A.** I sent them information on how to exhibit at our
9 conference.

10 **Q.** And was there additional vetting that you did other than
11 learning that they had attended NAF and that Dr. Nucatola had
12 met them?

13 **A.** Well, Dr. Nucatola would have talked to them, so would
14 have found out a little bit more about their company. And also
15 because they met them at NAF, that we wouldn't have done much
16 more, because NAF is generally known to have the gold standard
17 on security screening.

18 **Q.** And what's your understanding of NAF's security screening?

19 **A.** That it's very thorough, and that you would not be able to
20 attend a NAF conference without being thoroughly screened.

21 **Q.** I would like to turn to the next email in your binder,
22 which is 4052.

23 And is the email in 4052 at the top from you?

24 (Witness examines document)

25 **A.** Yes.

GRAZIANI - DIRECT / STERK

1 Q. Do you recognize the email?

2 A. Yes.

3 MS. STERK: I believe 4052 is already in evidence.
4 But to the extent it is not, I would like to admit it.

5 THE COURT: Okay.

6 MS. DHILLON: There's no objection, Your Honor.

7 THE COURT: All right. So it is admitted.

8 (Trial Exhibit 4052 received in evidence)

9 (Document displayed)

10 BY MS. STERK

11 Q. Ms. Graziani, if you turn to the very last email in
12 Exhibit 4052 -- it's on the third page at the very bottom --
13 you see, on Monday, December 15th, 2014?

14 A. Uh-huh.

15 Q. See that email from you?

16 A. Yes.

17 Q. Who were you sending the email to on December 15th, 2014?

18 A. To our previous exhibitors.

19 Q. And what conference were you sending the email about?

20 A. The MeDC conference.

21 Q. And so at this point in December, 2014, had BioMax already
22 exhibited at one of Planned Parenthood's conferences?

23 A. Yes. They would have attended the forum.

24 Q. And so the email that you're sending, you're sending just
25 to the list of prior exhibitors.

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1 A. Correct.

2 Q. Once an exhibitor has exhibited at a Planned Parenthood
3 conference, do you vet them every single time they come to a
4 conference after that?

5 A. No, we do not.

6 Q. And why is that?

7 A. Because they've already been vetted.

8 Q. If you go to the next email in the chain, again on the
9 third page, on Monday, February 2nd, 2015. Do you see that?

10 A. Yes.

11 Q. And there's an email from Robert Sarkis, saying that:

12 "We would like to exhibit at the Medical Directors'
13 Council."

14 Do you see that?

15 A. Yes.

16 Q. And what was your response to Mr. Sarkis?

17 A. I sent him the link to register.

18 Q. And if you continue up the page, it looks like on
19 February 5th, 2015, you sent him another email. Do you see
20 that?

21 A. Yes.

22 Q. And why did you send him another email on February 5th,
23 2015?

24 A. Because the deadline for registration was approaching, and
25 I didn't want him to miss it.

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1 Q. Why did you not want him to miss it?

2 A. Because we would not be able to accept his registration
3 after that date.

4 Q. When you were receiving the emails in Exhibits 451 (sic)
5 and 452 (sic), were you aware that BioMax was not actually a
6 tissue procurement company?

7 A. No.

8 Q. And were you aware that Robert Sarkis was not the real
9 name of the person sending you emails?

10 A. No.

11 Q. And did BioMax register for the MeDC conference in 2015?

12 A. Yes.

13 Q. What role did you have at the conferences, itself, in
14 terms of check-in procedures?

15 A. For the forum conference, I just managed the entire
16 conference, so I wasn't necessarily at the registration desk.

17 But for the MeDC conference I would be at the -- I could
18 be at the registration desk. I would be helping exhibitors
19 know where they were going for their meeting, things like that.

20 Q. And did you work at the registration desk at the MeDC
21 meeting in 2015?

22 A. Yes.

23 **MS. STERK:** Ken, can we play video 6119?

24 And for the record, this has already been admitted.

25 (Videotape played with audio)

GRAZIANI - DIRECT / STERK

1 **BY MS. STERK**

2 **Q.** Ms. Graziani, do you recognize the woman who is on the
3 left in this video?

4 **A.** Yes.

5 **Q.** And who is that?

6 **A.** Me.

7 **Q.** Do you recognize the woman whose head is kind of just
8 showing at -- we stopped at frame 012709.

9 **A.** Yes.

10 **Q.** Who is that?

11 **A.** Kate Carlucci.

12 **Q.** Is she one of your colleagues?

13 **A.** Yes. She was our administrative coordinator for the
14 medical services department.

15 **MS. STERK:** Ken, can you keep playing?

16 (Videotape played with audio)

17 **BY MS. STERK**

18 **Q.** Ms. -- or what did you say her name was? Kate?

19 **A.** Carlucci.

20 **Q.** Ms. Carlucci asked Mr. Lopez and Mr. Daleiden for IDs.
21 Did you hear that?

22 **A.** Yes.

23 **Q.** And what was PPFA's standards in terms of IDs that they
24 were checking?

25 **A.** We were looking for government-issued IDs that had a photo

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1 and their name, and that the photo matched the person in front
2 of you, and that the name matched the name that was registered.

3 **MS. STERK:** Can you continue?

4 (Videotape played in open court with audio)

5 **MS. STERK:** And we are stopping at 13383.

6 **BY MS. STERK**

7 **Q.** Ms. Graziani, it looks like Ms. Carlucci is looking back
8 and forth between something at the table and the people in
9 front of her.

10 Do you know what she's looking at there?

11 **A.** She is looking for their conference badges.

12 **MS. STERK:** Ken, continue.

13 (Videotape played with audio)

14 **MS. STERK:** We stopped at 014098.

15 **BY MS. STERK**

16 **Q.** What was Ms. Carlucci handing to David Daleiden and Adrian
17 Lopez?

18 **A.** Their conference badges and mini-schedules.

19 **Q.** And what was the purpose of the conference badges?

20 **A.** In order to gain access to our conference spaces.

21 **Q.** Did you need to have that badge on to get into the
22 conference spaces?

23 **A.** Yes. You were not allowed to be in conference spaces
24 without a badge.

25 **Q.** And what was your understanding -- or from the video, what

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1 is your understanding of whether Ms. Carlucci checked the IDs
2 of Mr. Sarkis and Mr. Lopez?

3 **A.** That she looked at them, and that they matched.

4 **Q.** And what did they match?

5 **A.** The registration list.

6 **MS. STERK:** Ken, can we play Exhibit 5263-A?

7 And again, this is an exhibit that's already been
8 admitted. For the record, we are starting the video at frame
9 010388.

10 Go ahead, sorry.

11 (Videotape played with audio)

12 **BY MS. STERK**

13 **Q.** Ms. Graziani, do you recognize where this video is being
14 taken?

15 **A.** Yes.

16 **Q.** Where is that?

17 **A.** It is at the hotel where the MeDC conference was held.

18 **Q.** And the building that is in front of us, is that a part of
19 the hotel?

20 **A.** It is, but it's a stand-alone building from the main
21 building of the hotel property.

22 **Q.** And had PPFA reserved all of this space in that building
23 that we see?

24 **A.** Yes.

25 (Videotape played with audio)

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1 **MS. STERK:** We stopped at 011012.

2 **BY MS. STERK**

3 **Q.** Ms. Graziani, do you recognize the space we see in this
4 video?

5 **A.** Yes.

6 **Q.** And what space is this?

7 **A.** This is the exhibit hall for the MeDC conference.

8 **MS. STERK:** You can continue.

9 (Videotape played with audio)

10 **BY MS. STERK**

11 **Q.** Ms. Graziani, we stopped this at 01185. Do you recognize
12 the woman who is in the frame?

13 **A.** Yes.

14 **Q.** Who is that?

15 **A.** That is me.

16 **Q.** And what were you doing right before we stopped this
17 video?

18 **A.** I was showing my badge.

19 **Q.** Why were you showing your badge?

20 **A.** Because I was asking if -- if the person coming in had
21 their badge.

22 **MS. STERK:** Can you continue, please?

23 (Videotape played with audio)

24 **MS. STERK:** We stopped at 011674.

25

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1 **BY MS. STERK**

2 **Q.** Ms. Graziani, what is your understanding of what just
3 happened in that video?

4 **A.** That the person coming in did not have their badge. And I
5 asked them to leave.

6 **Q.** And does it appear that the person did leave when you
7 asked them to?

8 **A.** Yes.

9 **MS. STERK:** Ken, can we play video 5218-A?

10 Again, this has already been admitted. For the record, we
11 are starting at frame 048052.

12 (Videotape played with audio)

13 **BY MS. STERK**

14 **Q.** Ms. Graziani, do you recognize where this video has been
15 taken?

16 **A.** Yes. This is the conference hotel for the forum
17 conference.

18 **Q.** And where within the hotel was this video taken?

19 **A.** Looks like it's the spa area on the way to the pool deck.

20 **Q.** What was going on at the pool deck at this time?

21 **A.** We were hosting a reception.

22 **Q.** And by "We," you mean Planned Parenthood?

23 **A.** Yes. The conference was hosting a reception.

24 **Q.** Do you see the man who is standing by the door with the
25 walkie-talkie?

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1 A. Yes.

2 Q. Do you know who that is?

3 A. A security guard.

4 Q. This was a security guard that was hired by PPFA?

5 A. Yes. We would -- it was either a hotel security guard, or
6 he was hired by PPFA, yes.

7 Q. Did PPFA hire or coordinate with the hotel sometimes to
8 have security guards from the hotel at the events?

9 A. Yes.

10 MS. STERK: Ken, can you continue with that?

11 (Videotape played with audio)

12 MS. STERK: So we stopped it at 048415.

13 BY MS. STERK

14 Q. Ms. Graziani, did you see a woman right past the door,
15 right before we stopped here?

16 A. Yes.

17 Q. And you heard her say "Hello."

18 A. Yes.

19 Q. Do you know who that woman was?

20 A. She was our door monitor.

21 Q. And when you say "door monitor," what do you mean by that?

22 A. She was checking for badges.

23 Q. And so in order to get to the outdoor area that we see in
24 this video here, everybody had to have a badge on?

25 A. Correct.

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1 **MS. STERK:** You can take it down, Ken. Thank you.

2 **BY MS. STERK**

3 **Q.** At some point did you become aware that CMP had posted a
4 video of Dr. Nucatola?

5 **A.** Yes.

6 **Q.** And after you became aware of that video, or after you
7 learned of that video, were you aware of any changes that
8 Planned Parenthood or PPFA made to its conference procedures?

9 **A.** Yes.

10 **Q.** Were you involved in any of those changes?

11 **A.** Yes.

12 **Q.** What involvement did you have?

13 **A.** I was part of some of the meetings, and then part of
14 implementing them.

15 **Q.** And what's your knowledge of what some of the procedures
16 were that were changed?

17 **A.** There were background checks for every person attending.
18 There was a background check for organizations that would come
19 exhibit.

20 **Q.** Were you a decision-maker on what those exact changes
21 would be?

22 **A.** No, I was not.

23 **Q.** Based on your work on PPFA conferences from 2009, working
24 with exhibitors, and attendees, what was your expectation of
25 whether people would have attended the conferences after the

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1 videos were released, if PPFA hadn't made these changes?

2 **MR. MIHET:** Objection; calls for speculation.

3 **THE COURT:** Overruled.

4 You can answer.

5 **THE WITNESS:** I would expect that attendance would
6 have gone down.

7 **BY MS. STERK**

8 **Q.** Why would you have expected that?

9 **A.** Because people would probably feel unsafe, and not feel
10 confident that this wouldn't happen again.

11 **Q.** And what was that understanding based on?

12 **A.** Based on the infiltration and the videos that were
13 released.

14 **MS. STERK:** Nothing further.

15 **THE COURT:** All right. Cross-examination?

16 **MS. DHILLON:** Yes.

17 **CROSS-EXAMINATION**

18 **BY MS. DHILLON**

19 **Q.** Good morning, Ms. Graziani. My name is Harmeet Dhillon.
20 I represent defendant BioMax, as well as some of the other
21 defendants in this case.

22 Now, in just answering Ms. Sterk's questions, you
23 mentioned that prior to interacting with the BioMax applicants
24 for the forum conference, you noticed that Ms. Allen's email
25 mentioned Dr. Nucatola.

GRAZIANI - CROSS / DHILLON

1 Do you remember that?

2 A. Yes.

3 Q. And you said that Ms. Nucatola's mention there had some
4 significance to you. Do you remember that?

5 A. Yes.

6 Q. Okay. Did you actually speak to Dr. Nucatola to verify
7 what interactions she had with the writer of the email prior to
8 sending it?

9 A. Yes.

10 Q. And when did you have that conversation with her?

11 A. After I received the email.

12 Q. How long after do you recall?

13 A. I don't recall.

14 Q. And do you know where Dr. Nucatola was where you had that
15 conversation?

16 A. I do not.

17 Q. Do you recall what you asked her?

18 A. I do not recall exactly what I asked her.

19 Q. Okay. How long was that conversation?

20 A. I don't know.

21 Q. Do you recall what she said?

22 A. Likely that she met them at -- that she had talked to
23 them, and that she met them at NAF.

24 Q. Well, by "likely," are you guessing that's what she said?

25 A. No, that she would have met them at NAF.

1 Q. And how do you recall that, five years later, four years
2 later?

3 A. Because that's how they were able to -- that's when we met
4 -- when she met them.

5 Q. How do you recall what she said on your phone call that
6 you've testified to regarding what she knew about them?

7 MS. STERK: Objection. Mischaracterizes her
8 testimony.

9 THE COURT: Overruled.

10 THE WITNESS: Can you repeat the question?

11 BY MS. DHILLON

12 Q. Let me rephrase, so that I'm clear.

13 Do you have notes of that conversation?

14 A. I do not.

15 Q. Okay. So how do you recall it?

16 A. My actions. I would not have sent the email if I had not
17 confirmed with Deb first.

18 Q. Okay. So are you speculating? I'm trying to nail that
19 down.

20 A. No, I'm not speculating.

21 Q. Okay. Did you submit a declaration in this lawsuit, dated
22 May 22, 2019?

23 A. Yes.

24 Q. And in that lawsuit -- in that declaration, pardon -- me,
25 you make no mention of a followup phone call to Dr. Nucatola.

GRAZIANI - CROSS / DHILLON

1 Isn't that true?

2 **A.** I would have to see the document.

3 **Q.** Okay. Let me get a copy of that for you.

4 **MS. DHILLON:** May I have a copy?

5 Your Honor, may I approach?

6 **THE COURT:** You may.

7 **MS. DHILLON:** Your Honor, would you like a copy? I'm
8 sorry.

9 (Document handed up to the Court)

10 (Witness examines document)

11 **BY MS. DHILLON**

12 **Q.** Ms. Graziani, when you have had a chance to look, I was
13 specifically going to ask you about Paragraph 7 of that
14 declaration, towards the end.

15 (Witness examines document)

16 **A.** Okay.

17 **Q.** Okay. Now, in your declaration, isn't it true that you
18 say that you registered BioMax based solely on the mention in
19 the email of Dr. Nucatola conversation? There's no mention of
20 a followup phone call by you. Isn't that correct?

21 **A.** There is no mention of a followup phone call by me.

22 **Q.** Since your declaration is under penalty of perjury, why
23 did you omit that, if that is what happened?

24 **A.** I may have just overlooked --

25 **MS. STERK:** Argumentative.

1 **THE COURT:** Sustained.

2 **BY MS. DHILLON**

3 **Q.** Was this declaration made under penalty of perjury?

4 **A.** No. I don't understand the question.

5 **Q.** Okay. Did you sign this declaration under penalty of
6 perjury, as indicated under Paragraph 8?

7 **A.** Yes, I did.

8 **Q.** Okay. And was it complete and accurate at the time you
9 signed it in May, 2019, just a few months ago?

10 **A.** To my knowledge, yes.

11 **Q.** And then, why did you omit a key fact there that you
12 testified to here today?

13 **MS. STERK:** Objection, argumentative.

14 **THE COURT:** Sustained.

15 Just ask her why she didn't say what you asked her.

16 **BY MS. DHILLON**

17 **Q.** Why did you not mention the followup phone call in your
18 declaration in this lawsuit that you just testified here today?

19 **A.** I overlooked it.

20 **Q.** Okay. That's fine.

21 Now, Ms. Graziani, you mention that you believe that the
22 NAF vetting procedure is very thorough. And you relied on that
23 very thorough vetting. Is that correct?

24 **A.** Yes.

25 **Q.** And what do you know about the NAF vetting procedures?

1 **A.** NAF has a reputation of having the high security
2 standards.

3 **Q.** Do you know anything specifically about their standards?

4 **A.** I do not know their details of their procedures.

5 **Q.** Do you know anything about their procedures?

6 **A.** I personally do not know anything about their procedures.

7 **Q.** Do you know who does the vetting?

8 **A.** NAF security.

9 **Q.** Okay. Do you know the name of any person involved in the
10 vetting procedures at NAF?

11 **A.** I do not.

12 **Q.** Did you do any independent research of your own to verify
13 anything about any potential exhibitors at either the forum or
14 the MeDC conferences?

15 **A.** I'm sorry?

16 **Q.** Did you do any vetting of your own for any potential
17 exhibitors for either the forum or the MeDC conferences?

18 **A.** Not for repeat exhibitors.

19 **Q.** Did you do any for BioMax, which was not a repeat
20 exhibitor, for the forum conference?

21 **A.** Yes. Deb Nucatola had spoken with them, and she had met
22 them at NAF.

23 **Q.** My question -- sorry if I'm unclear -- is whether you,
24 Vicky Graziani, did any vetting whatsoever.

25 **MS. STERK:** Objection. Asked and answered.

1 **THE COURT:** Overruled.

2 You can answer.

3 **THE WITNESS:** Yes, I spoke with Deb Nucatola about
4 it.

5 **BY MS. DHILLON**

6 **Q.** Okay. Besides speaking with your immediate supervisor,
7 did you do any vetting to vet BioMax for this conference?

8 **A.** Yes. We also spoke to our partner at Society for Family
9 Planning, who was also at that conference.

10 **Q.** And who was that, who you spoke to?

11 **A.** Susan Higgenbotham.

12 **Q.** And anybody else?

13 **A.** I do not recall.

14 **Q.** Did you make any notes of that conversation with
15 Ms. Abramoff?

16 **A.** Ms. Higgenbotham?

17 **Q.** (Nods head)

18 **A.** I do not recall.

19 **Q.** Okay. Did you make any notes of any of your vetting
20 conversations or checks for any exhibitor at any point in time?

21 **A.** Yes.

22 **Q.** Okay. And so give us an example, if you could, of a
23 written memorandum you might have made of any background
24 checking that you've done.

25 **A.** We had partner calls with Society for Family Planning who

GRAZIANI - CROSS / DHILLON

1 hosted the conferences with us. And so there's probably
2 minutes from our conference calls.

3 **Q.** And in the minutes of those conference calls, would there
4 be a reference to BioMax being discussed at all?

5 **A.** I do not know.

6 **Q.** Have you ever checked for that?

7 **A.** I have not.

8 **Q.** And I believe you mentioned in your testimony -- maybe I
9 misheard it -- that you did a Google search, or that you
10 quote-unquote would have done a Google search?

11 Did I hear that correctly?

12 **A.** For an unknown entity, yes.

13 **Q.** Okay. But you did not do that for BioMax. Correct?

14 **A.** I do not recall.

15 **Q.** Does your vetting procedure typically involve asking a
16 potential exhibitor whether they are pro-choice?

17 **A.** We don't ask the exhibitor directly. We work with the
18 references that they provide. So an exhibitor would be invited
19 to our conference if they had worked with other organizations
20 that we partner with.

21 **Q.** Did -- in your conversation with Dr. Nucatola, did you ask
22 her whether BioMax was a pro -- pro-choice organization?

23 **A.** I do not recall.

24 **Q.** Does Planned Parenthood Federation of America assume that
25 all attendees at National Abortion Foundation conferences or

GRAZIANI - CROSS / DHILLON

1 family planning conferences are, in fact, pro-choice?

2 **A.** I can't speak for everybody at that conference, no.

3 **Q.** Well, let's start with you. Do you assume that attendees
4 of a National Abortion Foundation conference are pro-choice?

5 **A.** At which conference?

6 **Q.** National Abortion Foundation, which you have cited as a
7 gold standard for vetting.

8 **A.** I believe that people that are at that conference believe
9 that folks should have the right to an abortion, yes.

10 **Q.** You just assume that. Correct?

11 **A.** Yes.

12 **Q.** Okay. Do you ever actually ask anybody who -- withdrawn.
13 Ms. Graziani, does your role -- or did your role in 2014
14 and 2015 with respect to the exhibitors involve reviewing their
15 materials?

16 **A.** On occasion.

17 **Q.** Did you review BioMax's exhibit materials?

18 **A.** I did not.

19 **Q.** Did anybody at Planned Parenthood Federation review
20 BioMax's exhibit materials for the forum conference?

21 **A.** Not in advance.

22 **Q.** And did anybody review them on site?

23 **A.** Yes.

24 **Q.** And who did that?

25 **A.** Attendees, like -- not anyone specific.

GRAZIANI - CROSS / DHILLON

1 Q. Okay. And the same question with respect to the MeDC
2 conference. Did anybody from Planned Parenthood Federation of
3 America formally review or approve the BioMax materials prior
4 to their being displayed in the exhibit?

5 A. No. But if it would have -- if anything of -- would have
6 been flagged, it would have been brought up.

7 Q. Okay. Based on your recollection, was anything flagged at
8 either of those conferences with respect to the content of the
9 BioMax exhibit?

10 A. No.

11 Q. Did anybody at the conference make any complaints about
12 the quality or content of the BioMax exhibits at the forum or
13 the MeDC conferences?

14 A. Not to me.

15 Q. Did you subsequently become aware of any complaints with
16 respect to the content of those exhibits?

17 A. No.

18 Q. Okay. In handling registration for exhibitors at these
19 conferences, did you ever --

20 (Cellular phone rings)

21 **THE COURT:** Hang on just a second.

22 All right. Please proceed.

23 **BY MS. DHILLON**

24 Q. In processing registrations for these two conferences you
25 have testified about here today, did you ever cross-reference

1 the specific names of registrants as such as Brianna Allen or
2 Robert Sarkis against prior registrations for any Planned
3 Parenthood event?

4 **A.** No.

5 **Q.** Okay. Did the vetting procedures that you've described in
6 your testimony today include any instructions about how your
7 staff was to check the IDs?

8 **A.** I'm sorry; can you repeat the question?

9 **Q.** Were there any specific instructions given to your
10 check-in staff, including the young lady pictured in the video,
11 regarding how to check an ID?

12 **A.** Yes. That they were looking for a government-issued ID
13 with a photo, and that the name matched the registration list.

14 **Q.** Isn't it true that the invitation email that you sent to
15 potential exhibitor registrants in fact doesn't mention
16 "government ID," but only "an ID"?

17 **A.** The specific email that you are talking about, correct.

18 **Q.** Well, is there some other email that we are not aware of
19 that gives instructions to potential exhibitors, specifically
20 the ones that are at issue in this lawsuit?

21 **A.** There may have been other communications that indicated a
22 government-issued ID was required.

23 **Q.** Okay. But sitting here today, you don't know of any.
24 Correct?

25 **A.** I don't recall, specifically.

GRAZIANI - CROSS / DHILLON

1 Q. When people come to check in, are your Planned Parenthood
2 Federation of America exhibitor desk staffers trained on how to
3 check the veracity of an ID?

4 A. They are not.

5 Q. Okay. Is there now some procedure in place to check the
6 validity of an ID?

7 A. I don't know. I don't manage those conferences anymore.

8 Q. Have you attended any conferences since the upgraded
9 procedures that you have testified about here today?

10 A. I have not.

11 Q. Okay. So after the MeDC conference, you have never
12 personally attended any Planned Parenthood conference?

13 A. No. Oh -- yes.

14 Q. And when was that?

15 A. Um, in September of 2019.

16 Q. Ms. Graziani, you've testified here today that you have
17 personal knowledge of changes that were made to the procedures.
18 What were they? Following the publication of these videos.

19 A. There were background checks done on all attendees and
20 exhibitors.

21 Q. Have you personally conducted any of those checks?

22 A. No.

23 Q. And what kind of background checks are they?

24 A. I don't know. Those were handled by another part of the
25 organization.

1 Q. Okay. And with respect to the ID checking, does Planned
2 Parenthood now use any form of a scanner to check people's IDs
3 when they come to register at conferences?

4 MS. STERK: Objection. Lacks foundation.

5 THE COURT: Overruled.

6 If you know, you can answer.

7 THE WITNESS: I don't.

8 BY MS. DHILLON

9 Q. Does staff like yourself get checked in like anybody else?
10 Are their IDs checked when they go to conferences?

11 A. Yes.

12 Q. So you've attended a conference; was your ID scanned?

13 A. It was not.

14 Q. Now, approximately how big was the email list that you
15 sent former exhibitors in advance of the MeDC conference?

16 A. Um, I don't know, exactly. But I would say around 50.

17 Q. Approximately 50?

18 A. Correct.

19 Q. Do you recall how many exhibitors there were at the MeDC
20 conference that we're talking about today?

21 A. Less than ten.

22 Q. What type of followup are you trained to do with respect
23 to people you emailed, the potential exhibitor, offering to --
24 in terms of getting them to register?

25 A. What type of followup?

1 Q. Yes. What type of followup?

2 A. Checking to see if they received the message.

3 Q. Anything else?

4 A. If they were interested in attending.

5 Q. So did you -- was it your routine practice to send a
6 followup email or phone call? What was that followup?

7 A. That registration is open, and that -- probably reminding
8 them of the deadlines.

9 Q. Okay. Is it Planned Parenthood's practice today to ask
10 potential exhibitors whether they support the pro-choice
11 policies?

12 A. I don't know.

13 Q. Have you personally -- withdrawn.

14 You mentioned that there was a concern about reduced
15 attendance at Planned Parenthood functions after the videos
16 came out. Has that, in fact, been the case?

17 A. No, because we implemented security protocols.

18 Q. And were those security protocols advertised to potential
19 attendees?

20 A. Um, I believe so.

21 Q. How?

22 A. Through an email, I think. I don't know for sure.

23 Q. So in fact, you don't know whether those procedures were
24 advertised. Correct?

25 A. Correct.

GRAZIANI - CROSS / MILLEN

1 Q. Okay. Ms. Graziani, you testified that you were not a
2 decision-maker with respect to any changes in policies and
3 procedures regarding vetting of exhibitors or attendees. Who
4 was the decision-maker?

5 A. Senior leadership.

6 Q. And can you name them?

7 A. Um, Debra Alligood-White and Melvin -- oh, my God.

8 Q. Galloway?

9 A. Yes.

10 Q. Anybody else?

11 A. There were other people at the table, that I do not recall
12 who were.

13 MS. DHILLON: Okay. I have no further questions.
14 I'm sure my colleagues may.

15 THE COURT: Thank you.

16 Mr. Millen.

17 MR. MILLEN: Thank you.

18 CROSS-EXAMINATION

19 BY MR. MILLEN

20 Q. Good morning, Ms. Graziani.

21 A. Hello.

22 Q. My name is Mike Millen. I am one of the attorneys for
23 defendant Albin Rhomberg.

24 You mentioned at the -- when people would check in, there
25 was a process of checking these IDs. Was there any sort of a

GRAZIANI - CROSS / MILLEN

1 book called a "lookbook" that you were familiar with during the
2 time that you served in that position in 2014?

3 **A.** Yes.

4 **Q.** What was a lookbook?

5 **A.** It was a book that had photos of opposition members that
6 would try to infiltrate our conferences.

7 **Q.** And do you know if anyone associated with Live Action was
8 in that lookbook?

9 **A.** I can't say for sure.

10 **Q.** Do you know if the lookbook was updated with persons whom
11 Planned Parenthood did not want to come to their conferences?

12 **A.** I'm not sure.

13 **Q.** Did you have anything to do with updating the lookbook?

14 **A.** I did not.

15 **Q.** Who was in charge of updating the lookbook?

16 **A.** My understanding would be security.

17 **Q.** And -- but this is something that -- is the idea that at a
18 conference, security would hand off to you and your folks the
19 lookbook to look at?

20 **A.** I don't recall if we had the lookbook.

21 **Q.** But you know that there was at this time a lookbook that
22 could be used if conference staff wanted to use it.

23 **A.** I don't know if we had access to that lookbook, ourselves.

24 **Q.** Now, you mentioned in your declaration, Paragraph 7,
25 about -- that if you hadn't had this reference to Dr. Nucatola,

GRAZIANI - CROSS / MILLEN

1 you would have evaluated -- taken further steps to evaluate
2 BioMax. Is that true?

3 **A.** Yes.

4 **Q.** Okay. What further steps would you have taken to evaluate
5 BioMax if Doctor -- you hadn't spoken to Dr. Nucatola about
6 this?

7 **A.** We would have looked for a previous relationship with the
8 other organizations that we work with, and ask for references.

9 **Q.** Now, when we're talking about exhibitors, these are people
10 who either provide products or services; that's what they do?

11 **A.** Correct.

12 **Q.** So if you are doing background checks on exhibitors, do
13 you ever talk to their customers to find out about the quality
14 or reality of the service or product they provide?

15 **A.** I do not.

16 **Q.** So when you say you check references, would it be safe to
17 say you speak to other conference organizers, and those are the
18 folks who you use as a reference?

19 **A.** We speak to other organizations that have worked with
20 those companies.

21 **Q.** Okay. So for instance, you talked about the Society for
22 Family Planning. The person that you mentioned you spoke with
23 over there, what was her position?

24 **A.** She was executive director of Society of Family Planning.

25 **Q.** Okay. And what do you recall her telling you about

GRAZIANI - CROSS / MILLEN

1 BioMax?

2 **A.** I don't know, exactly. We didn't specifically speak about
3 BioMax, other than they were at NAF conference.

4 **Q.** Okay. So is the concept that if somebody was at -- if an
5 exhibitor was at the NAF conference, that was sufficient to
6 serve as a reference.

7 **A.** Yes. Because NAF is a partner of Planned Parenthood, and
8 so we treat -- you know, they are -- they have security
9 protocols in place. And so they serve as a reference, in a
10 way.

11 **Q.** Okay. I don't believe Ms. Dhillon asked you what the
12 specifics of what the conversation was that you had with
13 Dr. Nucatola about BioMax.

14 Do you remember what -- who said what in that
15 conversation?

16 **A.** I don't remember the exact conversation.

17 **Q.** Okay. If Dr. Nucatola wouldn't have spoken to you, would
18 it have been your normal practice to google BioMax?

19 **A.** I would have verified with Dr. Nucatola that she knew
20 BioMax, and find out where she met them.

21 **Q.** I understand that. Maybe my question wasn't clear.

22 My question was: Under your normal procedures at the
23 time, if you wouldn't have had this kind of recommendation from
24 Dr. Nucatola, would you have googled BioMax to learn more about
25 them?

GRAZIANI - CROSS / MILLEN

1 **A.** If they had not come from NAF?

2 **Q.** Yes.

3 **A.** Yes.

4 **Q.** Okay. Now, you mentioned you were in these meetings where
5 these various changes in security upgrades were discussed.
6 Were there any security upgrades that you thought were
7 unnecessary that were discussed at the meeting?

8 **A.** It wasn't my place to say.

9 **Q.** I appreciate that but I'm asking a slightly different
10 question. I'm asking whether in your mind you thought any of
11 these were overkill, or more than what was probably needed.

12 **A.** No.

13 **Q.** Okay. So if you were at the meeting, and you believe
14 these were needed, did you believe these were needed before
15 this entire incident occurred?

16 **A.** No. We had good security screening -- we had a good
17 screening process in place.

18 **Q.** Okay. So if your screening process originally was good,
19 did something happen because of this incident that made it not
20 good?

21 **A.** No. There was some deception, that we needed to dig
22 deeper into background checks for that.

23 **Q.** Do you know if simply having the lookbook would have
24 revealed Mr. Daleiden's face, and prevented him from entering
25 the conference?

GRAZIANI - CROSS / MIHET

1 **MS. STERK:** Objection. Lacks foundation, calls for
2 speculation.

3 **THE COURT:** Yeah. Sustained.

4 **MR. MILLEN:** Nothing further, Your Honor. Thank you.

5 **THE COURT:** Thank you.

6 Mr. Mihet.

7 **CROSS-EXAMINATION**

8 **BY MR. MIHET**

9 **Q.** Good morning, Ms. Graziani, I'm Horatio Mihet. I
10 represent defendant Sandra Susan Merritt.

11 The 2014 forum conference in Florida was a fairly large
12 conference, gathering. Correct?

13 **A.** Correct.

14 **Q.** There were over a thousand attendees. Right?

15 **A.** Correct.

16 **Q.** And you're not claiming that everyone there knew everybody
17 else, are you?

18 **A.** Correct.

19 **Q.** There were lots of people who didn't know each other.
20 Correct?

21 **A.** Correct.

22 **Q.** Now, the 2018 forum conference that happened more recently
23 was even larger. Correct?

24 **A.** I don't know.

25 **MS. STERK:** Objection. Lacks foundation.

GRAZIANI - CROSS / MIHET

1 **THE COURT:** Sustained on that.

2 **MR. MIHET:** Okay.

3 **BY MR. MIHET**

4 **Q.** According to an annual report by the SFP, there were 1,324
5 attendees. Does that sound correct to you?

6 **MS. STERK:** Objection. Lacks foundation.

7 **THE COURT:** Sustained.

8 **BY MR. MIHET**

9 **Q.** You're not aware of any decrease in attendance between
10 2014 and 2018 at the forum conference, correct?

11 **MS. STERK:** Objection.

12 **THE COURT:** Over-- if you know the answer to that
13 question, you can answer.

14 **THE WITNESS:** I don't know the answer to that
15 question. I no longer manage those conferences.

16 **BY MR. MIHET**

17 **Q.** Planned Parenthood didn't conduct any surveys of these
18 attendees to determine whether they were more or less likely to
19 attend these conferences after the release of the videos.
20 Correct?

21 **A.** I do not know.

22 **Q.** And Planned Parenthood didn't conduct any surveys after
23 the implementation of these additional security measures to
24 determine whether or not attendees are now more likely to
25 attend these conferences. Correct?

GRAZIANI - CROSS / MIHET

1 **A.** I do not know.

2 **Q.** Now, you said that the reason that you had exhibitors come
3 at these conferences is because they are a marketing
4 opportunity for exhibitors to showcase their products and
5 services to the attendees. Correct?

6 **A.** Correct.

7 **Q.** And so you expect that the attendees that are there, they
8 have an opportunity to evaluate the services and the products
9 that they see at the exhibitor booths. Correct?

10 **A.** They have an opportunity to discuss the products and
11 services that the vendors will provide, yes.

12 **Q.** And to determine whether or not to actually purchase some
13 of these products or services, you expect that some of the
14 attendees would go back to their various offices and discuss
15 those with other people that they work with. Correct?

16 **MS. STERK:** Objection. Lacks foundation.

17 **THE COURT:** Overruled.

18 **THE WITNESS:** Yes.

19 **BY MR. MIHET**

20 **Q.** You don't expect that the conversations that take place at
21 these exhibitors booths, that they are confined to only those
22 people at those booths, correct?

23 **A.** I expect those conversations that they are having one on
24 one to be there, but yes, they should be able to go back to
25 their organizations to discuss further.

GRAZIANI - CROSS / MIHET

1 Q. Very well. Now, in the video that you were shown where
2 you turn away the person because they don't have the badge --
3 you know which video I'm talking about?

4 A. Yes.

5 Q. When you were watching that video, you did see just a few
6 feet to your left, there was a bar with a bartender there.

7 Correct?

8 A. Correct.

9 Q. Now, who was that individual?

10 A. The bartender at the hotel.

11 Q. Yeah. What was his name?

12 A. I don't know.

13 Q. Is he pro-life? Pro-choice?

14 A. I don't know.

15 Q. Did you or Planned Parenthood do any background check on
16 that individual?

17 A. As part of our contract with the hotel, they sign a
18 confidentiality agreement.

19 Q. Well, the employees don't sign a confidentiality
20 agreement, correct?

21 A. The confidentiality agreement covers all the employees for
22 the hotel.

23 Q. So did -- did you do any background check on that
24 particular employee?

25 A. No.

DAVIDSON - DIRECT / BOMSE

1 **MR. MIHET:** I think that's all I have. Thank you.

2 **THE COURT:** Thank you.

3 Any redirect?

4 **MS. STERK:** No, Your Honor.

5 **THE COURT:** All right. Mrs. Graziani, you are
6 excused. Thank you.

7 **THE WITNESS:** Thank you.

8 (Witness excused)

9 **MS. BOMSE:** Your Honor, plaintiffs call Michelle
10 Davidson.

11 **MICHELLE DAVIDSON,**
12 called as a witness for the Plaintiffs, having been duly sworn,
13 testified as follows:

14 **THE CLERK:** Adjust the microphone about three inches
15 from your mouth, and then state your full name and spell it for
16 the court reporter.

17 **THE WITNESS:** Sure. Michelle Davidson.
18 M-I-C-H-E-L-L-E, D-A-V-I-D-S-O-N.

19 **DIRECT EXAMINATION**

20 **BY MS. BOMSE**

21 **Q.** Good morning, Michelle. Ms. Davidson.

22 **A.** Good morning.

23 **Q.** Ms. Davidson, would you please tell the jury where you
24 work?

25 **A.** Sure. I work for the National Abortion Foundation.

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1 Q. And what is your position at the National Abortion
2 Foundation?

3 A. I'm the security director.

4 Q. Thank you. And I'm going to refer to it as "NAF." Is
5 that okay?

6 A. Perfect.

7 Q. Okay. And prior to working as the security director at
8 NAF, where were you employed?

9 A. I worked for an abortion provider in Albuquerque, New
10 Mexico.

11 Q. And was that abortion provider in Albuquerque a NAF
12 member?

13 A. Yes.

14 Q. And, and when you worked at the clinic in Albuquerque, was
15 any part of your role providing security?

16 A. Some. Mostly medical assisting, but there was a security
17 aspect.

18 Q. Okay. And did you and your clinic in Albuquerque have
19 experience with anti-abortion opposition activity?

20 A. Yes.

21 Q. Can you describe that?

22 A. Sure. Protestor activity on a daily basis.

23 MR. MIHET: Objection Your Honor; relevance.

24 MS. SHORT: Yeah.

25 THE COURT: Overruled. This is background. I assume

DAVIDSON - DIRECT / BOMSE

1 you're not going --

2 **MS. BOMSE:** Correct, Your Honor.

3 **THE COURT:** You can go ahead.

4 **BY MS. BOMSE**

5 **Q.** You can continue.

6 **A.** Sorry. We experienced harassment, like harassing phone
7 calls, suspicious packages being delivered, hate mail. We have
8 also experienced an arson that devastated our building.

9 **Q.** And when you were working at the clinic in Albuquerque and
10 before when you got the job at NAF, were you considering any
11 other career path?

12 **A.** Yes. I was looking into entering the police academy, with
13 the Albuquerque Police Department.

14 **Q.** And how is it that you came, instead, to be hired by NAF?

15 **A.** Sure.

16 **MR. MIHET:** Objection, relevance.

17 **THE COURT:** Overruled.

18 Go ahead with your answer.

19 **THE WITNESS:** So after the arson, the security
20 director for NAF at the time came out to assist us through that
21 process, with the investigation, getting us back on our feet,
22 but also providing security assistance for the staff and the
23 doctors.

24 And I became very interested in that job. And so I made
25 it clear to the director at the time that I was interested, and

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1 should a position ever come up, to please let me know.

2 Several years later, I was just about to enter the police
3 academy. And the director called me and said there was a
4 position open. So I interviewed, and was hired, and then moved
5 to D.C.

6 **BY MS. BOMSE**

7 **Q.** Thank you. And what year was that?

8 **A.** 2011.

9 **Q.** And what was your title when you were initially hired at
10 NAF?

11 **A.** Sure. Clinic Defense and Research Associate.

12 **Q.** All right. And at some point were you promoted from the
13 position of associate?

14 **A.** I was.

15 **Q.** And what was your new title after your promotion?

16 **A.** I went from associate to manager.

17 **Q.** Okay. And subsequently have you received further
18 promotion at NAF?

19 **A.** Yes. In 2018, I was promoted to director.

20 **Q.** Director. Thank you.

21 **A.** Uh-huh.

22 **Q.** Now I want to focus your attention on the years 2014 and
23 2015, which are the years where the events that are at issue in
24 this case take place.

25 Can you describe broadly what your responsibilities were

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1 in security at NAF?

2 **A.** Sure. We provide 24-hour security support to our members.
3 Any time they experience an incident of violence and
4 harassment, we are there for them, to walk them through it and
5 get them back, make sure that they're safe.

6 We help -- liaise with law enforcement as well when those
7 incidents occur, so build the relationship between the clinic
8 and law enforcement, so they can reach out to them directly as
9 well, should they experience anything.

10 We compile violence and disruption statistics that members
11 face. So they report on a monthly basis the kinds of things
12 that they experience throughout the month. And we compile
13 those statistics, and produce a report at the end of the year.
14 So we can kind of track what's going on across the country.
15 Tells the story about what providers are experiencing.

16 I conduct security trainings and assessments at our member
17 facilities. So, kind of preemptive staff trainings, get them
18 prepared to deal with any types of incidents that should occur.
19 But also to maintain their security program at each individual
20 clinic.

21 And then I also help establish and plan for securing our
22 annual meetings.

23 **Q.** Okay. So with respect to the first bucket of your
24 responsibilities, you said that you -- NAF provides direct
25 member response on a 24-hour basis. Is that right?

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1 **A.** That's correct.

2 **Q.** And so what does that mean?

3 **A.** So any time a member experiences an issue of any kind
4 involving security, we are there to help them through it. So
5 they can call me directly, or their senior director, at any
6 time, day or night, to assist in those issues.

7 **Q.** So is your cell phone number provided to members to be
8 able -- to be reached on a 24-hour basis?

9 **A.** Yes, it is.

10 **Q.** Okay. And are those responses, are those generally by
11 phone? Or in person?

12 **A.** It usually starts by phone. And then if the incident is
13 significant enough to require an in-person support, we do that
14 as well.

15 **Q.** In the last six months, have there been incidents that
16 have been significant enough that you've had to do in-person
17 response?

18 **A.** Yes.

19 **MS. DHILLON:** Objection, relevance.

20 **THE COURT:** Sustained.

21 **MR. MIHET:** Move to strike the response.

22 **THE COURT:** And strike the response.

23 **BY MS. BOMSE**

24 **Q.** And you spoke about on-site trainings that you provide.
25 That NAF provides. Is that something that is provided on a

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1 regular basis?

2 **A.** Yes. We try to get to every member within a two-year
3 span, so every two years or so. But usually an incident will
4 trigger us going out and talking our members through that
5 incident. And so then we conduct training and cover all the
6 topics at that time too.

7 **Q.** What are the sorts of topics that you cover in your
8 training?

9 **A.** Um, so we go through their specific security protocols at
10 the clinic, and try to meet them where they are based on their
11 needs. But anywhere from, you know, bomb threat drills to
12 handling suspicious packages and mail, things like that.

13 **Q.** And you also mentioned that one of the roles you have
14 relates to NAF violence and disruption statistics. Is that
15 right?

16 **A.** Yes.

17 **Q.** And what's your role in connection with compiling those
18 statistics?

19 **A.** So a lot of it is member outreach, checking in with our
20 members -- so they submit these reports monthly. So if we
21 notice anything on the reports, a major incident, we call them
22 and check in and see if we can help in any way. Ask them if
23 there's, you know, an investigation ongoing, which law
24 enforcement agencies they have been in contact with. And do
25 followup with that.

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1 Q. And what do you do with the monthly reports?

2 A. We compile them all together, and produce a final report
3 at the end of the year.

4 Q. Okay. Does that final report have a name?

5 A. The Violence and Disruption Statistics.

6 Q. Okay. And when did NAF start compiling the Violence and
7 Disruption Statistics?

8 A. At the founding of our organization in 1977.

9 Q. And the way the source of your statistics are information
10 from your members? Is that correct?

11 A. That's correct.

12 Q. And how is that information conveyed to NAF?

13 A. So now it's entered into a database. So they're allowed
14 -- they can go online to their specific organization's file,
15 and enter them directly.

16 Q. Okay. And can anyone who works at a member clinic enter
17 that information into the database?

18 A. No.

19 Q. How did that work?

20 A. So there's a designated clinic staff member, usually an
21 administrator or someone who's in a security role, who has
22 access to enter those statistics.

23 Q. What is the purpose of limiting access in that way?

24 A. Quality control.

25 Q. All right. And are those administrators who have access

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1 to the database to enter information, do they receive any
2 training on how to enter it and what type of information to
3 enter?

4 **A.** Absolutely, yes.

5 **Q.** Who provides that training?

6 **A.** Myself or the senior director.

7 **Q.** All right. And does NAF take any steps to verify the
8 information that's provided by your member clinics?

9 **A.** Yes. When we're compiling the statistics at the end of
10 the year, we go through them all. We are looking for anything
11 that seems out of the ordinary.

12 For instance, if someone were to accidentally add an extra
13 number into a specific category by accident, we call to verify
14 to make sure that that number is correct. But it's also the
15 same -- the actual category that it's in.

16 They are also not allowed to edit their reports. So it's
17 on us to go back through and look through to make sure that
18 there was any errors. So we'll call them to verify, and fix it
19 on our end.

20 **Q.** What is the reason that members aren't allowed to edit?

21 **A.** Quality assurance.

22 **Q.** Okay. Does NAF receive monthly reporting from 100 percent
23 of your membership?

24 **A.** Unfortunately, no.

25 **Q.** And what's your understanding of the impact of the fact --

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1 on the statistics of the fact that you are actually not
2 receiving 100 percent reporting?

3 **A.** Uh-huh. So we're increasing every year, due to our member
4 outreach. We are trying to encourage people to submit these
5 reports. We're at about a 60 percent right now. But that
6 still leaves a significant amount of unreported data. So it
7 doesn't tell the complete story. But it's significant enough
8 to tell some of it.

9 **Q.** Okay. And who makes use, to your understanding, of the
10 NAF Violence and Disruption Statistics?

11 **A.** So, the news uses -- quotes our statistics often. Law
12 enforcement agencies have reached out to me on a yearly basis
13 to get updated reports. The FBI has shown interest in our
14 statistics specifically to allocate more agents to areas where
15 we are seeing escalation of violence and disruption.

16 **Q.** So FBI is one of the agencies that uses your statistics?

17 **A.** Yes.

18 **Q.** And does other law enforcement, to your understanding, use
19 the NAF statistics?

20 **A.** Yes. Local agencies use them, as well. So, you know, a
21 particular city, a police department uses it for training as
22 well, to get their police officers aware of the situation for
23 their local community.

24 **Q.** Have you ever received feedback from any law enforcement
25 agency that they believe NAF statistics were unreliable?

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1 **A.** I have not.

2 **MS. BOMSE:** Your Honor, may I approach?

3 **THE COURT:** You may.

4 (Document handed up to the Court)

5 (Document tendered)

6 **BY MS. BOMSE**

7 **Q.** Ms. Davidson, I've handed you a document that we have
8 marked as Trial Exhibit 994. Can you tell me if you recognize
9 it?

10 **A.** I do.

11 **Q.** What is it?

12 **A.** It is the NAF Violence and Disruption Statistics from 1977
13 to 2014.

14 **Q.** Okay. And did you have a role in preparing this document?

15 **A.** Some of it, yes.

16 **Q.** Okay.

17 **MS. BOMSE:** At this time, plaintiffs would move to
18 enter 994 into evidence.

19 **MS. SHORT:** We object, Your Honor, that this is not
20 -- this is hearsay. This is not following the business records
21 objection. It's gathered by third parties. It's coming from
22 unknown sources. And it does not meet the business record
23 exception to the hearsay rule.

24 **THE COURT:** Your objection is overruled. I think
25 that this is a record that's kept in the ordinary course. And

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1 I'll admit it.

2 (Trial Exhibit 994 received in evidence)

3 **MS. BOMSE:** Can we put that up on the screen?

4 **MR. KOTARSKI:** Ms. Davis, can you --

5 **THE COURT:** This is Exhibit 994.

6 **MS. BOMSE:** Yes. Thank you.

7 (Document displayed)

8 **BY MS. BOMSE**

9 **Q.** Ms. Davis, this is -- this document is entitled the "NAF
10 Violence and Disruption Statistics." Correct?

11 **A.** Yes.

12 **Q.** And you said -- is this the report that was put out by NAF
13 in 2014?

14 **A.** It is.

15 **Q.** Has NAF continued since 2014 to put out these reports on
16 an annual basis?

17 **A.** Yes.

18 **Q.** So is there a 2018 report?

19 **A.** There is.

20 **Q.** Okay. So if we focus on the left-hand side, the first
21 category is titled "VIOLENCE." Do you see that?

22 **A.** Yes.

23 **Q.** And underneath that there is a number of categories of
24 violence. Correct?

25 **A.** Correct.

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1 Q. How did these particular categories get generated?

2 A. These categories are generated because these incidents
3 have occurred.

4 Q. Okay. So if some new type of violent activity occurs, it
5 gets added to the list?

6 A. Yes.

7 Q. Okay. And what does -- overall, what does the "VIOLENCE"
8 category represent?

9 A. It represents extreme incidents at member facilities and
10 against individual providers.

11 Q. Okay. Let me ask you one question in that first category.
12 What is the butyric acid attacks? What does that represent?

13 A. So butyric acid is a preservative that, you know, back in
14 the late nineties, was easily -- like, easily obtained by the
15 public. When you combine the substance with water, it creates
16 a really terrible smell. And it permeates carpet and walls and
17 things like that.

18 There were some extremists who discovered that this is the
19 case, and then used it to damage facilities.

20 Q. Okay. Thank you. If we can move down to the second
21 category, which is titled "DISRUPTION."

22 A. Uh-huh.

23 Q. And can you explain generally what -- what these
24 categories -- what -- what the "DISRUPTION" category of
25 incidents reflects -- is.

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1 A. So we separated this because it's not as extreme as the
2 physical violence. As you can see, it's hate mail,
3 email/internet harassment, bomb threats, things like that.

4 Q. And if we go down to the third category in the Violence
5 and Disruption Statistics, what is -- and this is titled
6 "CLINIC BLOCKADES," correct?

7 A. Yes.

8 Q. And what are these incidents referring to?

9 A. These are intentional acts, planned acts to obstruct
10 access to clinics, usually involving more than one person.

11 Q. Thank you. Now, putting aside the report that we're
12 looking at, you testified that this is something that NAF has
13 continued to keep track of.

14 Are there, as a general matter, trends that you have seen
15 in terms of the statistics that NAF tracks?

16 A. Yes.

17 Q. And could you describe those?

18 A. Well, we've seen an escalation in many of these incidents
19 over time. Yeah.

20 Q. Without a document, it's probably hard.

21 A. Right, to look at exact numbers.

22 Q. Okay. Ms. Davidson, can you explain why, why does NAF
23 track this information?

24 A. So first, our main goal is to provide -- to maintain the
25 safety of our abortion providers. These statistics tell a

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1 story about what they experience on a daily basis.

2 When compiling these numbers or getting reports from
3 clinics, when we see escalation at a certain facility, for
4 example, that tells us that, you know, things are increasing.
5 Things are becoming more aggressive or potentially dangerous at
6 that site.

7 So we want to involve law enforcement agencies to
8 intervene or look and see what exactly is going on, and do a
9 threat assessment on that specific site. The goal is to
10 prevent acts of violence.

11 **Q.** And do you -- in compiling the NAF Violence and Disruption
12 Statistics, does NAF also rely on information that it receives
13 from PPFA?

14 **A.** Yes.

15 **Q.** Can you describe how you receive that information?

16 **A.** So some of our member clinics are also Planned
17 Parenthoods. Not all Planned Parenthoods are NAF members. But
18 so we do collect those statistics from them directly. But we
19 work with Planned Parenthood Federation to look at their
20 statistics that they gather as well, because they do, just for
21 Planned Parenthood.

22 And we do quality assurance testing to make sure that
23 there's no overlap there. And we ask them about their major
24 incidents that have happened at their facilities, so that we
25 can incorporate that into the data.

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1 Q. Okay. So do you take steps to verify the information that
2 you're receiving from PPFA?

3 A. Yes.

4 Q. Okay.

5 MS. BOMSE: We can take that down. Thank you.

6 (Document taken off display)

7 BY MS. BOMSE

8 Q. You also mentioned that within your responsibility is
9 security for the annual meetings. Is that correct?

10 A. Yes.

11 Q. All right. So does -- so I want to ask you first what
12 role security plays in the planning for annual meetings.

13 Does security have a role in selecting the venue where an
14 annual meeting is to occur?

15 A. Yes.

16 Q. Can you describe that?

17 A. So our meetings department usually picks four or five
18 venues in a city. And we are part of, you know, the selection
19 process, from a security perspective. So if there's a layout
20 or something like that in a venue that doesn't -- doesn't allow
21 us to secure it appropriately, that venue is vetoed.

22 Q. So does NAF security have veto over potential venues?

23 A. Yes.

24 Q. And does someone from NAF security, you or another
25 colleague, actually physically go visit the potential venues?

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1 **A.** We do.

2 **Q.** Okay. And when you go to the facility, what are the
3 things that you are looking for?

4 **A.** We're looking for layout of the space provided; looking at
5 access points. We are conducting a threat assessment. There
6 are lots of different things that we look at to make sure that
7 we can secure that venue appropriately.

8 **Q.** Does NAF -- do you need water?

9 **A.** Yeah, that would be great. Thank you.

10 **THE CLERK:** I can get it.

11 **THE WITNESS:** Thanks.

12 **BY MS. BOMSE**

13 **Q.** And does the NAF security department also provide training
14 to NAF employees who are going to staff the meeting?

15 **A.** Yes.

16 **Q.** And can you describe what sort of training is provided.

17 **A.** Sure. Once the staff are selected, the ones who will be
18 attending the meeting, once that's happened, we have a meeting.
19 And we talk about all the, you know, security protocols that
20 are going to be in place for the meeting. So we go over
21 identifying the security personnel, what they'll be wearing.

22 We have lapel pins that identify NAF security
23 specifically. We show them what that looks like. We talk
24 about how we'll be controlling all of the assess points. We
25 talk about our protocols, as far as members wearing their

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1 badges at all times in meeting spaces.

2 We describe how to use our radio communication. So most
3 of the NAF staff have radios, as well as the entire security
4 team. The security team is on a specific channel. So should
5 NAF staff need security, they know what channel to switch to,
6 should they need to call us. Things like that.

7 **Q.** You described the fact that the security staff at the NAF
8 meetings have a lapel pin to identify themselves. Do you use
9 the same lapel pin year after year?

10 **A.** No.

11 **Q.** And what do you do?

12 **A.** We change the identifying marker of our security team each
13 year to prevent infiltration of -- mimicking that same lapel
14 pin from the previous year.

15 **Q.** And you also talked about giving staff training on
16 securing access points what. What do you mean by that?

17 **A.** We tell them that there will be a static post, a security
18 person at all of the entry points, and that we will be checking
19 for badges and things like that.

20 But we also ask them to remind members that that is
21 protocol as well. That they have to maintain their badges,
22 throughout the meeting.

23 **Q.** And securing access points, is that an important aspect of
24 security's role at the meetings?

25 **A.** Essential.

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1 Q. And why do you say that?

2 A. We want to create a safe space for our providers. As you
3 can imagine, we have quite a few abortion providers in one
4 space. And we want them not only to feel safe, but to actually
5 be safe in that environment. So we want to control who enters.

6 Q. Okay. Do you also -- NAF security, do you have contact
7 with the hotel venue prior to the annual meeting occurring?

8 A. We do.

9 Q. And what does that consist of?

10 A. It's a pre-meeting meeting where we sit at a table with
11 all the heads of the departments of the hotel. So banquets,
12 the meeting planner, even the chef is there sometimes.
13 Housekeeping, things like that. So the people in charge of all
14 of those departments.

15 And we go over our security needs and our protocols at
16 that time.

17 Q. Are there any other contacts that you make in the local
18 community before the NAF meeting occurs?

19 A. Yes.

20 Q. Can you describe those?

21 A. We reach out to local law enforcement, to make them aware
22 of our meeting, and the potential needs. So if we do call
23 them, they know what they're walking into, basically. We reach
24 out to the local fire department, also make them aware, so
25 they're kind of on call, just in case.

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1 And we do venue assessments of the area; reach out to, you
2 know, the local hospital. We find where the Trauma III
3 hospital is so we know the fastest route there, should we need
4 it.

5 **Q.** Thank you. And at NAF's meetings, is there something that
6 you would call a security detail? Are there a group of people
7 who are there to provide security?

8 **A.** Yes.

9 **Q.** All right. And is NAF security part of that team?

10 **A.** Yes.

11 **Q.** And who else comprises that team?

12 **A.** Yes. So NAF security staff would be myself and the senior
13 director. And then we have a lead team, so they're consistent
14 contracted security personnel that we bring back every year.

15 And then we hire off-duty police from the local -- the
16 city, to be our contract security as well.

17 **Q.** Okay. So you mentioned a lead team.

18 **A.** Uh-huh.

19 **Q.** And the fact that there are people who you bring back
20 every year. Why do you do that?

21 **A.** It's important that our members recognize familiar faces
22 among the security team. We have -- we're very lucky that we
23 have individuals who have experience with anti-choice violence
24 and disruption in their lines of work.

25 One of the individuals was assigned to a personal detail

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1 of a Canadian doctor who had had two attempts on his life. So
2 he was his private security for many, many years. We got to
3 know him because that provider was coming to our annual
4 meetings, and looped him into our lead team.

5 We have another individual who does threat assessments for
6 a living, but also has -- you know, has been made -- throughout
7 his career, made aware of the special needs of securing
8 abortion providers and the facilities.

9 And then our third individual is a detective who was on
10 the board of a member clinic for a very long time. So, not
11 only being law enforcement, also understands the risk involved.

12 **MS. BOMSE:** Thank you. Your Honor, is this an
13 appropriate time to break?

14 **THE COURT:** Yes.

15 Ladies and gentlemen, let's take our first break. About
16 ten minutes. Please remember the admonitions.

17 (Jury excused)

18 **THE COURT:** All right, we'll be in recess.

19 **MR. MILLEN:** Your Honor?

20 **THE COURT:** We won't be in recess. Ms. Davidson,
21 would you step outside?

22 **THE WITNESS:** Sure.

23 (Request complied with by the Witness)

24 **THE COURT:** And everybody else can sit down.

25 **MR. MILLEN:** I apologize for interrupting the break,

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1 but this won't wait. I appreciate the Court's ruling letting
2 this in as a business record.

3 There is -- unless the Court gives a limiting instruction,
4 there is a very, I believe, serious problem here. An affiliate
5 records these things. And I can totally understand an
6 affiliate coming to court and saying: Our clinic said, you
7 know, there were five vandalisms, according to our records. I
8 get that.

9 This person (Indicating) is saying: I'm an aggregator. I
10 take these reports from all these clinics and I make a report
11 out of them.

12 The difficulty, Your Honor, is that under business
13 records, it's got to be someone in this person's organization.
14 If these people -- if these were actually, you know,
15 sub-corporations of NAF, I get it. But when you have an
16 outside organization that creates a business record, I will
17 admit, once that goes to the aggregator, it's not the
18 aggregator's place to stand up and say: These are our business
19 records.

20 Now, I have no doubt that it's their records in the sense
21 that they believe them true. But to show that the actual act
22 happened, which is what we're being told, in other words,
23 "There were five acts of vandalism," why does this person know
24 it? Because a third party gave her a business record that says
25 there were five acts of vandalism.

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1 Unless the Court gives a jury instruction which says: NAF
2 believes this, but don't assume that these are true because
3 it's hearsay, but it certainly shows NAF's state of mind, I get
4 it. But to actually let these come in as official records, it
5 just does violence to the business records exception, which
6 demands a single organization be the one that testifies.

7 **THE COURT:** All right. Well, so, first, I think you
8 can bring many of those points out that you just described, out
9 on cross-examination.

10 Second, to the extent at the end of this that I think a
11 limiting instruction is appropriate or that the defendants
12 would like a limiting instruction with respect to that, I'll
13 certainly look at it.

14 **MR. MILLEN:** I appreciate that, Your Honor, although
15 I trust you understand from the defense's perspective, this
16 chart showing murders and horrible, horrible things is one of
17 those things kind of crosses the line, in our view, to -- to a
18 limiting instruction, it's a little tough to unring the bell.

19 So again, I appreciate what the Court has ruled. But I
20 would be grateful if the Court decided to reconsider. I
21 appreciate it is a very short break, and it's difficult, but
22 thank you for hearing me.

23 **THE COURT:** All right. Thank you.

24 (Whereupon there was a recess in the proceedings
25 from 9:35 a.m. until 9:50 a.m.)

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1 **THE COURT:** All right. Please be seated, everybody.

2 Ms. Bomse, go ahead.

3 **MS. BOMSE:** Thank you.

4 **BY MS. BOMSE**

5 **Q.** Ms. Davidson, where we left off, you had finished
6 describing the members that make up NAF's lead team. What I'd
7 like to ask you now is: In addition to the NAF staff security
8 and the lead team, do you hire additional kind of supplemental
9 security for the meetings?

10 **A.** We do.

11 **Q.** And where do you source that additional security?

12 **A.** We obtain those individuals from the local law enforcement
13 and the local police department, off-duty contracts.

14 **Q.** And do those off-duty police officers, do they receive any
15 specific training for working at the NAF meetings?

16 **A.** Yes. When we originally reach out to make the police
17 department aware that we're looking for off-duty services, we
18 describe what the -- the job would entail and the needs of
19 those of individuals. So they need to know exactly what they
20 are protecting, right, and the different aspects of it. So the
21 level of threat. We convey that to them, so they know ahead of
22 time before. You know, people volunteer for this role usually,
23 off-duty work.

24 And then at the beginning, every day, we have a briefing
25 with the contract individuals that are there.

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1 Q. Okay. And what do you mean when you say you explained to
2 the local law enforcement the level of threat?

3 A. Sure. So we describe who we are and who our attendees are
4 and describe the level of, you know, harassment that they face
5 on a daily basis in their daily lives. And then when you get
6 them all in one space, you know, it creates a certain
7 environment that needs to be secure. So we talk about those
8 issues.

9 Q. Do you provide training to these off-duty officers about
10 how to recognize whose permitted to be within the NAF
11 conference space?

12 A. Yes. That's all part of how -- how they will help us
13 secure the space.

14 We talk about the badges, show them what they look like.
15 We, you know, talk about the posts and where they will be
16 located. You know, just normal suspicious behavior to look out
17 for as well and how to communicate that with the rest of the
18 team.

19 Q. And in addition to the lead team and yourselves and the
20 off-duty officers, are there any other non-human elements to
21 the NAF security force?

22 A. Yes. We do hire K-9, so explosive detecting dogs.

23 Q. What role does the K-9 play? What do you do with the K-9?

24 A. Sure. Before every day of the meeting, we conduct sweeps
25 with the K-9 of every room on our meeting space to ensure that

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1 there were no devices left overnight.

2 **Q.** Thank you.

3 So now I want to shift from the pre-planning to the actual
4 meeting. And can you just describe what the security team's
5 role is during the meeting?

6 **A.** Sure. To ensure safe access, access control, so that only
7 our members with badges, registered attendees, are allowed into
8 our meeting space.

9 **Q.** All right. And how is that done?

10 **A.** We post at all of the access points. So we'll have a
11 person, individual, on the security team who stands at the
12 security -- at the entry points of all of the doorways.
13 Basically, elevators, stairs, things like that. All the access
14 points are covered by security.

15 **Q.** Okay. And are they -- are the security -- are they there
16 the entire day in which the conference is ongoing?

17 **A.** Yes. So once we have conducted the sweep with the dog in
18 the morning, that door is either locked or posted with an
19 individual. So there is no lag time between coverage of that
20 area.

21 And if someone needs a break, they radio to one of the
22 lead team individuals who are usually -- we call them floaters.
23 So the lead team is usually hardly every static at one point.
24 So we're there to relieve individuals if they need the
25 restroom, take a break, get off their feet for a little bit.

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1 Q. Okay. And are your security -- is your security personnel
2 there until the meeting ends each day?

3 A. Yes. We're there usually around two hours before even NAF
4 staff arrive to set up, and we are there until the last
5 attendee leaves the space.

6 Q. Are there sometimes evening events at the NAF meetings?

7 A. Sometimes.

8 Q. And does security staff those events?

9 A. Yes. The NAF sponsored events.

10 Q. Are there ever off-site events as part of the NAF
11 meetings?

12 A. Occasionally.

13 Q. And does security work those events as well?

14 A. Yes.

15 Q. All right. I want to turn now to the specific NAF
16 conference that occurred here in San Francisco at the
17 St. Francis Westin in 2014. Were you present for that meeting?

18 A. I was.

19 Q. And do you recall how many security personnel your team
20 had on-site at that meeting?

21 A. Yes. I believe we had five lead team and four contract
22 security.

23 Q. All right. And I have --

24 A. Plus the K-9.

25 Q. Sorry?

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1 **A.** And the K-9.

2 (Whereupon document was tendered to the witness.)

3 **Q.** I've placed next to you there a document. It's an exhibit
4 that's been admitted already into evidence. It's Exhibit 729.

5 And let me just ask you, Ms. Davidson, do you recognize
6 729?

7 **A.** I do.

8 **Q.** All right. And what's that document?

9 **A.** This is the floor plan of the St. Francis Westin.

10 **Q.** Okay. And if you focus on the bottom right, you can see
11 there is a -- it states "Mezzanine Floor." Do you see that?

12 **A.** Yes.

13 **Q.** All right. And was the -- did the NAF conference -- was
14 the mezzanine part of the NAF 2014 conference?

15 **A.** It was.

16 **Q.** Okay. And did NAF rent the entire mezzanine floor?

17 **A.** Yes.

18 **Q.** And were there guards posted on the mezzanine floor?

19 **A.** Yes.

20 **Q.** And was -- was registration also on the mezzanine?

21 **A.** It was.

22 **Q.** Okay. Now, I've put a black pen up there with you, and I
23 would appreciate it if you could mark on the exhibit both where
24 registration occurred and where all the fixed guard posts were
25 on the mezzanine.

DAVIDSON - DIRECT / BOMSE

1 **A.** So registration was located just outside the Georgian
2 room. There was a static guard posted right there at that door
3 that leads into the registration room.

4 So as you can see, the elevator banks are there, with the
5 stairwell as well. So there is a static post guard there. So
6 those are the access points.

7 There was also a guard static post in front of the Italian
8 room foyer, where you see some stairs there on the right.

9 There was an emergency exit there that you could not
10 access from the stairwell. So you could only exit, but we
11 posted someone there just in case. And then if you see the
12 stairs that go up to the Georgian room, those don't lead
13 anywhere. So that post covered those access points.

14 And then the elevator banks and stairwell were covered by
15 a guard there. And then we had three floaters.

16 **Q.** Okay. I'm going to --

17 **MS. BOMSE:** May I approach, Your Honor?

18 **THE COURT:** You may.

19 (Whereupon document was returned to counsel.)

20 **MS. BOMSE:** Your Honor, plaintiffs would move marked
21 729 into evidences as 729-B.

22 **THE COURT:** All right. Any objection?

23 **MS. DHILLON:** No objection, Your Honor.

24 **THE COURT:** All right. It's admitted.

25 (Trial Exhibit 729-B received in evidence)

DAVIDSON - DIRECT / BOMSE

1 (Document displayed)

2 **BY MS. BOMSE**

3 **Q.** So, Ms. Davidson, now that we have it in front of us, I
4 see that you've marked an "X" sort of right above the words
5 "Georgian room" on the 729-B, on the mezzanine floor. What
6 does that "X" within the Georgian room represent?

7 **A.** That's the registration.

8 **Q.** And then there is another "X" just above the Georgian
9 room. And what does that "X" represent?

10 **A.** That's static post guard.

11 **Q.** Okay. So that is a guard -- what area is that guard
12 responsible for?

13 **A.** The access points from the elevators and the stairwell.

14 **Q.** All right. And then there is another "X" in front of the
15 Italian room foyer and what you described as an emergency exit.
16 And what is that guard posted for?

17 **A.** That's second layer.

18 **Q.** And what do you mean by "second layer"?

19 **A.** So it's a backup to the person, to indirect eyesight of
20 registration and those access points there. So that person is
21 there to control access. Should someone potentially slip by in
22 the hallway, they would be caught right there to identify their
23 badge and make sure that they went to registration and things
24 like that, but also to backup the static post in front of
25 registration.

DAVIDSON - DIRECT / BOMSE

1 Q. Okay. So the concept is that the static post that you
2 just referred to in front of the registration should actually
3 catch anyone trying to enter who is not permitted?

4 A. Correct.

5 Q. Okay. But you have a backup just in case?

6 A. Yes.

7 Q. Okay. And you mentioned that the exits? Something about
8 the exit doors? What were you saying about the exit doors?

9 A. They are fire exits. So from the stairwell you can't get
10 in. There is literally no handle. So someone coming off of,
11 you know, Post Street coming into the stairwell, something like
12 that, couldn't access the floor literally unless someone
13 exited, you know, and came in that way. And so that's another
14 reason why there is a person there at that access point.

15 Q. Thank you.

16 A. It's not truly an access point, a just in case.

17 Q. Now, did NAF also -- was part of the NAF conference also
18 held on the second floor of the St. Francis?

19 A. It was. Uh-huh.

20 Q. And was every access point on the second floor secured as
21 well?

22 A. Absolutely.

23 Q. And if a hotel guest not part of the NAF conference
24 attempted to enter any of the NAF conference space, what would
25 happen?

DAVIDSON - DIRECT / BOMSE

1 **A.** Usually first they are addressed by security staff asking
2 them if they could help them find something. We want to be
3 able to allow our attendees to find registration. And so if
4 someone says, "I'm looking for the NAF meeting," then we can
5 guide them to the registration. But if someone is just lost or
6 looking for another meeting or don't know where their room is,
7 they can be directed away. But they are not allowed access.

8 **Q.** Okay. And I can see that on the floor plan there is a
9 sign for elevators. If a non-NAF attendee attempts to exit the
10 elevators at the mezzanine level, what would occur?

11 **A.** They would be escorted right back to the elevators or to
12 the stairwell to leave the space.

13 **Q.** Okay. You also mentioned that in addition to the fixed
14 posts, there's floaters. What are the floater security doing?

15 **A.** So those are lead team. So our regulars, if you will. We
16 are milling about. Keeping awareness about who is there.
17 Keeping eyes open. Greeting our known members. Showing them
18 where to go.

19 But we're also there to relieve the static post, if they
20 need it. It's a constant monitoring of our space.

21 **Q.** Okay. And there has been testimony in this case about
22 entering into the hotel in the lobby area and being directed by
23 the hotel staff to go up to the mezzanine.

24 If someone enters the Westin and tells the hotel staff
25 that they are there for the NAF meeting, what would you expect

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1 the hotel staff to do?

2 **A.** I expect the hotel staff to direct them to the
3 registration area.

4 **Q.** Okay. What if the person walks in off the street and
5 says: What conferences are going on here?

6 **A.** That would not be disclosed by hotel staff.

7 **Q.** So hotel staff receive instruction about sharing
8 information about the NAF meeting?

9 **A.** Yes. That would happen at the pre-conference meeting with
10 all the heads of the departments from the hotel.

11 **Q.** All right. Now, is there a big sign in front of the
12 Westin that says "National Abortion Federation Meeting Today"?

13 **A.** No.

14 **Q.** And why is that?

15 **A.** That would defeat the purpose of securing our meetings.

16 **Q.** Okay. Thank you.

17 I would like now --

18 **MS. BOMSE:** May I approach, Your Honor?

19 **THE COURT:** You may.

20 (Whereupon document was tendered to the witness.)

21 **BY MS. BOMSE**

22 **Q.** Ms. Davidson, I've handed you another exhibit. It's --
23 we've marked it as Exhibit 732. And I would like to ask you:
24 Do you recognize 732?

25 **A.** I do.

DAVIDSON - DIRECT / BOMSE

1 Q. And what is that?

2 A. This is the floor plan for the Hyatt Regency Baltimore.

3 Q. And was there a NAF meeting at the Hyatt Regency
4 Baltimore?

5 A. Yes.

6 Q. What year was that?

7 A. 2015.

8 Q. Thank you.

9 MS. BOMSE: Plaintiffs would move 732 into evidence.

10 MS. DHILLON: No objection, Your Honor.

11 THE COURT: All right. It's admitted.

12 (Trial Exhibit 732 received in evidence)

13 MS. BOMSE: We can display it for now and after
14 Ms. Davidson has had an opportunity to mark it, we'll switch
15 it.

16 Thank you.

17 THE CLERK: Okay.

18 (Document displayed)

19 BY MS. BOMSE

20 Q. Ms. Davidson, if we could just go through the same --
21 well, before we have do that, do you see on the Exhibit 732 an
22 area marked "Atrium."

23 A. Yes.

24 Q. Is that the area where the NAF 2015 conference took place?

25 A. Yes. The entire floor.

DAVIDSON - DIRECT / BOMSE

1 Q. So NAF rented out the entire floor?

2 A. Yes.

3 Q. All right. And if you could mark on Exhibit 732 where the
4 fixed guards were posted for that meeting?

5 A. Sure. We had one at the elevator banks. One at the
6 stairs to the third floor. One behind the stairs, where
7 Baltimore and Annapolis are.

8 Static post at the exit to the Skybridge Convention
9 Center. And one at the -- where it says "Foyer," which is
10 where registration was located.

11 Q. And it's been pointed out to me that the word "Atrium"
12 aren't actually marked on this floor plan. So did the NAF 2015
13 meeting, did it include the area that's marked as
14 "Constellation Ballroom"?

15 A. Yes.

16 Q. And also "Foyer"?

17 A. Yes.

18 Q. And then actually there is a -- there is "Atrium." Was
19 that part of the NAF Annual Meeting?

20 A. It was.

21 Q. Were the four spaces that are referred to as Baltimore,
22 Annapolis, Frederick and Columbia also reserved by NAF?

23 A. They were.

24 Q. Okay. And the Harborview Room, was that part of the NAF
25 meeting?

DAVIDSON - DIRECT / BOMSE

1 **A.** The what? I'm sorry. The Harborview Room?

2 **Q.** Yes.

3 **A.** Yes.

4 **Q.** So the entire area?

5 **A.** Yes.

6 **Q.** Okay?

7 **MS. BOMSE:** . May I approach again, Your Honor?

8 **THE COURT:** You may.

9 (Whereupon document was returned to counsel.)

10 **MS. BOMSE:** Plaintiffs would move the marked version
11 of Exhibit 732 into evidence as 732-A.

12 **MS. DHILLON:** No objection, Your Honor.

13 **THE COURT:** All right. It's admitted.

14 (Trial Exhibit 732-A received in evidence)

15 (Document displayed)

16 **BY MS. BOMSE**

17 **Q.** Ms. Davidson, what do the X's that you've made on 732
18 reflect?

19 **A.** Those are post guard positions.

20 **Q.** Okay. And I see the "X" that's on the right-hand side
21 next to words that say "Exit to Skybridge." Did the skybridge
22 present any kind of issue for you in the 2015 conference?

23 **A.** We did have one or two occurrences where pedestrians were
24 coming from the outside using the skybridge to enter the hotel.
25 They were stopped at that point and asked to return back the

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1 way they came, go downstairs and then enter the hotel through
2 the lobby.

3 After that occurred, we spoke with the hotel and we were
4 able to lock the doors on the farthest end of that skybridge,
5 so we didn't have that issue any more.

6 **MS. BOMSE:** Thank you. You can take Exhibit 732
7 down.

8 (Document removed from display)

9 **BY MS. BOMSE**

10 **Q.** Ms. Davidson, is it fair to say from your perspective that
11 NAF meetings have a strong reputation for their security?

12 **A.** Yes.

13 **Q.** Have you heard it described as the "gold standard"?

14 **A.** Yes, I have.

15 **Q.** Other than what you learned in hindsight about your
16 meeting having been infiltrated, is it your view that the
17 security at the NAF meetings in 2014 and '15 was adequate?

18 **MR. MIHET:** Objection. Leading.

19 **THE COURT:** Sustained.

20 **MS. BOMSE:** Okay.

21 **BY MS. BOMSE**

22 **Q.** Given what you learned later about your meetings being
23 infiltrated, do you have a perspective on the sufficiency of
24 your security at those meetings in 2014 and '15?

25 **A.** I do.

DAVIDSON - CROSS / DHILLON

1 Q. And what is that?

2 A. I believe that these individuals went to great lengths to
3 circumvent our existing protocols; that our security was
4 adequate.

5 Q. Thank you. No further questions.

6 THE COURT: All right.

7 Ms. Dhillon, go ahead.

8 CROSS-EXAMINATION

9 BY MS. DHILLON

10 Q. Good morning, Ms. Davidson. My name is Harmeet Dhillon.
11 I'm an attorney for several defendants in this case, including
12 BioMax Corporation.

13 To be clear, your employer, NAF, is not a party to this
14 lawsuit that we're here for today; correct?

15 A. Correct.

16 Q. And your employer has a separate civil lawsuit against
17 some of the defendants regarding some of the same instances
18 that are at issue here today; correct?

19 A. That's correct.

20 Q. Now, does your role as -- as Director of Security or
21 previously a manager, did you have any role with respect to
22 advising Planned Parenthood affiliates with respect to
23 security?

24 A. No.

25 Q. Okay. So you've never provided any guidance to any of the

DAVIDSON - CROSS / DHILLON

1 PPFA, even the national organization, with respect to vetting
2 for its events; correct?

3 **A.** No.

4 **Q.** Now, did you play any role as an individual in supervising
5 vetting for exhibitors for the 2014 or 2015 conference?

6 **A.** I did not.

7 **Q.** Okay. Have you ever given any guidance to Nichelle Davis,
8 who is a NAF employee who was responsible for vetting at the
9 2014 and 2015 conferences, regarding best practices for
10 admitting people to the conferences?

11 **A.** So we work with each department in our organization to put
12 on the meeting, and security is a significant piece of the
13 that. So we would collaborate with our meetings, yeah.

14 **Q.** So by "collaborate" I want to understand exactly what --
15 what type of role you would have with respect to Ms. Davis, for
16 example, vetting people for the 2014 event, which she testified
17 is one of her roles?

18 **A.** I wouldn't be part of that vetting process, no.

19 **Q.** So can you describe for us what was -- for example,
20 Ms. Davis testified by video that she Googled people. Did you
21 stand behind her when she did the Googling?

22 **A.** No, I did not. That was assigned to her department.

23 **Q.** So let me understand the division between your department
24 and what Ms. Davis' department was. So what's the process?
25 Did you give her a formal training? Was there some other

DAVIDSON - CROSS / DHILLON

1 interaction besides a formal training session regarding
2 vetting?

3 **A.** That wasn't part of my department.

4 **Q.** Okay. So I'm not sure I understand your prior question.
5 What interactions did you have with Ms. Davis concerning
6 vetting at the 2014 or 2015 conference?

7 **MS. BOMSE:** Asked and answered.

8 **THE COURT:** Overruled.

9 **A.** We didn't talk about vetting. Like I said, that wasn't
10 part of my department's duties.

11 **BY MS. DHILLON**

12 **Q.** Okay. So did you have any interaction with Ms. Davis
13 regarding, for example, how to check an ID?

14 **THE COURT:** At any time.

15 **MS. DHILLON:** At any time.

16 **A.** How to check an ID?

17 **BY MS. DHILLON**

18 **Q.** Yes, how to check an ID. That's my question.

19 **A.** No, I didn't have that conversation with her.

20 **Q.** Okay. Do you have any knowledge of how exhibitors were
21 vetted for the 2014 or 2015 NAF conferences?

22 **A.** I don't. Uh-uh.

23 **Q.** Have you given any guidance -- did you give any guidance
24 in 2014 or 2015 to anybody at NAF regarding best practices for
25 vetting exhibitors or sponsors at the NAF conferences?

DAVIDSON - CROSS / DHILLON

1 **A.** I did not personally.

2 **Q.** Do you know if anybody in your department did that?

3 **A.** I don't.

4 **Q.** Okay. Did you give any guidance to anybody in the
5 department that does vet people about asking whether attendees
6 at the conferences are asked if they are pro-choice?

7 **A.** I do know that NAF's policies require vetting, and I have
8 faith in my colleagues.

9 **Q.** Okay. Thank you.

10 So it's fair to say that you actually had no role
11 whatsoever with respect to vetting the 2014 or 2015 conference
12 attendees; correct?

13 **A.** Correct. I'm aware of our policies and procedures.

14 **Q.** In light of what happened with the -- what you described
15 as infiltration, have you now taken on any kind of a role with
16 respect to advising staff at NAF on how to properly vet people
17 for the conferences?

18 **A.** So that's not a personal role of mine. The senior
19 director is involved in a lot that aspect now.

20 **Q.** And who is that person?

21 **A.** Terry Gannon, Senior Director of Security.

22 **Q.** Okay. So it's fair to say even today you have given no
23 guidance to anybody at NAF regarding appropriate security
24 procedures for vetting attendees at the conferences?

25 **A.** I know they exist and they are part of our procedures.

DAVIDSON - CROSS / DHILLON

1 Q. Okay. What are those procedures? How did they change
2 after the 2015 conference?

3 A. I'm sorry. I can't speak to it. I'm not part of that.

4 Q. Okay. Does NAF use card scanners today with respect to
5 checking people into its conferences?

6 A. We do.

7 Q. And when did that start?

8 A. Just after, so 2016.

9 Q. Would you consider that an upgrade to NAF's security
10 procedures at its conferences?

11 A. I would.

12 Q. Does NAF security give any guidance to NAF staff regarding
13 publishing photographs of conferences in its website or
14 brochures as a security concern?

15 A. Uh-huh. We do. As part of the registration process,
16 members are alerted about security concerns that we have, and
17 not to post on social media, for example, pictures of the
18 meeting space, things like that. Confidentiality, utmost.

19 Q. And do you personally witness that instruction being
20 given?

21 A. Yes.

22 Q. And does NAF itself not post photographs of its
23 conferences in its annual reports and on its website?

24 A. It's done afterwards by a vetted specific photographer
25 that we have hired or contracted. It's not attendees on behalf

DAVIDSON - CROSS / DHILLON

1 of NAF. It's their own thing.

2 **Q.** But NAF does publish photographs that display hundreds of
3 attendees at its conferences; correct?

4 **A.** I -- I don't know about that number.

5 **Q.** Okay. Have you ever seen any of the annual reports that
6 NAF produces?

7 **A.** I'm not sure which reports you're speaking of.

8 **Q.** So you have been -- step back. You have been a NAF
9 employee for about 19 years; correct?

10 **A.** No.

11 **Q.** Okay. How many years? Maybe I miscalculated that.

12 **A.** It's eight and a half.

13 **Q.** Eight and a half. So in the eight and a half years you
14 have been a NAF employee, have you ever seen an annual report,
15 which is a specific document that NAF produces?

16 **MS. BOMSE:** Objection. Lacks foundation.

17 **THE COURT:** Overruled.

18 **A.** I can't say that I have. Uh-uh.

19 **BY MS. DHILLON**

20 **Q.** Does NAF have any policies regarding publishing
21 photographs of attendees at its conferences on its website?

22 **A.** I'm not sure.

23 **Q.** Okay. I'm going to show you a copy of an annual report,
24 see if in it refreshes your recollection.

25 (Whereupon binder was tendered to the witness.)

DAVIDSON - CROSS / DHILLON

1 Q. Ms. Davidson, I've handed you a binder that has as its
2 first tab a document entitled "Annual Report, 2013/2014." Have
3 you had a chance to see that?

4 A. No.

5 Q. You've never seen this document before?

6 A. I haven't.

7 Q. Okay. And one follow-up question. I'm going to ask you
8 to take a look at Page 2 of this document and see if you are
9 represented in the photograph that is at the bottom lower right
10 of this document?

11 A. Yes.

12 Q. Okay. So is that you in the photograph with the K-9?

13 A. It is.

14 Q. And are the blue drapes there the exhibit hall of the
15 conference?

16 A. Yes.

17 Q. Okay. And do you recognize the photograph above it, the
18 large photograph, as a photograph from the NAF 2013/2014
19 conference, as indicated in the caption?

20 A. Yes.

21 Q. Okay. And where have you seen that photograph?

22 A. I mean, I recognize the badges in the photograph. I've
23 never seen the actual photograph.

24 Q. Would you agree that this is a photograph of many
25 attendees at the 2014 conference?

DAVIDSON - CROSS / DHILLON

1 **A.** I couldn't say for sure.

2 **Q.** Okay. If it were, would the photographing and publication
3 of attendees at the conference pose any security concerns?

4 **A.** Hmm... Not from this photograph that I could tell.

5 **Q.** So it doesn't concern you that there is a photograph
6 published of attendees of the conference and, as the document
7 indicates, it's the 2014 Annual Conference Meeting, and this
8 document is potentially mailed to thousands of people. Is that
9 a security concern?

10 **MS. BOMSE:** Lacks foundation. Argumentative.

11 **THE COURT:** Overruled.

12 **A.** It could -- no. Actually, no.

13 **BY MS. DHILLON**

14 **Q.** Okay, thank you.

15 Now, do you have any role in coming up with the terms and
16 conditions that exhibitors sign to become exhibitors at the
17 conference?

18 **A.** I do not.

19 **Q.** Okay. And do you have any role in coming up with the
20 exhibitor rules and regulations?

21 **A.** I do not.

22 **Q.** Do you have any knowledge of whether photography of any
23 kind is permitted by exhibitors in the exhibit hall at the NAF
24 conferences?

25 **A.** I believe exhibitors are allowed to photograph their booth

DAVIDSON - CROSS / DHILLON

1 with no other attendees near it or around it for -- to help
2 them set up their booths later or use it as a training device
3 in other conventions and other events.

4 **Q.** And where do you come up with the knowledge that people
5 are allowed to photograph their exhibit booth with no other
6 attendees around it? Where is that limitation?

7 **A.** Someone told me about it, yeah.

8 **Q.** So you have no personal knowledge of that actually;
9 correct?

10 **A.** I knew it was an existing practice of ours.

11 **Q.** So if I understand correctly, the practice is that
12 exhibitors may photograph their own booth, but only if nobody
13 else is around it?

14 **A.** Correct. Before any attendees are allowed into that
15 space. And once they have set it up, before we even open for
16 the -- open the exhibit hall they are allowed to do that, but
17 not afterwards.

18 **Q.** Okay. I would like you to take a look at Exhibit 370 in
19 the binder in front of you, which is a document that's been
20 previously admitted into evidence.

21 (Document displayed)

22 **Q.** And this is a document entitled "Exhibit Rules and
23 Regulations." Do you see that?

24 **A.** Yes.

25 **Q.** I'm going to direct your attention to Paragraph 13 of this

DAVIDSON - CROSS / DHILLON

1 exhibit, if you can take a look. It's a very short paragraph.
2 Read it, and then I have a question for you about it.

3 (Witness complied.)

4 **A.** I see it.

5 **Q.** Okay. Now does this paragraph say:

6 "Photography of exhibits by anyone other than NAF
7 or the assigned exhibitor of the space being
8 photographed is strictly prohibit."

9 Do you see that?

10 **A.** Yes.

11 **Q.** And does that prohibition include any restriction about
12 human beings being in the photograph?

13 **A.** I'm sorry. What do you mean? I don't understand.

14 **Q.** I think my question is clear.

15 **MS. BOMSE:** Objection.

16 **THE COURT:** Yeah. Please restate it.

17 **BY MS. DHILLON**

18 **Q.** Does the paragraph I just read say anything about a
19 restriction that there be no people in the pictures being
20 taken?

21 **A.** No.

22 **Q.** Okay. Are you aware of any other documents,
23 Mr. Davidson -- Ms. Davidson, sorry. Are you aware of any
24 other documents that contain the restriction that you've just
25 mentioned to us regarding no photography of people by

DAVIDSON - CROSS / DHILLON

1 exhibitors?

2 **A.** Not that I'm aware of.

3 **Q.** Okay. And are you aware of any instructions being given
4 on-site to exhibitors that they are not to take photographs of
5 their own exhibit if there are people within the frame?

6 **A.** I'm not clear on your question.

7 **Q.** You've testified that exhibitors were permitted to take
8 photographs of their exhibit space, but only if there were no
9 people in the photograph. Did I misunderstand your testimony?

10 **A.** No. That's what I said.

11 **Q.** And my question you to is: Is that communicated to
12 exhibitors anywhere, to your knowledge?

13 **A.** I know that we tell all attendees, anyone attending the
14 meeting, about our photography policies, but I --

15 **Q.** That's not what I'm asking. Sorry. But I'm asking you
16 specifically about exhibitors.

17 We've just looked at a document, correct, that -- that
18 specifies that -- it looks on its face that exhibitors may take
19 photographs of the exhibit space; correct?

20 **A.** Yes. But exhibitors are attendees just like the other
21 attendees are. They go through the registration process just
22 like they do. So at that time it is discussed.

23 **Q.** So my question to you is: What is communicated to
24 exhibitors regarding taking photographs of the exhibit space?
25 Are they allowed to do that or not? Let's start with that.

DAVIDSON - CROSS / DHILLON

1 **A.** To the best of my knowledge, I've been told that
2 exhibitors are allowed to photograph their booth and that is
3 all.

4 **Q.** So if I understand you correctly, you actually have no
5 personal knowledge. You've simply been told that; correct?

6 **A.** Yes, by my organization. It's our practice and policies.

7 **Q.** Who told you that?

8 **A.** I don't recall.

9 **Q.** Okay, thank you.

10 Have you ever observed somebody taking photographs of an
11 exhibit and tried to stop them, as security staff?

12 **A.** We have attempted to stop people from taking photographs
13 that didn't appear to be their booth. We stop people from
14 taking photographs all the time.

15 **Q.** And did that happen at the 2014 annual conference?

16 **A.** I can't recall.

17 **Q.** And did that happen at the 2015 annual conference?

18 **A.** Again, I can't recall.

19 **Q.** Can you remember the last time that ever happened?

20 **A.** Not a specific example, no.

21 **Q.** Okay. In the course of your work for National Abortion
22 Federation do you travel all over the country to train abortion
23 providers on security measures?

24 **A.** Yes. Uh-huh.

25 **Q.** Do you give guidance to abortion providers on, for

DAVIDSON - CROSS / DHILLON

1 example, how to identify the veracity of an ID?

2 **A.** I'm sorry? ID?

3 **Q.** Yeah. How to detect an ID, whether it's accurate or not,
4 fake or not?

5 **A.** No.

6 **Q.** Okay. Now, in the course of your work as a security
7 trainer for National Abortion Federation, did you once bring
8 fake explosives into an airport causing a bomb scare?

9 **A.** I was traveling with a rubber dog toy that in cartoon
10 letters says "Dynamite" on it. I would use these training
11 tools inside the clinics, where I would hide them in the clinic
12 and we would run through how to conduct a bomb threat and
13 search their building appropriately.

14 And, yeah. TSA decided that that was a potentially
15 dangerous device. I believe it was a misunderstanding.

16 **Q.** The airport was evacuated; correct?

17 **A.** It was.

18 **Q.** And thousands of travelers were inconvenienced, correct?

19 **MS. BOMSE:** Objection.

20 **A.** I don't know the number.

21 **BY MS. DHILLON**

22 **Q.** And you obtained a promotion at NAF after that; correct?

23 **A.** I did.

24 **Q.** I have no further questions. Thank you.

25 **THE COURT:** Ms. Short.

DAVIDSON - CROSS / SHORT

CROSS-EXAMINATION

1
2 **BY MS. SHORT**

3 **Q.** Good morning.

4 **A.** Good morning.

5 **Q.** Ms. Davidson, you testified about the very sources for the
6 incidents listed on Exhibit 994, "2015 NAF Violence and
7 Disruption Statistics."

8 I believe you said they were provided by members
9 indirectly onto an online portal of some sort and then also you
10 said that sometimes they come in a group, as in from Planned
11 Parenthood Federation of America; is that correct?

12 **A.** Yes.

13 **Q.** And are there any other sources?

14 **A.** When we discover an incident through news media, I will
15 call local law enforcement agencies to obtain details on that,
16 and we do incorporate those into our data as well.

17 **Q.** So that data is input by NAF staff in some way?

18 **A.** Yes.

19 **Q.** Okay. And do you ever -- once it's input, is it ever
20 amended to reflect developments in what might be, you know,
21 something that's deemed not to be an arson or, you know, a bomb
22 threat, turned out to be not a bomb threat, or something like
23 that?

24 **A.** Do you mean we fix it?

25 **Q.** Yes.

DAVIDSON - CROSS / SHORT

1 **A.** Yes.

2 **Q.** Okay. Now, PPFA provides its input to your annual report
3 once a year; isn't that correct?

4 **A.** That's correct.

5 **Q.** And about what percentage of the total number of incidents
6 reflected in the reports come from PPFA's once-a-year reporting
7 to you?

8 **A.** Oh, I'd have to look at the exact breakdown. I couldn't
9 tell you right off the top of my head, like, an exact
10 percentage.

11 **Q.** I'm not looking for an exact percentage. Are we talking
12 30 percent? 40 percent?

13 **A.** I couldn't speculate on that. I would want to give you
14 accurate information.

15 **Q.** So you can't even say more or less 50 percent?

16 **A.** I would say less than 50 percent.

17 **Q.** More than 25 percent?

18 **A.** I mean, again, it would depend on the year also. We go
19 through the data with a fine-tooth comb. And if we don't have
20 any information to back up a specific statistic, it doesn't go
21 into the report.

22 **Q.** Now, isn't it true, though, that when PPFA reports its
23 numbers to you, all you get is a number. You don't get an
24 incident report with that; isn't that correct?

25 **A.** No. I get an incident and -- and a number. Uh-huh.

DAVIDSON - CROSS / SHORT

1 Q. So a little later in this trial we're going to be hearing
2 testimony from Kristin Noah, the Director of Security, who said
3 that she provides only numbers.

4 Can you reconcile that with her testimony if she's going
5 to testify that way?

6 A. We wouldn't know what the number was without the incident,
7 the description of that number. We get a number based on the
8 category.

9 Q. That's what I'm saying. That's what I'm saying. It's a
10 number -- excuse me. A number in a particular category, but
11 without any sort of narrative description; isn't that correct?

12 A. Yes.

13 Q. Okay.

14 A. We do follow up with them to make sure that our numbers
15 aren't overlapping. We do deep dives and ask questions whether
16 this incident was, you know, our member clinic that we already
17 had recorded of the incident or if it was something that we
18 didn't have before.

19 We really care about not doubling the data and the quality
20 assurance of the report.

21 Q. So that would be based on whether it was a particular
22 affiliate. So you say, okay, you have a vandalism at this
23 affiliate. Is that the same -- is that the same vandalism that
24 the member affiliate has reported to us already; is that fair
25 to say?

DAVIDSON - CROSS / SHORT

1 A. Yes.

2 Q. Okay. And you do that for every type of incident on the
3 report?

4 A. Yes. We want details on them. Uh-huh.

5 Q. Okay. So every one of the -- let's just look at
6 Exhibit 994 in 2014.

7 452 -- 367 hate mail/harassing calls, and you de-duplicate
8 on all those with Planned Parenthood Federation of America?

9 A. I'm sorry. What year?

10 Q. I'm looking at the first heading under "Disruption Hate
11 Mail and Harassing Calls" in 2014.

12 A. Uh-huh.

13 Q. 367 incidents?

14 A. Right.

15 Q. And you say you de-duplicate on all those?

16 A. Yes. Like I said, if we don't have enough information to
17 back up the data, it doesn't go into the report. It gets lost
18 basically.

19 Q. But, again, but PPFA is producing to you only numbers in
20 incident category types; isn't that correct?

21 A. Oh, I -- we know which clinics it's coming from.

22 Q. And -- but --

23 A. In order to deduce it.

24 Q. But if you have an affiliate which is not a member of NAF,
25 like I understand most of the California affiliates are not NAF

DAVIDSON - CROSS / SHORT

1 members, so you would actually check back with that affiliate
2 to find out what was the basis for that report?

3 **A.** You lost me.

4 **Q.** Okay.

5 **A.** So I confirm that either they are a member or they are
6 not. And then if they are a member, I make sure that we don't
7 already have that report.

8 **Q.** Okay.

9 **A.** So that it doesn't overlap.

10 **Q.** And if they aren't a member, then you simply check a box
11 that says -- because Planned Parenthood has reported a certain
12 number of incidents of vandalism coming from certain
13 affiliates. And you simply report a number of vandalisms
14 after -- after you've concluded that it's not duplicative of
15 something you already have, you would just take that number as
16 the number of vandalisms, independent incidents of vandalism;
17 is that correct?

18 **A.** Yes.

19 **Q.** Now, PPFA in reporting its numbers to you doesn't
20 represent that these are incidents of anti-abortion activity;
21 isn't that correct?

22 **A.** I don't believe that's true.

23 **Q.** All right.

24 **A.** They report them as anti-abortion activity.

25 **Q.** So PPFA tells you that all of the incidents it's reporting

DAVIDSON - CROSS / SHORT

1 to that, in all those categories, are all motivated by
2 opposition to abortion?

3 **A.** Oh, no, not every single one.

4 **Q.** How do they distinguish those that are and those that
5 aren't?

6 **A.** That's their reporting process. You would have to ask
7 them. I'm not sure.

8 **Q.** I'm sorry. I couldn't understand you.

9 **A.** You would have to ask them. I'm not part of their
10 reporting process.

11 **Q.** So your understanding is that they are reporting to you
12 only those incidents that are motivated by opposition to
13 abortion?

14 **A.** Yes. We asked them for very specific incidents that we
15 know are related. That's the data that we ask them to provide
16 to us.

17 **Q.** Okay. So that -- just to confirm. Your understanding is
18 that every number you get from Planned Parenthood represents an
19 incident that is related to opposition to abortion?

20 **A.** To the best of my knowledge, yes.

21 **Q.** Okay. And what percentage -- going to the reporting from
22 the members. What percentage were -- of affiliates were
23 regularly reporting incidents -- by "regularly," I mean, every
24 month -- in 2014?

25 **A.** From Planned Parenthood?

DAVIDSON - CROSS / SHORT

1 Q. No. Across -- from your members?

2 A. Umm, I don't have those statistics in front of me. I
3 would need to find those.

4 Q. Umm...

5 A. It changes every year usually. It increases.

6 Q. But you can't figure out -- you estimated about 60 percent
7 now, but you can't give an estimate for 2014?

8 A. No. Uh-uh.

9 Q. Now, so it could be only 20 percent regularly reporting?

10 A. I wouldn't want to speculate.

11 Q. Okay. And some affiliates -- is it true that some
12 affiliates report only irregularly? They don't file a report
13 every month?

14 A. When you're talking about affiliates, are you talking
15 about Planned Parenthood?

16 Q. I'm sorry. I used the wrong word that time. Some members
17 report only irregularly, not every month?

18 A. That's correct, yeah.

19 Q. Now, does the form -- it was pointed out on Exhibit 994 it
20 has a number of subcategories under "Violence and Disruption."
21 And is the -- is the reporting mechanism for members populated
22 in some way so that those categories show up for members to
23 choose from?

24 A. Yes.

25 Q. Okay. And is there a narrative required to support

DAVIDSON - CROSS / SHORT

1 each -- any incident reported in this way?

2 **A.** There is, uh-huh. You can click on each incident and get
3 a full description and details about how to -- how to fill out
4 the report accurately.

5 **Q.** Okay. And are members -- and does the report -- do
6 members understand that they are only supposed to be reporting
7 incidents related -- that they know are motivated by opposition
8 to abortion?

9 **A.** Yes.

10 **Q.** And do you give members a written definition of these
11 categories?

12 **A.** Yes.

13 **Q.** When do you do that?

14 **A.** Usually on-site training, when I'm teaching them how to
15 submit the reports online or over the phone, email. It just
16 depends.

17 **Q.** So it's not in writing?

18 **A.** Yes. There are written instructions on how to fill out
19 the violence and disruption reports. And in that comes the
20 descriptions of the incidents and, you know, what categories,
21 which things go into which ones to clarify.

22 **Q.** Do you require members to be trained in those specifics
23 about how to classify the incidents before they are allowed to
24 file these online reports?

25 **A.** Yes. Uh-huh.

DAVIDSON - CROSS / SHORT

1 Q. And do you ever ask a member to produce any evidence of a
2 particular incident? For instance, if a threat is said to be
3 in writing, would you ask the member to produce any sort of
4 evidence of that?

5 A. I don't usually need to, because part of the trainings
6 that we do at the clinics is we ask them to compile all of the,
7 for instance, hate mail that they get. It's not just tossed in
8 the trash. It is documented.

9 It's also -- a lot of these incidents are documented in
10 individual incident reports that are filed in their security
11 files. So often they will be sent to me via email or I'll get
12 a phone call about a specific incident, letting me know that it
13 happened, especially if it's a significant incident that would
14 require law enforcement intervention. So I can help them back
15 it up.

16 So very often there is documentation in some way, either a
17 police report or the actual letter or email or incident report
18 from a phone call that came in to back up that statistic.

19 Q. When you say "very often," about what percentage of the
20 time would you say?

21 A. It's part of the training that everything get documented.
22 I couldn't tell you a percentage, but I know that when an
23 incident occurs, our members are really good about documenting
24 it.

25 Q. And those --

DAVIDSON - CROSS / SHORT

1 **A.** Go ahead.

2 **Q.** But those members who make these reports, they are not
3 employees of NAF; correct?

4 **A.** No.

5 **Q.** And they are not paid by NAF to make those reports;
6 correct?

7 **A.** No.

8 **Q.** Okay. And they are not under your immediate supervision
9 when they are making these reports; correct?

10 **A.** You mean, I'm not present at the time. If they have
11 questions, they call.

12 **Q.** I would like to take a look now at Exhibit 994, and
13 particularly the category under "Violence," which has the
14 largest number of entries, which is "Trespass," trespassing.

15 **A.** Uh-huh.

16 **Q.** And that's correct; that NAF categorizes trespass as
17 violence; correct?

18 **A.** Sure.

19 **Q.** And since you have been working at NAF, incidents of
20 trespass have made up 70 percent of the so-called incidents of
21 violence; isn't that correct?

22 **A.** I have to have a calculator.

23 **Q.** Well, over half; is that correct?

24 **A.** I mean, there were 78 incidents in 2014.

25 **Q.** Out of a total of 99 incidents all together?

DAVIDSON - CROSS / SHORT

1 A. Of the "Violence" category?

2 Q. Yes, of the "Violence" category.

3 A. Uh-huh. Uh-huh.

4 Q. So in 2014 trespass made up over 75 percent of the
5 incidents of so-called violence; isn't that correct?

6 A. Yes.

7 Q. Okay. And what is NAF's definition of trespass?

8 A. Umm, it's a criminal act of putting your physical body
9 onto the property.

10 Q. And so violence really isn't part of that definition; is
11 it?

12 A. Technically it usually leads to some sort of interaction,
13 intervention by either security guards or it can lead to an
14 invasion sometimes, but not always.

15 Q. But then it would be categorized under one of the more
16 serious incidents if that was the outcome; isn't that true?

17 A. I'm sorry?

18 Q. If it led to some sort of more serious incident, wouldn't
19 it be categorized under that incident?

20 A. Yes.

21 Q. And do you know -- do you believe that you have 78
22 narratives of trespass in your files at NAF?

23 A. Yes.

24 Q. Okay. And you indicated that NAF keeps these statistics
25 in order -- you said the numbers tell a story. What is the

DAVIDSON - CROSS / SHORT

1 story?

2 Let's look at -- what is the story that you see in the
3 trespass incidents?

4 **A.** Well, what do you mean?

5 **Q.** You testified earlier that the reason -- one of the
6 reasons NAF keeps these statistics is to be able to track what
7 happens because the numbers tell a story.

8 **A.** Right.

9 **Q.** I'm just asking. This is the largest category of,
10 quote/unquote, violence, acts of violence that NAF collects.
11 I'm just wondering what story you see in the trespass numbers.

12 **A.** That there were 264 incidents of trespass in 2013.

13 **Q.** I'm sorry. Let's look across the whole line, from the
14 beginning across. Do you see any story there in the incidents
15 of trespass?

16 **A.** Uh-huh.

17 **Q.** What's the story?

18 **A.** So this tells me that -- sorry. That trespass wasn't
19 documented until 1999 as part of the statistics.

20 **Q.** Okay.

21 **A.** That's why there were zeros there. That category was
22 added at that year. And it shows the number of incidents that
23 were reported by abortion providers in incidents of trespassing
24 over the years.

25 **Q.** Do you see a trend?

DAVIDSON - CROSS / SHORT

1 **A.** Not really. Not one I could point out.

2 **Q.** Okay. Now, another -- let me see here.

3 I notice there was a category of kidnapping in 2006.

4 Didn't that category involve parents who were kidnapping their
5 daughter and taking her across state lines to get an abortion?

6 **A.** Not -- not to my knowledge. I know that that category was
7 entered because an abortion provider was -- and his wife were
8 kidnapped.

9 **Q.** That was back in the 1980's; correct?

10 **A.** Uh-huh.

11 **Q.** So do you have any idea what this kidnapping incident in
12 2006 was about?

13 **A.** I couldn't tell you offhand. I need the data.

14 **Q.** Now, again, looking just at -- well, let me...

15 Many of these categories of incidents do not pertain to
16 actions targeting individual abortion providers; isn't that
17 correct? For instance, bombing and arson and invasion, those
18 are actions targeted at clinics; isn't that correct?

19 **A.** Clinics or providers. They provide at the site.

20 **Q.** But, again, targeting individual providers, you know,
21 apart from the clinic building itself?

22 **A.** It would depend on the motive of that bomber. Are they
23 trying to destroy the clinic or are they trying to, you know --
24 I mean, the ultimate goal is to prevent access to abortion.

25 **Q.** But let's look at -- again, a number of these are -- the

DAVIDSON - CROSS / SHORT

1 direct criminal action would take place towards a building,
2 isn't that correct, not an individual abortion provider?

3 **A.** You would have to ask the bomber what their motive was for
4 each individual incident.

5 **Q.** Okay. What is the definition of -- you have in the
6 second, under "Disruptions," "Email/Internet Harassment."

7 **A.** Uh-huh.

8 **Q.** What is the definition of that?

9 **A.** So its exact definition? So any kind of harassing or
10 threatening email that's received by either an individual
11 doctor or the clinic itself.

12 And internet harassment is, like, social media posts that
13 target specific providers, mention them by name; or, you know,
14 threatening Google posts on their website, things like that.

15 **Q.** And members would report those individually?

16 **A.** Yes.

17 **Q.** And, again, I'd like to draw your attention to
18 Exhibit 994. And just the first -- the top column for the
19 column of "Murder," do you see a trend in that column?

20 **MS. BOMSE:** Objection, Your Honor. The witness is
21 being asked to testify about a topic where there has been
22 limitations.

23 **THE COURT:** I would be wary, but, Ms. Short, you're
24 asking the question.

25 **MS. SHORT:** I understand.

DAVIDSON - CROSS / SHORT

1 **THE COURT:** And you may get an answer.

2 **MS. SHORT:** Okay.

3 **MR. LIMANDRI:** You're limiting it to 2014.

4 **MS. SHORT:** I understand.

5 **BY MS. SHORT**

6 **Q.** This chart is up to 2014; correct?

7 **A.** That's correct.

8 **MS. BOMSE:** Your Honor, just for the record, I
9 wouldn't want the witness to be forced to give misleading
10 information, so...

11 **THE COURT:** Overruled. You can answer.

12 **BY MS. SHORT**

13 **Q.** Just looking at the numbers here up through 2014, do you
14 see any trend?

15 **A.** Do you mean trend as in the increase over years?

16 **Q.** Increase or decrease. Which does it look like it's doing?

17 **A.** I see this category as an incident that occurs.

18 **Q.** As, I'm sorry, what?

19 **A.** That occurs. It's an issue.

20 **Q.** Okay. So there is not a -- you don't see a trend here of
21 increasing acts of murder?

22 **A.** Thank goodness we have not seen an increase in that, but I
23 mean, they -- they have happened.

24 **Q.** Okay.

25 **A.** So it needs to be there.

DAVIDSON - CROSS / SHORT

1 Q. Okay. And the same for attempted murder?

2 A. Yes. Incidents have occurred, that's why the category is
3 there.

4 Q. And assault and battery, do you see any trends there?

5 A. When you say "trend," are you talking about escalation?
6 Like, increasing over time?

7 I mean, it occurs quite often, as you can see. So what is
8 your definition of "trend," I guess?

9 Q. Well, I guess, Mr. -- Ms. Davidson, you stated that you --
10 these -- the reason NAF collects these statistics is because
11 they tell a story.

12 If your answer is the only story they tell is that we had
13 numbers in each of these years, that's fine. If that's your
14 answer, that's great.

15 THE COURT: So now what's the question?

16 BY MS. SHORT

17 Q. The question is: Is there a trend among -- among these --
18 the categories that I mentioned or is it simply that NAF has
19 certain numbers in -- in each of these years for each of these
20 categories?

21 A. So these incidents occurred, and that's why they are here.

22 Q. Thank you very much.

23 A. Sure.

24 THE COURT: Anybody else?

25 (No response.)

DAVIDSON - RECROSS / SHORT

1 **THE COURT:** Any redirect?

2 REDIRECT EXAMINATION

3 **BY MS. BOMSE**

4 **Q.** Ms. Davidson, if we could just pull up 994?

5 (Document displayed)

6 **Q.** The categories of incidents, do they -- are you tracking
7 incidents or motives?

8 **A.** I'm tracking incidents.

9 **Q.** Thank you.

10 Thank you. I have no further questions.

11 **THE COURT:** All right.

12 **MS. DHILLON:** Nothing, your Honor.

13 **THE COURT:** Ms. Short?

14 RECROSS-EXAMINATION

15 **BY MS. SHORT**

16 **Q.** Just to be clear, Ms. Davidson, when you say you get a
17 narrative of these -- every single incident has a narrative and
18 each narrative, does it make clear that the motive of the
19 incident was opposition to abortion?

20 **A.** We get details on the incidents that sometimes involve
21 that and sometimes they don't, but we try to get as much detail
22 as possible.

23 **Q.** So there could be incidents in these reports where you're
24 really not sure about the motive; isn't that correct?

25 **A.** If it's an ongoing investigation, we're still waiting for

DAVIDSON - RE CROSS / SHORT

1 them. But they did happen at an abortion clinic.

2 There are lots of details that lead to a lot of incidents.
3 You would have to pick one and I could tell you about it. You
4 would have to find the report itself.

5 But each -- each individual incident is usually -- is --
6 happens by a different individual. So there are details on
7 certain incidents that happen and that's how they make it into
8 the report.

9 **Q.** Isn't it true that on the NAF website they also have
10 listings of serious incidents? They have a category on the
11 website which lists incidents of arson and vandalism and things
12 like that?

13 **THE COURT:** Ms. Bomse.

14 **MS. BOMSE:** This is beyond the scope.

15 **THE COURT:** It is. Sustained.

16 **BY MS. SHORT**

17 **Q.** Isn't it true that NAF has categorized an arson that
18 occurred in Thousand Oaks, California in 2015 as one of its
19 incidents of violence, although that was not motivated by
20 opposition to abortion?

21 **MS. BOMSE:** Objection. Beyond the scope.

22 **THE COURT:** Sustained.

23 **MS. SHORT:** Thank you.

24 **MS. BOMSE:** And move to strike the question.

25 **THE COURT:** I've sustained the objection.

DAVIDSON - RECROSS / SHORT

1 And the jury is reminded again that questions of lawyers
2 are not evidence.

3 Is there anything further?

4 **MS. BOMSE:** No, your Honor.

5 **THE COURT:** All right. You're excused, Ms. Davidson.
6 Thank you.

7 (Witness excused.)

8 **MS. BOMSE:** Your Honor, plaintiffs call Professor
9 David Cohen.

10 DAVID COHEN,
11 called as a witness for the Plaintiff, having been duly sworn,
12 testified as follows:

13 **THE WITNESS:** I do affirm.

14 **THE CLERK:** Adjust the microphone as you need to and
15 then if you would, please, state your full name and spell it
16 for the court reporter.

17 **THE WITNESS:** David S. Cohen.

18 **MR. LIMANDRI:** Before you spell it, Your Honor, none
19 of our screens are tracking the testimony. They are not
20 working on the defense or plaintiffs' table.

21 **THE COURT:** Is there anything that we can do? Mine
22 is not working right now.

23 (Discussion held off the record between the Court and
24 the Court Reporter.)

25 **THE COURT:** We can take a break now and restart it,

COHEN - DIRECT EXAMINATION / BOMSE

1 if you -- if that's important enough to do.

2 **MR. LIMANDRI:** Your Honor, we can proceed.

3 **THE COURT:** All right. Please go ahead.

4 **MS. BOMSE:** Thank you.

5 **DIRECT EXAMINATION**

6 **BY MS. BOMSE**

7 **Q.** Good morning, Professor Cohen.

8 **A.** Good morning.

9 **Q.** Can you please tell the jury what your occupation is?

10 **A.** I'm a law professor.

11 **Q.** And where do you teach law?

12 **A.** I teach at Drexel University in Philadelphia,
13 Pennsylvania.

14 **Q.** And how long have you been a professor of law at Drexel?

15 **A.** There is my 14th year in this role.

16 **Q.** And prior to teaching law at Drexel, did you teach at
17 other institutions?

18 **A.** I was an adjunct professor at the University of
19 Pennsylvania Law School, the University of Pennsylvania
20 undergraduate program, and Long Island University in Brooklyn,
21 New York.

22 **Q.** And did you attend law school?

23 **A.** I did.

24 **Q.** Where did you attend lieu school?

25 **A.** Columbia Law School in new York.

COHEN - DIRECT EXAMINATION / BOMSE

1 Q. And at Drexel, what -- what are the courses that you
2 teach?

3 A. I teach the core constitutional law class. I teach an
4 upper level advanced constitutional law class. A course on sex
5 discrimination in the law, and a course on reproductive rights
6 and justice. And I've also taught a legal writing class once.

7 Q. Thank you.

8 And in teaching of those courses, do you incorporate
9 history in your teaching of law?

10 A. Yes. Every class, except for that one legal writing
11 class, incorporates history. I would find it hard for almost
12 any legal course to not cover history, especially a
13 constitutional law class. You can't teach constitutional law
14 at any level without talking about history.

15 Q. And did some of the courses you teach cover history as it
16 relates to abortion rights in this country?

17 A. Yes. I would say all, except for the legal methods class,
18 touches on that. Some more in depth than others.

19 Q. And do any of the courses you teach teach about the
20 history of opposition to abortion in this country?

21 A. Yes. Again, same. Everything but that one legal writing
22 class. The history of opposition to abortion in various forms
23 comes up in every single class I teach.

24 Q. And as part of your responsibilities as a professor at
25 Drexel, do you also engage in research?

1 **A.** Yes.

2 **Q.** And have you done any research concerning the topic of
3 harassment of abortion providers?

4 **A.** Yes.

5 **Q.** And what did that research involve?

6 **A.** In 2015 I co-authored a book called "Living in the
7 Crosshairs: The Untold Stories of Anti-Abortion Terrorism." I
8 started the research in 2010 with a student at the time who was
9 working with me on some *pro bono* work, and over the course of
10 five years we did extensive research and original interviews
11 that formed the basis for the book.

12 There have been a couple other articles that have flowed
13 from that research as well.

14 **Q.** Thank you.

15 And who was it who published "Living in the Crosshairs"?

16 **A.** Oxford University Press.

17 **Q.** And that's a university press?

18 **A.** Correct. It's an academic press.

19 **Q.** Okay. And in order for a book to be published by an
20 academic press, to your understanding, does it need to be peer
21 reviewed?

22 **A.** Yes. So at multiple stages in the process the university
23 press sends out the draft proposal for the book, as well as
24 the -- not final manuscript, but our final manuscript before it
25 gets edited to peer reviewers. That process is blind, meaning

1 that we do not know who the peer reviewers are. And they then
2 tell the press whether this is high quality research worth
3 publishing, whether it's consistent with academic research
4 that's out there. Basically this is something that Oxford
5 University Press should put its name on.

6 **Q.** Okay. And what is it that prompted your interest in the
7 topic "Living in the Crosshairs"?

8 **A.** Specifically for this book, this book came out of work
9 that I was doing, *pro bono work*. As professors -- part of what
10 professors -- professors do a lot of different things. We
11 teach. We do academic research. Then we also do service. The
12 service can be at the university, in our law school. It can
13 also be out in the public.

14 And so I do *pro bono* work with an organization I used to
15 work with called the Women's Law Project, and we were working
16 on a case representing an abortion provider and clinic in
17 Allentown, Pennsylvania. And this was a longstanding case and
18 there were some really complicated procedural issues. So I
19 asked my co-author, Krysten Connon, to -- who was a student at
20 the time to do some research with me.

21 In the process of working on that research, she met the
22 client, who was Jen Boulanger, who was the director of the
23 clinic in Allentown. And Jen told Krysten a story that I had
24 heard before, which, frankly, because I was familiar with some
25 of this, I didn't pay as close attention to. But to Kristen,

1 who was new to this field, she heard the story.

2 The story was that Jen, who was an accountant --

3 **MR. MIHET:** Objection.

4 **MR. LIMANDRI:** Objection, Your Honor. Hearsay
5 grounds. And relating the story in the third person.

6 **MR. MIHET:** And 402, 403.

7 **THE COURT:** Let's keep going.

8 **MS. BOMSE:** Okay. Your Honor, let me just ask some
9 questions.

10 **THE COURT:** Okay.

11 **BY MS. BOMSE**

12 **Q.** So was your -- was part of your interest in the -- in
13 doing research on abortion -- on harassment borne out of
14 stories that you personally heard about harassment of abortion
15 providers?

16 **A.** Correct.

17 **Q.** Okay. And in order to write the -- the book, what
18 research did you do into the topic?

19 **A.** There was a lot of different research because the book
20 covered a lot of different things.

21 The research included familiarizing ourselves -- diving
22 into the literature in the field and reading books, articles,
23 academic books, academic articles. Reading news accounts. But
24 what we did that was original research, original research was
25 that we interviewed 87 abortion providers from around the

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1 country and talked to them before their experience being
2 targeted by anti-abortion extremists. We talked to them
3 about --

4 **Q.** Let me stop you there.

5 **A.** Yeah.

6 **Q.** So how is it that you found the subjects that you
7 interviewed?

8 **A.** We used a couple different methods that are familiar to
9 this kind of research called snowball and purposive sampling,
10 where we talked to people we knew and they branched out. Our
11 goal was to hear a diverse set of stories to try and find out
12 what was happening.

13 We also attended the 2011 National Abortion Federation
14 Conference as exhibitors to meet abortion providers and hear
15 their stories -- or get their interest, if they were
16 interested, and then we could follow-up and interview them.

17 **Q.** Okay. So you said that you attended a NAF conference as
18 an exhibitor?

19 **A.** Correct.

20 **Q.** Slight detour. What did you have to provide -- were you a
21 member of NAF?

22 **A.** I was not at the time.

23 **Q.** Okay. Did you have to provide any information be admitted
24 as an exhibitor to NAF?

25 **A.** Yes.

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1 Q. And what information?

2 A. I had several conversations with the -- the person who was
3 in charge of the exhibiting process. I had to explain what we
4 wanted to do, show documentation for the university work that
5 we were doing.

6 We also had to get two letters of reference from NAF
7 members who knew us and knew the work that we were doing. And
8 we understood why this was happening, given the nature of our
9 research.

10 Q. Thank you.

11 And I believe you started to -- you used some terms,
12 snowball and --

13 A. Purposive.

14 Q. -- purposive. Let me ask you broadly: What was the
15 methodology that you used for your research?

16 A. We used qualitative empirical research methodology. What
17 that means is that we did not work with numbers. We are not
18 statisticians. I am not a statistician. We did not train as
19 statisticians for this research. That would be quantitative
20 work. We did qualitative work.

21 Qualitative work means that you interview people and go
22 deep into the stories behind what other people might provide
23 with numbers. And so we used accepted qualitative empirical
24 methodology, which I could explain more if you want.

25 Q. Well, can you -- do you have training in that qualitative

1 methodology?

2 **A.** Yes. I did not get a sociology PhD, as one or two of my
3 colleagues did.

4 But there are ways that when you are a professor, you
5 learn about doing things that are new to you, which is that you
6 talk to colleagues who have expertise, who show you the
7 literature to learn about it. So we read multiple books about
8 qualitative empirical methodology. We went to -- or I went to,
9 my co-author did not. I went to a two-day training from a law
10 professor organization in qualitative research methodology. We
11 watched videos from professors online who train people how to
12 do this. And I consulted with colleagues both, at Drexel and
13 at other institutions, to learn how to do this correctly.

14 **Q.** And you mentioned this already, but a couple of questions.

15 So separate and apart from your role as a researcher and
16 teacher, you're also a practicing lawyer; correct?

17 **A.** Correct.

18 **Q.** And do some of the cases that you've handled involve the
19 sort of harassment activity that you have covered in your book
20 as well?

21 **A.** Correct.

22 **Q.** Okay. In addition to representing clients in court, do
23 you also get contacted by abortion providers for advice on
24 issues related to what you covered in your book?

25 **A.** Yes, I do.

1 Q. Can you describe that a little bit?

2 A. Sure. The organization where I used to work, and I still
3 am on the Board of, is in Pennsylvania. And at various times
4 I've represented all of the abortion clinics in Pennsylvania,
5 who still at times consult with me about issues related to
6 security and protests and relationships with police.

7 I also get calls from people who I interviewed in the
8 book, who developed a continuing relationship, to ask me
9 questions related to issues around security.

10 And then I also get calls from people who I didn't know
11 beforehand, who call because I've developed a reputation in the
12 field for this kind of work.

13 Q. Okay. And also separate and apart from either your work
14 as an advocate in court or as an academic, do you also write
15 for popular press?

16 A. I do.

17 Q. And tell us about that?

18 A. I write most regularly for RollingStone.com. I also write
19 for Rewire, which is a reproductive health news website
20 occasionally. And I have a longstanding -- I have been a
21 longstanding writer for a Philadelphia Phillies blog about the
22 baseball team in Philadelphia.

23 Q. And when you write for the popular press, putting aside
24 the Phillies, is that in the nature of opinion pieces?

25 A. It's commentary. So what my main goal is when I write for

1 public -- the public press, these websites, they are short
2 pieces. They are usually under a thousand words. It's to take
3 a legal issue, explain it for a lay audience, which I think is
4 an important role that professors can play, and offer some
5 commentary on it.

6 So some are more commentary than analysis and some are
7 more analysis than commentary. It depends on the issue. It
8 depends what the editor wants.

9 **Q.** Okay. And is there a distinction for you between the work
10 that you do as a researcher and publisher of that work and
11 the -- the popular press writing you do?

12 **A.** Absolutely.

13 **Q.** Can you describe that?

14 **A.** So the work that I do as an academic and publish with
15 academic journals or academic presses is different. Certainly,
16 academics have viewpoints, but our goal is to explain things in
17 a way that is -- not that the things I write for public aren't
18 supported by facts, but explain the facts in a much more
19 detailed, unbiased way and draw some conclusions from it, no
20 doubt, but leave room for other people to then use that to draw
21 other conclusions from.

22 When I write for the popular press, I still believe I'm
23 being factual and based in the reality, but I'm certainly
24 putting more of a spin on it.

25 **Q.** And turning back just for a moment to your book. In order

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1 to write that book, did you cover the topic of the history of
2 anti-abortion opposition and harassment?

3 **A.** Yes, I did.

4 **Q.** And what did you do to enable yourself, to educate
5 yourself in order to write that?

6 **A.** Same thing I described before. There is literature by
7 others who have done research in this, and I reviewed the
8 literature. I read it. I read books, articles. I talked with
9 people in the fields.

10 It's a continuing process to develop an expertise in an
11 area that's ongoing. And so it's a longstanding process that
12 every professor who has an expertise in an area is doing the
13 same thing.

14 **Q.** Thank you.

15 **MS. BOMSE:** At this time plaintiffs would proffer
16 Professor Cohen as an expert on the topic of the history of
17 violence against abortion providers.

18 **MR. LIMANDRI:** I'm going to object, Your Honor. I
19 understand that's not the Court's procedure.

20 **MS. SHORT:** I object on the grounds that his
21 qualitative methodology is anecdotal. It's simply filtered
22 hearsay. It's not compliant with *Daubert*.

23 **THE COURT:** You may proceed.

24 **MS. BOMSE:** Thank you, Your Honor.

25

1 **BY MS. BOMSE**

2 **Q.** Professor Cohen, you were hired in this case by
3 plaintiffs; correct?

4 **A.** Correct.

5 **Q.** And you were hired to provide expert testimony; correct?

6 **A.** Correct.

7 **Q.** And can you explain to the jury what you were asked to do
8 by plaintiffs as an expert in this case?

9 **A.** I have been asked to offer a declaration, an expert
10 report, to be deposed and to appear here today, as well as
11 advise on some legal issues that came up around my expertise,
12 and offer opinions on a few matters.

13 **Q.** Okay. And what's the topic on which plaintiffs retained
14 you to be here today?

15 **A.** The history of anti-abortion violence and extremism, as
16 well as the impact that that has on abortion providers and
17 their lives.

18 **Q.** Okay, thank you.

19 And just a clarification point before we go any further.
20 When you refer to "abortion providers," are you speaking only
21 of the doctors who perform abortions?

22 **A.** No, I'm not. Some people use the term that way, but the
23 way that I have used the term in my research and my writing is
24 a broad term. It includes doctors, administrators, nurses,
25 counselors, volunteers; anyone who helps with the provision of

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1 abortion at a particular site.

2 **Q.** Okay. Now, turning to the history. Can you tell us
3 generally, is there a history of violence being committed
4 against abortion clinics and those who work in abortion clinics
5 in the United States?

6 **A.** Yes.

7 **MS. SHORT:** Objection. Vague as to time and -- well,
8 I'll leave it at that.

9 **MS. BOMSE:** That will be nailed down, Your Honor.

10 **THE COURT:** Okay. If you would nail it down, that
11 would be great.

12 **MS. BOMSE:** Absolutely.

13 **BY MS. BOMSE**

14 **Q.** So to begin with, Professor Cohen, when is it that the
15 United States Supreme Court held that there is a constitutional
16 right of women to terminate their pregnancies?

17 **A.** 1973 in *Roe v. Wade*.

18 **Q.** Okay. So I'm going to be asking you questions about the
19 history after 1973 when *Roe v. Wade* was decided.

20 **A.** Okay.

21 **Q.** Now, can you describe for the jury, was there an
22 opposition to abortion as early as 1973 after *Roe*?

23 **A.** Absolutely. Abortion has been controversial before *Roe*
24 and since *Roe*.

25 **Q.** Okay. Can you describe the nature, how that opposition

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1 looked in those first early years after Roe was decided?

2 **A.** The first couple years after Roe was decided, the
3 opposition to abortion took the normal, peaceful, accepted
4 avenues in democracy, trying to convince politicians to adopt
5 change, amend the Constitution, elect different people and then
6 publicly voice disagreement.

7 **Q.** Okay. And did that, the nature of the opposition -- well,
8 let me ask this: Does that -- that sort of type of opposition,
9 the writing to your Congressman and voting, et cetera, does
10 that continue to this day?

11 **A.** Absolutely.

12 **Q.** Okay. Was there any kind of change in the nature of
13 opposition to abortion at some point?

14 **A.** Yes. In 1975, so a couple years after Roe, we saw the
15 first escalation of opposition to abortion in Maryland. Six
16 people who were opposed to abortion invaded a clinic and
17 refused to leave. And that was the first known escalation to
18 things that became more common.

19 **Q.** Okay. And at some point did things escalate further
20 beyond clinic invasions?

21 **A.** Yeah. We saw a steady progression in the late 1970's.
22 There was an arson in 1976 in Oregon. Another one in
23 Minnesota. There was a fire bomb thrown in the face of a
24 receptionist in 1977 in Cleveland, Ohio.

25 Then in 1978 it in Long Island New York we saw the first

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1 fire bombing of a clinic. 50 people had to be evacuated.

2 Someone came into the procedure room and threw a fire bomb and
3 exploded the clinic. Everyone was safe.

4 **Q.** Thank you.

5 Has the violence against abortion clinics and providers,
6 has it included murder and attempted murder?

7 **A.** Yes, it has.

8 **Q.** Prior to July -- prior to July 2015, can you tell the jury
9 how many abortion providers and staff have been killed as a
10 result of anti-abortion violence?

11 **A.** There were eight.

12 **Q.** Okay. Have there also been attempted murders?

13 **A.** Yes, there have. 26 -- well, in the 20s.

14 **Q.** Okay. And can you describe for the jury the circumstances
15 of the first murder of an abortion provider by an abortion
16 opponent?

17 **A.** On March 10th, 1993 Michael Griffith in Pensacola, Florida
18 went to the clinic there -- or one of the clinics there, and as
19 the doctor was exiting his car and entering the clinic, Michael
20 Griffith shot him and killed him. Dr. David Gunn was his name.
21 He was the first known abortion provider who was killed by an
22 anti-abortion extremist.

23 **Q.** And, I'm sorry. What year was that?

24 **A.** That was March of 1993.

25 **Q.** Okay. And did -- were there additional murders of

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1 abortion providers that followed the killing of Dr. Gunn?

2 **A.** Yes.

3 **MR. MIHET:** Your Honor, may I have a continuing
4 objection to relevance to this line of questioning?

5 **THE COURT:** I think you already have the information.
6 I'm going to sustain the objection.

7 **MR. MIHET:** Thank you.

8 **MS. BOMSE:** Thank you, Your Honor.

9 **MS. SHORT:** I'd like to join the objection. Not just
10 the relevance of the question and answer -- simple answer, but
11 the detailed narratives are clearly 403.

12 **THE COURT:** So I just sustained the objection, and I
13 assumed that everybody --

14 **MS. DHILLON:** We all do.

15 **THE COURT:** -- was joining that objection.

16 So, ladies and gentlemen, why don't we take our second
17 break of the day? Please remember of the admonitions. It will
18 be about ten minutes.

19 (Jury exits the courtroom at 11:13 a.m.)

20 **THE COURT:** If would you step out, that would be
21 great.

22 (Witness steps down and exits the courtroom)

23 **THE COURT:** Please be seated everybody. Except for
24 you, Ms. Bomse.

25 **MS. BOMSE:** Oh...

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1 **THE COURT:** It is, I think, unnecessary to go through
2 specific acts of violence once the -- if you have the number
3 out there. If the defendants want to challenge that, they are
4 free to do it, but let's -- let's keep this moving and in the
5 places where it's relevant and not potentially inflammatory.

6 **MS. BOMSE:** Understood, Your Honor. Thank you.

7 **THE COURT:** All right. Thank you. We'll be in
8 recess.

9 (Whereupon there was a recess in the proceedings
10 from 11:14 a.m. until 11:30 a.m.)

11 **THE COURT:** Please be seated, everybody.

12 Ms. Bomse, go ahead.

13 **MS. BOMSE:** Thank you.

14 **BY MS. BOMSE**

15 **Q.** Professor Cohen, before the break we talked about sort of
16 a longer arch of history, and now I want to turn to your book
17 in specific now.

18 Google, I believe, describes a very different -- a
19 somewhat different type of targeting. Can you describe that?

20 **A.** The book describes targeting of individual abortion
21 providers. It describes some of the big things we were talking
22 about, but it describes the more everyday ways that abortion
23 providers are targeted by anti-abortion extremists.

24 **Q.** And why did you think it was important to write something
25 about that topic?

1 **A.** Murder, arson, bombs, that gets covered by the news and
2 people know about those things.

3 What we thought was important was explaining the other
4 ways, the things that go under the radar that abortion
5 providers suffer from. Not everyone, but some do. And that's
6 an important story to round out the picture of what happens in
7 the world of abortion.

8 **Q.** Before we get into the substance, when you wrote this book
9 you said you interviewed 87 individuals; correct?

10 **A.** Correct.

11 **Q.** And in the book did you use their real names or
12 pseudonyms?

13 **A.** For all but a small handful, I would say five or six, we
14 used pseudonyms.

15 **Q.** And why did you do that?

16 **A.** We promised everyone that we interviewed that we would
17 protect their identity. Because we had university backing for
18 this research, we had a long consent form that we had to use to
19 get their consent to be interviewed.

20 We went over that in detail and there was a lengthy
21 section of that form about confidentiality, that we promised
22 them we would keep their name out of the book unless they
23 insisted on putting it in there, which, again, a small number
24 did. We would identify where they work by region of the
25 country rather than by city or the clinic. And that we would

1 run by them the details that we use in the book so that they
2 can look at it to assess whether they are comfortable with
3 those details about their lives being published.

4 **Q.** And did the subjects of your book have an opportunity to
5 actually read what you had written before it was published?

6 **A.** Yes, and we did that for two reasons.

7 One, to make sure that we were being accurate.

8 But, two, again, to make sure they were comfortable with
9 how we were referring to them. And there were a not
10 insignificant number of them who asked for their name to be
11 changed because they thought maybe the fake name we came up
12 with was too close to home or that they did not want their
13 region of the country identified. So they wanted either a
14 different region associated with them or no region whatsoever.

15 **Q.** And so after your interviews and your research, did you
16 and your co-author reach any findings?

17 **A.** We did.

18 **Q.** Can you describe what your findings were?

19 **A.** Sure. So the first finding was that this kind of targeted
20 harassment of individuals happens on a somewhat regular basis.
21 We did not conclude that it happens to everyone. We could not
22 conclude that. We could not even conclude it happens to a
23 majority. But that it happens to a number of abortion
24 providers and it is a part of their lives.

25 And that, second, it happens to all sorts of abortion

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1 providers. Not just high profile doctors, but also nurses and
2 administrators and others who work at clinics who don't have
3 any profile.

4 **Q.** And were there any other findings that you reached in
5 addition to those that you have listed?

6 **A.** Yes. So that this also happens -- can happen everywhere
7 in the country. This is not something isolated to the most
8 conservative parts of the country. Far from it. This can
9 happen everywhere.

10 We also concluded that this kind of targeted
11 individualized harassment takes a serious toll on abortion
12 providers' lives; both their emotional and psychological life,
13 but also real practical aspects of how they go about their
14 day-to-day life.

15 **Q.** Can you explain a little more what the practical impact of
16 this harassment is based on what you learned?

17 **A.** Some abortion providers take steps that are unusual in the
18 field of medicine, in most fields, to protect their identity
19 and make sure that they are safe.

20 For instance, there are many abortion providers out there
21 who go to work in disguise because they don't want the people
22 outside of clinics to know what they look like. For instance,
23 wearing a Halloween mask or wearing a baseball cap and
24 sunglasses so that people don't know what they look like.

25 There are abortion providers who vary the way they go to

1 and from work every day so that they can't be followed on a
2 regular basis.

3 There are providers who purchase property in their
4 spouse's name so that their names are not on any public
5 records; that use P.O. boxes instead of their home address to
6 register for official documents, again, so that they can't be
7 found out where they live.

8 And others who think about and purchase bulletproof vests
9 so that they are sure that -- so they feel they are protecting
10 themselves in those ways.

11 Those are some of the measures that people take.

12 **Q.** Did you reach any kind of conclusions about whether this
13 type of targeted harassment has an impact beyond the particular
14 individuals who are the subject of it?

15 **A.** Yes. This is part of the -- the impact of this kind of
16 harassment, which is that it's not just about the people who
17 suffer it. Because people in the field know about this. They
18 know about the arsons. They know about the bombings. They
19 know about the murders and they know about this individualized
20 harassment.

21 And so the concern is that it hasn't yet happened to me,
22 but it could happen to me. People in my field have been
23 murdered for what they do. They have been murdered at home, at
24 church, at work. Sending the message that you are not safe
25 anywhere, and that message is felt loud and clear by -- again,

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1 I can't include everyone in the field, but most people in the
2 field. This is common knowledge and it's common knowledge that
3 there is serious concern about their own safety.

4 **MR. MIHET:** Your Honor, I object to the lack of
5 foundation from extrapolating the interviews of 87 people to
6 the general field.

7 **THE COURT:** Overruled. You can cross examine.

8 **BY MS. BOMSE**

9 **Q.** Professor Cohen, you answered my questions about
10 confidentiality.

11 Did you learn in your research whether other -- are there
12 abortion providers who take steps to substantially or
13 completely hide their identity and what they do for a living?

14 **A.** Yeah, some providers do that. Some providers do that by
15 using their, say, maiden name at their work instead of their
16 current name; where they don't publicize, sometimes not even to
17 their loved ones, what their work is.

18 This isn't because they don't think that what they are
19 doing is valuable or they don't love their work, but they feel
20 that their individual assessment of safety requires them to
21 protect their identity.

22 **Q.** And there are some abortion providers who are more public
23 about what they do; correct?

24 **MR. LIMANDRI:** Objection. Leading.

25 **THE COURT:** Overruled.

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1 **A.** Absolutely. Some abortion providers are out there in the
2 news talking about the current issues of the day.

3 Like I said with my book, there were a handful, I think
4 five or six, who insisted, even though we had originally given
5 them fake names, that they wanted their real name in the book
6 and we complied with that.

7 **Q.** So in terms of degree of publicity, would it be accurate
8 to say that there is a continuum?

9 **A.** Absolutely.

10 **Q.** So some of quite high profile and others are basically
11 invisible?

12 **A.** I wouldn't use the word "invisible." Yes. But some are
13 very high profile and some do everything they can to protect
14 their anonymity.

15 **Q.** And are there also people who sort of fall in the middle
16 of that continuum?

17 **A.** Yes. Some people are open with this about family and
18 friends, but not beyond that. Some people might have it on
19 some social media that's accessible to some, or in their local
20 news they might be willing to talk about it. And then others,
21 again, are on national media.

22 **Q.** And with respect to those who are sort of to a degree
23 public but not national spokespeople, based on your research,
24 did you understand those people to have concerns about where
25 and how much publicity they received?

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1 **A.** Yes. People who are in this position want to be able to
2 control how their information gets out there. So that they can
3 make the safety assessments needed in their lives to control
4 who knows about this.

5 **Q.** Okay. Did you learn -- did you see the videos that are at
6 the issue in this case starting with the video of Dr. Deborah
7 Nucatola?

8 **A.** I saw many of them. I can't say I've seen all of them.

9 **Q.** But you became aware in July 2015 of the video of
10 Dr. Nucatola; is that right?

11 **A.** Correct.

12 **Q.** And when you saw that video, did you have any particular
13 concerns based on the work that you've done in this field?

14 **MR. LIMANDRI:** I'm going to object, Your Honor.

15 **MS. SHORT:** Objection.

16 **MR. LIMANDRI:** Rules regarding this witness
17 testifying.

18 **THE COURT:** Sustained.

19 **MS. BOMSE:** I'm sorry. I didn't hear the objection.

20 **THE COURT:** The objection is that it's going beyond
21 the area which was -- to which the expert was allowed to
22 testify.

23 **MS. BOMSE:** Okay.

24 **BY MS. BOMSE**

25 **Q.** Professor Cohen, without asking you to opine on the

1 specific security measures, in your view, based on your
2 research, was it reasonable for the employers of those featured
3 in the videos to adopt additional security measures?

4 **MR. LIMANDRI:** Objection, Your Honor. Lacks
5 foundation. Calls for speculation.

6 **MS. SHORT:** And outside the Court's order.

7 **THE COURT:** Sustained. Sustained.

8 **MS. BOMSE:** No further questions. Thank you.

9 **THE COURT:** All right.

10 **CROSS-EXAMINATION**

11 **BY MR. LIMANDRI**

12 **Q.** Good morning, Professor Cohen.

13 **A.** Good morning.

14 **Q.** My name is Charles LiMandri. I represent some of the
15 defendants in this action, including Mr. Daleiden and CMP. We
16 have not met before.

17 This is your first time testifying as an expert witness in
18 court; isn't that true, sir?

19 **A.** That is correct.

20 **Q.** Okay. In order to prepare for your testimony as an
21 expert, you reviewed various documents, including counter
22 reports from the defendants' security expert Mr. Perkins and
23 their statistics expert Dr. New; correct?

24 **A.** Yes.

25 **Q.** All right. Now, you don't consider yourself a security

1 expert, someone with an extensive background in providing
2 actual security or consulting on security issues as a
3 professional in that field; correct?

4 **MS. BOMSE:** Objection, Your Honor. This goes to the
5 very topic that I was not permitted.

6 **THE COURT:** Sustained.

7 **MR. LIMANDRI:** Okay.

8 **BY MR. LIMANDRI**

9 **Q.** You don't consider yourself an expert in statistics;
10 wouldn't that be true, sir?

11 **A.** Correct.

12 **Q.** Okay. And although you indicated you applied a
13 methodology consistent with which you believed to be a
14 qualitative analysis, you don't have any degrees in that field
15 regarding qualitative methodology or analysis, do you?

16 **A.** No.

17 **Q.** You began work for the Women's Law Project in 1999 doing
18 abortion related work; correct?

19 **A.** No.

20 **Q.** I'm sorry. I thought it was 1999 to 2006?

21 **A.** You are correct about the year. The work that I started
22 doing was not abortion related.

23 **Q.** Okay. I understood you did litigation and policy, legal
24 organization, sex discrimination and abortion related work.

25 **A.** That is true over the course of the seven years. I

1 thought you were asking about the start in 1999. It was a
2 compound question.

3 In 1999 I started with the Women's Law Project, and I did
4 not start doing abortion related work.

5 **Q.** Okay. Objection sustained. Thanks for clarifying.

6 **A.** Always a law professor.

7 (Laughter.)

8 **Q.** You've also worked on cases representing abortion clinics;
9 isn't that true, sir?

10 **A.** Correct.

11 **Q.** And you've written amicus briefs for some of the
12 plaintiffs in this case regarding the issue of partial-birth
13 abortion?

14 **A.** I do not believe that is correct.

15 **Q.** It's not a major point. I could read from your
16 deposition.

17 You have done amicus briefs on behalf of abortion
18 providers regarding partial-birth abortion issues?

19 **A.** That is correct, but these plaintiffs are Planned
20 Parenthood Federation of America and a certain number of
21 affiliates?

22 **Q.** Yes.

23 **A.** And as I said in my deposition, I do not recall ever
24 having written a brief on behalf of these plaintiffs.

25 **Q.** Okay. We'll go forward.

1 You do not specifically teach First Amendment
2 jurisprudence; would that be true, sir?

3 **A.** That is correct. It comes up in my classes, but I do not
4 teach a course on First Amendment.

5 **Q.** Is it the case that you still receive a monthly stipend
6 from the Women's Law Project?

7 **A.** Correct.

8 **Q.** And 100 percent of your cases that you work on for the
9 Women's Law Project are abortion related at this time, sir?

10 **A.** Umm, let me just think about what I'm working on with them
11 right now. That is correct.

12 **Q.** And you also participated in fundraisers for abortion
13 related groups; right?

14 **A.** I would need to understand. I'm on the Board of the
15 Women's Law Project and I'm on the Board of the Abortion Care
16 Network. As part of my Board responsibilities, you know, I
17 don't work on the fundraisers, but, you know, everyone who's on
18 the Board of a non-profit has to help generally.

19 **Q.** All right. Good enough.

20 Now, isn't it true you have represented some of the
21 Planned Parenthood affiliates in the past?

22 **MS. BOMSE:** Objection. Vague.

23 **THE COURT:** Overruled.

24 **A.** I have represented the three Planned Parenthood affiliates
25 in Pennsylvania.

1 **BY MR. LIMANDRI**

2 **Q.** Are they still currently your clients?

3 **A.** Correct.

4 **Q.** Okay. And, of course, as the attorney for the client, you
5 have a duty of loyalty to those clients; correct?

6 **A.** Yes.

7 **Q.** Now, you professed to be an expert in anti-abortion
8 harassment. It's true, sir, you have no certification and no
9 formal training in that field; wouldn't you agree?

10 **MS. BOMSE:** Objection. Lacks foundation.

11 **THE COURT:** Overruled. He can answer.

12 **A.** I have no certification. What do you mean by "formal
13 training"?

14 **BY MR. LIMANDRI**

15 **Q.** Just that. No formal educational training leading to a
16 degree specifically on anti-abortion harassment type issues.

17 **A.** The answer to that question is no.

18 **Q.** Now, you said the data from your book came from interviews
19 of 87 abortion providers, and you described that as qualitative
20 rather than quantitative research; correct?

21 **A.** The original data for the book; correct.

22 **Q.** You were not able to interview a random representative
23 sample of abortion providers around the country for the
24 purposes of doing your analysis; correct?

25 **A.** I did not.

1 Q. And although you're saying this was qualitative rather
2 than quantitative research, this is, in fact, the first time
3 you've done qualitative research; correct?

4 A. Correct.

5 Q. Qualitative research involves what might be described in
6 many cases as anecdotal reports; wouldn't you agree?

7 A. No.

8 Q. Okay. But you did not do a survey, right, because you're
9 not a statistician?

10 A. I did not do a statistical survey, correct.

11 Q. You said you've seen some of the CMP videos. Those were
12 the short videos.

13 You never actually looked at the full 11 videos that were
14 available in addition to the short videos; is that true?

15 **THE COURT:** Mr. LiMandri, I stopped Ms. Bomse from
16 asking questions about this. If you're opening this up,
17 then --

18 **MR. LiMANDRI:** I'm not intending to open any doors,
19 I'll move on.

20 **THE COURT:** We'll strike that.

21 **MR. LiMANDRI:** I'll withdraw the question. I didn't
22 understand you had that specifically in mind.

23 Thank you, Your Honor.

24 **BY MR. LiMANDRI**

25 Q. Now, isn't it true, Mr. Cohen, from your research and what

1 you wrote in your book that many abortion providers track the
2 same information on protestors that they are loathe to have
3 discovered about themselves?

4 **A.** I don't understand the question. Can you repeat or
5 rephrase?

6 **Q.** Well, for example, in your book you quote Carolyn Barrick.
7 I assume that's a pseudonym as stating -- I could read from
8 Page 150 of your book, but the quote I have in my outline is:

9 "We make it a point to know who our protestors
10 are. I can tell you, we keep a list. We have
11 descriptions of their cars. We have a description of
12 their person. We get their names."

13 Do you recall writing that?

14 **A.** I recall reading that quote, yes.

15 **Q.** Okay. I'm sure Your Honor will tell me if it's within the
16 scope of your ruling, but you did, in fact, write to YouTube
17 after the videos came out and asked YouTube to take the videos
18 down?

19 **THE COURT:** Mr. LiMandri, this should be quite clear.
20 Mr. Cohen's testimony when Ms. Bomse was asking questions I
21 limited --

22 **MR. LIMANDRI:** All right, Your Honor.

23 **THE COURT:** -- so that it was not going to be asking
24 the videos.

25 If you mention the videos again, I'm sure Ms. Bomse has

1 some questions.

2 **MR. LIMANDRI:** I mentioned the videos only for bias
3 purposes. He was actively involved --

4 **THE COURT:** Okay. I don't want you to -- a speech,
5 give me a speech.

6 **MR. LIMANDRI:** I got it.

7 **BY MR. LIMANDRI**

8 **Q.** You would agree that you're an activist for abortion;
9 correct?

10 **A.** I don't know if I would use that word.

11 **Q.** Well, you've used the term "advocate" for abortion to
12 describe yourself; right?

13 **A.** As a lawyer, I'm an advocate, correct.

14 **Q.** And your opinions, I believe you testified at your
15 deposition, are based on two decades of working on these
16 issues; would that be correct?

17 **A.** Correct.

18 **Q.** So that would take us back -- we already noted you started
19 working for the Women's Law Project in 1999. You'll tell me if
20 I'm overstepping. Did you see the 20/20 video in the 1999 time
21 frame? The one that was discussed here in court when you were
22 present yesterday afternoon?

23 **MS. BOMSE:** Beyond the scope. Relevance.

24 **THE COURT:** I'll overrule the objection and allow it.

25 **A.** When I arrived in court yesterday, there was discussion

1 about a video. I did not see the video.

2 So without seeing the video, I don't recall seeing it; but
3 I did not see the video yesterday, no.

4 **BY MR. LIMANDRI**

5 **Q.** And you had never seen it, I take it, even in your work in
6 this field back when it came out on 20/20 in 2000?

7 **A.** I don't recall. I recall hearing about its existence,
8 but...

9 **Q.** You prepared briefs for the Southern Poverty Law Center
10 against some of the defendants in this very case or in the NAF
11 case; would that be true?

12 **A.** I have written an amicus believe.

13 **Q.** Right.

14 **A.** And an amicus brief is a friend of the court brief. It's
15 written by a non-party to a case to elucidate issues related to
16 the case for the Court.

17 And so on behalf of the Southern Poverty Law Center and
18 the Feminist Majority Foundation, I and colleagues wrote a
19 brief to the Ninth Circuit about the exact things that I've
20 testified today based on my expertise in this area.

21 **Q.** So in other words, you have been an advocate for a party
22 adverse to my clients acting as an attorney on their behalf;
23 correct?

24 **A.** I have not been an advocate for any of the parties that
25 have litigated against your clients. I have been an advocate

1 for friend of the court parties.

2 **Q.** Yes. Southern Poverty Law Center was filing a preview
3 that was adverse to the interests of the defendants in this
4 case; correct?

5 **A.** The brief was titled "In Support of Plaintiffs;" correct.

6 **Q.** Thank you.

7 **A.** Which is par for the course for amicus briefs.

8 **Q.** You've answered my question, sir.

9 And, of course, you have a continuing duty of loyalty to
10 your client the Southern Poverty Law Center; correct?

11 **A.** Yes.

12 **MR. LIMANDRI:** I'm skipping some of this, Your Honor.
13 I don't want to get in trouble.

14 (Brief pause.)

15 **BY MR. LIMANDRI**

16 **Q.** You relied in part on NAF statistics in reaching opinions
17 that you've given in this case; correct?

18 **A.** Correct.

19 **Q.** And in that regard you also noted the comments of the
20 defendants' security expert, Jonathan Perkins, when you read
21 his rebuttal to your report; would that be true?

22 **A.** I've previously indicated I read it; correct.

23 **Q.** Okay. Did you also take the time, besides looking at NAF
24 statistics, to look at any of the FBI statistics dealing with
25 any crime that involves abortion clinics?

1 **A.** No, not for this purpose.

2 **Q.** And did you take the time to look at the California
3 Attorney General's Justice Department statistics specifically
4 as they relate to crime involving abortion clinics?

5 **A.** It was attached to that report, so I looked at it,
6 correct.

7 **Q.** Okay. You're talking about the report of Mr. Perkins, the
8 defense security expert; correct?

9 **A.** Correct.

10 **Q.** And I'm sure you noted that Mr. Perkins, a security
11 expert, concluded that:

12 "NAF statistics included statistics that do not
13 rise to credible action and threats."

14 Did you note that when you read his rebuttal report to
15 yours?

16 **A.** I read it six or seven months ago. It did not come up in
17 my deposition, so I can't say for sure that I recall that he
18 wrote that.

19 **Q.** Do you recall him writing, when you read his report, that:

20 "NAF's reported categories are designed to suit
21 the biases of their clients. Those statistics are not
22 reflective of the national standards of the FBI's
23 Uniform Crime Reporting Program."

24 Do you recall reading that?

25 **MS. BOMSE:** Your Honor, counsel is introducing the

1 opinion of the expert by quoting it. So that's my first
2 objection.

3 My second is the witness has already testified that he
4 doesn't recall the details of the report.

5 **THE COURT:** He is asked a new question. I instructed
6 the jury earlier, and a few times during the course of the
7 trial, that the question is not any evidence.

8 So the objection is overruled.

9 **BY MR. LIMANDRI**

10 **Q.** Do you recall reading that in Mr. Perkins' report?

11 **A.** Can you remind me what "that" is?

12 **Q.** The statement that:

13 "NAF's reported categories were designed to suit
14 the biases of their clients. Their statistics are not
15 reflective of the national standards set forth in the
16 FBI's Uniform Crime Reporting Program."

17 **A.** I do recall that. And I reacted pretty strongly to that,
18 as I indicated in my deposition.

19 **Q.** You were asked if someone mailing a letter to a staff of
20 an abortion clinic that says "Jesus loves you," whether that's
21 threatening or not, it was your testimony then that:

22 "It would depend on what's happening at the
23 clinic. It depends on specifics."

24 Is it still your testimony that merely writing a letter
25 saying "Jesus loves you" could be considered a threat?

1 **A.** Well, the word "merely" in your question and the context
2 that I explained is very different. The context matters.

3 So it's not merely the letter. It's the context and the
4 letter. And that's what I said in my deposition.

5 I could explain further, if you'd like.

6 **Q.** I don't need you to. Thank you.

7 Now, you define "threat," in order to determine the
8 opinions you're giving here, as the key inquiry is whether the
9 person receiving the alleged threat reasonably feels fear and
10 intimidation from it; would that be true?

11 **A.** Yes.

12 **Q.** Okay. So in other words, you think something can be a
13 threat even if it's not intended to make the recipient feel any
14 type of fear; right?

15 **A.** I think intent of the person involved can go to it, can
16 help bolster, but there can be threats that people experience
17 regardless of the intent of the person delivering it.

18 **Q.** Have you seen Planned Parenthood Federation of America's
19 own security reporting definitions?

20 **A.** No. I'm not privy to that.

21 **Q.** I would like to show them to you. I'm not positive they
22 have been admitted into evidence. I thought they had, but
23 Exhibit 1040.

24 (Whereupon binder was tendered to the Court.)

25 **Q.** On the second page of this document about --

COHEN - CROSS / LIMANDRI

1 **THE COURT:** Hang on just a second. I'm not sure that
2 you have -- the witness has the document.

3 **MR. LIMANDRI:** Oh, I'm sorry. May I approach?

4 **THE COURT:** You may approach.

5 **BY MR. LIMANDRI**

6 **Q.** You're the most important person here.

7 (Whereupon binder was tendered to the witness.)

8 **Q.** It's Exhibit 1040, and it's the second page, and it's the
9 fourth definition from the bottom of the second page.

10 **MS. BOMSE:** Counsel, could you just give us one
11 moment to look at this?

12 **MR. LIMANDRI:** Sure.

13 **MS. BOMSE:** Thank you.

14 (Brief pause.)

15 **MS. BOMSE:** No objection.

16 **MR. LIMANDRI:** May I publish this, Your Honor?

17 **THE COURT:** You may. So Exhibit 1040 is admitted.

18 (Trial Exhibit 1040 received in evidence)

19 **MR. LIMANDRI:** If we go to the second page? The last
20 quadrant of the page?

21 (Document displayed)

22 **BY MR. LIMANDRI**

23 **Q.** Where it has the definition of "threat," you'll note that
24 it defines "threat" as:

25 "A communication by phone, mail, email, internet

1 posting or in-person expressing an intent to inflict
2 pain, injury, (assault if in-person) evil, or
3 punishment."

4 So you use a definition broader than the plaintiff Planned
5 Parenthood Federation of America does with regard to "threat,"
6 the way you look at these issues; wouldn't you agree?

7 **A.** No.

8 **Q.** Okay. But you do agree that the intent to inflict pain,
9 injury, et cetera, is part of their definition; correct? It's
10 right here in front of us.

11 **A.** That's correct. That's what the words say.

12 **Q.** But that's not part of the definition that you adopted,
13 which is stated in your book. You don't have the "intent to
14 inflict injury" language in your definition of "threat;"
15 correct?

16 **A.** No. You're misunderstanding what I'm saying here.

17 What I'm saying here is that the mindset of the individual
18 sending it can be different than what is expressed in the item
19 itself. And I think that's consistent with what the definition
20 here.

21 The definition does not talk about knowing the mindset of
22 the person sending it. It says what is expressed. And that
23 can be different. Because the person can write, I mean, even
24 the worst thing possible, but not actually intend to threaten.
25 That's a separate issue.

1 Q. In any event, on Page 260 of your book it states:

2 "The key inquiry is whether the person receiving
3 the alleged threat reasonably feels fear and
4 intimidation from it."

5 Right?

6 A. Correct.

7 Q. Okay. Now, you talked about anti-abortion extremism and
8 threats. But isn't it true that even what you would consider
9 lawful activity in your view can be anti-abortion extremism?

10 A. Yes. I think my co-author and I both agree that there are
11 some things that are lawful, but nonetheless can be -- you
12 know, still be felt as extremist and threatening, but do not
13 cross the legal definition, which is different.

14 Q. Let's talk about information on the NAF reports, only up
15 to 2014, that you relied on, as stated at your deposition you
16 gave in this case on April 30, 2019, as opposed to anything you
17 may have learned in court yesterday or today.

18 At that time in April you did not know how such incidents
19 were reported to NAF; correct?

20 A. No. I knew that they were self-reported, and I said that
21 in my deposition.

22 Q. You didn't know if NAF provides definitions for use in
23 reporting incidents; correct?

24 A. Correct.

25 Q. You knew that the incidents were self-reported, but you

1 did not know the inner workings of NAF that they used to
2 produce the report; correct?

3 **A.** Correct.

4 **Q.** And you didn't know if the NAF reports distinguished
5 between anti-abortion incidents and those that are not; right?

6 **A.** That's not exactly correct in terms of reflecting what I
7 said in my deposition.

8 I gave an example of something that I know is not on the
9 report, a murder in Alabama of a doctor that some people think
10 is related to his abortion work, but never has been
11 conclusively proven, and that is not on the NAF report.
12 Indicating to me that there is some culling of the data to
13 separate out violence or other incidents that happened that
14 don't have to do with abortion because this murder in Alabama
15 of an abortion doctor never is -- is not reflected in those
16 reports.

17 **MR. LIMANDRI:** Your Honor, if I might, please, read
18 from or have played Page 160, Line 23 to Page 161, Line 1 of
19 Mr. Cohen's deposition taken in this case on April 30, 2019.

20 **THE COURT:** Do you have a copy for me?

21 **MR. LIMANDRI:** I do.

22 (Whereupon document was tendered to the Court.)

23 **MS. BOMSE:** I'm sorry. Can you have give me the
24 numbers again?

25 **MR. LIMANDRI:** 160, Line 23 to 161, Line 1.

1 And, Willow, if you have that, we can play it, if there is
2 no objection.

3 **THE COURT:** Hang on just a second.

4 **THE WITNESS:** Do I get a copy as well?

5 **THE COURT:** I'll give you mine in a second.

6 (Brief pause.)

7 **MS. BOMSE:** Your Honor, I think for completeness we
8 would need to go to 162, Line 7.

9 **THE COURT:** So --

10 **MS. BOMSE:** 162, Line 7.

11 **MR. LIMANDRI:** Your Honor, that's a lot longer than I
12 had intended.

13 **MS. BOMSE:** The witness is clarifying --

14 **THE COURT:** Just a second.

15 (Brief pause.)

16 **THE COURT:** I think that's right. If you want to
17 play it, you should go to 162, Line 7.

18 **BY MR. LIMANDRI**

19 **Q.** Well, the short answer is, would it be true that despite
20 the example you gave, you really don't know how NAF reports
21 distinguish between incidents motivated by anti-abortion
22 sentiment and those that aren't?

23 **MS. BOMSE:** Asked and answered.

24 **THE COURT:** You can ask it again.

25 **A.** Are you asking about the method?

1 **BY MR. LIMANDRI**

2 **Q.** Right.

3 **A.** Correct. I don't know the method.

4 **Q.** Thank you.

5 For example, taking vandalism in the NAF statistics, you
6 don't know if NAF distinguishes between vandalism motivated by
7 abortion sentiment versus unrelated versus unknown. You can't
8 tell by looking at those statistics; right?

9 **A.** I do not know how they cull their data to reflect whether
10 it is or is not anti-abortion. I do know, as indicated by one
11 example that I know of, that there must be some culling. I do
12 not know the extent of it or the method of it.

13 **Q.** You were present in court, I believe, today, sir, when
14 Ms. Davidson testified?

15 **A.** I stepped out to go to the bathroom at one point, but
16 otherwise yes.

17 **Q.** Were you here for the testimony when she said that NAF
18 tends to track incidents and not motives?

19 **A.** Yes.

20 **Q.** You don't know how NAF defines hate mail, do you?

21 **A.** No.

22 **Q.** You might know now looking at the definition, but at the
23 time of your deposition you did not know how Planned Parenthood
24 defined "harassment;" right?

25 **A.** Correct.

COHEN - CROSS / LIMANDRI

1 Q. And I believe you testified on direct exam there has been,
2 I think, eight murders since *Roe v. Wade* was decided involving
3 abortion providers; correct?

4 A. Incorrect.

5 MS. BOMSE: That question misstates the record.

6 BY MR. LIMANDRI

7 Q. Didn't you say eight.

8 A. I did not say eight since *Roe v. Wade*.

9 Q. What was it, eight since when? Since the year you
10 started?

11 A. 1973.

12 Q. Okay. Has there or has there not been --

13 A. There have been more than eight.

14 Q. Okay. I'm sorry.

15 A. You asked.

16 Q. I need to clarify. Between *Roe v. Wade* and 2014?

17 A. Eight.

18 Q. Thank you.

19 Now, that has not affected women's access to abortion;
20 right?

21 A. Absolutely untrue.

22 Q. Well, there has been over 60 million abortions since *Roe*
23 *v. Wade* was decided; correct?

24 A. That estimate is about right.

25 Q. Isn't it true though NAF categorizes trespass as an act of

1 violence, you do not think every act of trespass that --

2 (Court reporter clarification.)

3 **Q.** Even though NAF categorizes trespass on its chart as an
4 act of violence, you do not believe that every act of trespass
5 is, in fact, an act of violence; right?

6 **A.** Every act of trespass in the general world of trespass
7 does not necessarily mean it's an act of violence.

8 **Q.** All right. And did you notice on the chart that was
9 displayed to the jury, Exhibit 994, that trespass constituted
10 the great majority of the incidents that were reported as
11 violence?

12 **A.** I noticed on the one clip that was highlighted in the
13 screen that I could see from sitting in the back; correct.

14 **Q.** Wasn't that -- you didn't notice when they showed the
15 whole exhibit that that tended to be true across the board?

16 **A.** No. I couldn't see that detail from where I was sitting.

17 **Q.** You have been a member of NAF for four or five years;
18 correct?

19 **A.** Correct.

20 **Q.** You attended the NAF conferences in 2014 and '15?

21 **A.** Correct.

22 **Q.** Although you consider yourself an expert in abortion
23 related violence, you've never actually studied harassment or
24 violence against people who are against abortion providers;
25 right?

1 **A.** You're not accurately reflecting what I consider my
2 expertise: Anti-abortion violence and harassment.

3 **Q.** Certainly, you're generally aware of what's happening. If
4 you're talking about violence, whether it's just people
5 involved in what you call the world of abortion from the
6 abortion side, you're aware that there has been violence
7 against protestors and other people; correct?

8 **A.** There is multiple things going on there. What's the exact
9 question you want me to answer?

10 **Q.** All right. The last murder of an abortionist was a decade
11 ago, in 2009, without getting into details; correct?

12 **A.** I would never use that term.

13 **Q.** Whatever term you used, the last time an abortionist, as
14 reflected on the NAF chart, between 2009 and 2014 lost their
15 life was 2009; correct?

16 **A.** In the five-year window you just stated --

17 **Q.** Yes.

18 **A.** -- there has been one murder of an abortion provider.

19 **Q.** That was -- prior to 2014 the last one was 2009; right?

20 **A.** I'm following all the logic in that question, correct.

21 **Q.** Okay. Thank you.

22 Now, that was also the time when a pro-life activist in
23 2009, a person holding an anti-abortion sign in a wheelchair,
24 was shot and killed as well; right?

25 **A.** I recall hearing about that, but I don't know much more

1 than what you just said.

2 **Q.** You didn't include that in your book; did you?

3 **A.** I was studying anti-abortion harassment and violence, as I
4 have said repeatedly, so no.

5 **Q.** Have you seen videos online of pro-lifers being attacked
6 in San Francisco?

7 **A.** I have not seen any videos in San Francisco.

8 **Q.** Where there was one of a -- one of a woman with a sign in
9 San Francisco where she was -- a pro-abortion activist kicked
10 her. It had over 7 million views. I thought maybe you had
11 seen that one. No?

12 **A.** Umm, show me the video. Give me more specifics.

13 Based on what you're telling me, I don't know how to
14 answer your question.

15 **Q.** Let me play the video clip 7200.

16 **MS. BOMSE:** Same objections that I raised earlier,
17 Your Honor. Lack of foundation. Relevance.

18 **THE COURT:** Sustained.

19 **MR. LIMANDRI:** Okay.

20 **BY MR. LIMANDRI**

21 **Q.** Are you aware of abortionists pulling a gun on any
22 peaceful demonstrators outside abortion clinics?

23 **MS. BOMSE:** Objection. Lacks foundation.

24 **THE COURT:** If you're aware of it, you can answer the
25 question; and if you're not --

COHEN - CROSS / LIMANDRI

1 A. Can you repeat your exact question?

2 BY MR. LIMANDRI

3 Q. Did you see any news bulletins regarding an abortionist
4 pulling a gun as he's driving out of the abortion clinic on any
5 peaceful demonstrators outside the abortion clinic? Have you
6 seen any news reports on that?

7 A. I was shown the video last night as part of my deposition
8 preparation, because you sent it to the counsel for the other
9 side and so I saw it.

10 Q. All right. So you're aware that that has happened?

11 A. That was the first I saw of it, last night.

12 Q. You saw the other two videos as well?

13 A. Last night I did. I had not seen them previous.

14 Well, I don't know if I had seen them. I didn't know one
15 of them was San Francisco at all.

16 Q. The old man being repeatedly kicked on the ground, had you
17 seen that --

18 THE COURT: I think we've gone enough here.

19 MR. LIMANDRI: Thank you.

20 BY MR. LIMANDRI

21 Q. Are you aware that Mr. Daleiden has received death
22 threats?

23 A. I heard that as part of this case.

24 Q. And have you written articles that he should -- well, I
25 don't want to run afoul of the -- is it true you have no

1 opinion as to whether undercover journalism should be protected
2 under the First Amendment?

3 **MS. BOMSE:** Objection. Beyond the scope, foundation.

4 **THE COURT:** Sustained.

5 **BY MR. LIMANDRI**

6 **Q.** You've written articles for Rewire, which is a
7 pro-abortion newsletter?

8 **A.** It's a reproductive health website, news website.

9 **Q.** Would you agree with a statement in Rewire that (As read):

10 "Journalists, particularly investigative journalists,
11 reporters, are essential to ensuring the public has
12 access to quality, researched and well-sourced
13 information?"

14 Would you agree with that?

15 **A.** Repeat the statement? I didn't write it, so --

16 **Q.** No, but you've written articles for this. And the
17 statement from "In the Midst of a Reproductive Rights Crisis"
18 in Rewire is (As read):

19 "Journalists, particularly investigative journalists
20 and reporters, are essential to ensuring the public
21 has access to quality, researched and well-sourced
22 information."

23 Would you agree with that statement?

24 **A.** Yes.

25 **Q.** Okay. And would you -- one more -- also agree with the

1 statement:

2 "Journalism is ultimately about turning the lights on
3 in the darkest chambers of power. It's about
4 providing access to information. To facts. To
5 contextualize truth. It's about amplifying the
6 stories of marginalized people."

7 Would you agree with that?

8 **A.** There's so much in there -- I agree with parts of it. I
9 would never use those words. I mean, I agree with some of it.
10 They're not my words.

11 **Q.** Now, you don't support any restrictions on a woman's
12 ability to undergo an abortion at any time during her
13 pregnancy, correct?

14 **A.** From the government, no.

15 **Q.** So even a fully mature baby being born at nine months, it
16 would be your preference there would be no laws restricting
17 having that baby aborted in the process of being born. Right?

18 **MS. BOMSE:** Objection, 403. Move to strike.

19 **THE COURT:** Yeah, and beyond the scope. Sustained.

20 **BY MR. LIMANDRI**

21 **Q.** You don't believe abortion ends a human life, right?

22 **MS. BOMSE:** Objection. Beyond the scope.

23 **THE COURT:** Yeah. Sustained.

24 **BY MR. LIMANDRI**

25 **Q.** Okay. Finishing up, then, you stated that abortion

1 providers will sometimes use Reputation.com to protect their
2 online identities. Correct?

3 **MS. BOMSE:** Objection, beyond the scope.

4 **THE COURT:** Overruled.

5 **THE WITNESS:** Correct. We wrote about that in our
6 book.

7 **BY MR. LIMANDRI**

8 **Q.** Right. You said sometimes abortionists will scrub their
9 names online, sometimes use social media under a spouse's name,
10 sometimes will even use pseudonyms when staying in hotels.
11 Right?

12 **A.** Correct.

13 **Q.** So have you ever had to advise any abortion providers that
14 they may be sued by somebody under the federal civil RICO
15 statute if they're using someone else's name or someone else's
16 identification?

17 **MS. BOMSE:** Objection. Calls for -- it's
18 attorney/client privilege, and it's beyond the scope.

19 **THE COURT:** And it's argumentative. Sustained.

20 **BY MR. LIMANDRI**

21 **Q.** And you've written:

22 "Many providers go so far as to wear disguises to and
23 from work every day."

24 And you gave the example, provider didn't want pictures
25 taken going into work wearing a Halloween mask. I think you

1 testified about that in court already. Right?

2 **A.** Correct.

3 **Q.** You gave another disguise example of Stephanie, who
4 thought it was a necessary and routine part of her job because
5 of a couple of protestors, driving to work, she cloaked herself
6 in a long, black wig with long bangs, big black sunglasses, and
7 a black trench coat with a hood. Right?

8 **A.** That is not an accurate reflection. It's more than just a
9 couple of protestors. She was harassed repeatedly. She had
10 death threats online. She had children that she wanted
11 protected. So, all of this factored into it. It was more than
12 just a couple of protestors.

13 **Q.** All right. Be that as it may -- that's what I had written
14 here; I don't know why. But what I was trying to get at, if
15 you could tell us if it's correct that you wrote, and I'm
16 quoting here (As read):

17 "A necessary routine part of her job, she cloaked
18 herself in a long black wig with long bangs, big
19 black sunglasses and a black trench coat with a
20 hood."

21 Close quote.

22 **A.** That's the example I gave before, correct.

23 **Q.** As a matter of fact, in the book, if I understood your
24 testimony correctly, you didn't even use the real names of the
25 87 people that you interviewed unless they gave you express

1 permission. Right?

2 **A.** That's correct. I explained the process of doing that
3 earlier.

4 **Q.** You're not worried about that being dishonest, people
5 trying to hide their names, hide their identities, using other
6 people's names or IDs? That's not a problem for you, right?

7 **A.** They didn't use other people's names. We used a fake name
8 generator. That's a website that anyone can go to.

9 This is a standard part of qualitative research where you
10 identify people. Sometimes people use real names, as I
11 explained. But a normal part of academic research where you
12 are writing about people is to use pseudonyms, which is how you
13 protect their identity, which was a requirement given to us by
14 the University Institutional Review Board.

15 **Q.** Thank you for that.

16 One last question, then. You also gave an example of
17 someone, Penny Santiago -- I assume that's a pseudonym as
18 well -- saying she has to watch her back when talking in
19 public, and recommends, quote (As read):

20 "Even if you're talking in a restaurant and you're at
21 your own table, with peers, with your peers, people
22 around you are listening, and you have to be aware of
23 that, too."

24 Do you remember writing that on Page 147 of your book?

25 **A.** I don't recall the page, but I recall her saying that.

1 workers. Correct?

2 **A.** Incorrect.

3 **Q.** Okay. Are you able to say from your 87 interviews what
4 percentage of abortion workers use fake names?

5 **A.** No.

6 **Q.** Are you able to say from your 87 interviews what
7 percentage of abortion workers buy bulletproof vests?

8 **A.** No.

9 **Q.** Are you able to say from your 87 interviews what
10 percentage of abortion workers take any of the personal
11 security measures that you discussed?

12 **A.** So just to be clear, in all of these questions you are
13 talking about only those 87, not complemented by any other
14 research that we did for the book.

15 **Q.** That is what I'm asking.

16 **A.** Only based on this set of 87 --

17 **Q.** Yes.

18 **A.** Correct. We cannot make those judgments.

19 **Q.** And as you sit here today, you're not able to tell this
20 jury what percentage of Planned Parenthood's employees take any
21 of these particular measures that you discussed. Correct?

22 **A.** Correct.

23 **Q.** You're not able to say what percentage of Planned
24 Parenthood's employees use or maintain low profiles online
25 versus, for example, signing online petitions pledging to be

1 loud and clear advocates for abortion rights. Correct?

2 **A.** Correct.

3 **Q.** All right. Now, you said you used fake names for some of
4 these 87 individuals in your book.

5 I think I also heard you testify that at least some of
6 those 87 people asked you to go a step further, and to use a
7 different geographical region for them.

8 **A.** Correct.

9 **Q.** And when you received those requests, did you comply with
10 those requests?

11 **A.** Yes, we did.

12 **Q.** And so for example, you would have an abortion worker from
13 the southwestern United States, and you would identify them as
14 being in the southeastern United States?

15 **A.** So I'm trying to recall exactly how that worked. There
16 were some people who wanted different locations for their
17 training. There was some people who wanted no region
18 identified.

19 I cannot recall, without going back in my notes, to
20 reflect if someone wanted a very specific: "I work in the
21 southwest; can you please say I work in the northeast?"

22 I'm not saying that didn't happen.

23 **Q.** It might have happened.

24 **A.** I don't know, sitting here today. I would have to go back
25 and look in my notes.

1 What I know for sure happened is this aspect of their
2 training, and the wanting no reference to the region.

3 **Q.** So hypothetically speaking, some of your 87 -- let's take,
4 you know, one person from your -- the people that you
5 interviewed might have been trained at, you know, Johns Hopkins
6 Hospital. And in the book, you would say that he or she was
7 trained at a different hospital across the country.

8 **A.** No. We did not identify specific hospitals. But rather
9 than saying "the East Coast," we might have said somewhere else
10 in the country.

11 **Q.** They might have been trained on the East Coast, and then
12 in the book you wrote that they were trained on the West Coast.

13 **A.** Um, correct.

14 **Q.** And so in doing that, when you -- when you published that
15 fact of where they were trained, that would have been a false
16 fact. Correct?

17 **A.** Well, there -- I mean, their name was fake. And we
18 indicated in a footnote in the beginning that we changed some
19 details to protect people's confidentiality. And we indicated
20 that in the book. We did not then indicate which ones are the
21 -- fall into that category, to protect people's identity,
22 anonymity and confidentiality.

23 **Q.** So my question was: When you made a representation in the
24 book that Individual X was trained on the East Coast, and if
25 that individual was in fact trained on the West Coast, that

1 would be a false fact that you would print about that person in
2 that book?

3 **MS. BOMSE:** Objection. Asked and answered.

4 **THE COURT:** Overruled.

5 You can answer.

6 **THE WITNESS:** In light of the qualifying footnote, we
7 indicated in the book that there are facts in there that are
8 not accurate representations, in order protect people's
9 identity, confidentiality, and safety. So the footnote which
10 is in the text gives information about the method.

11 I mean, all the fake names are fake names. I said it
12 right here: These are fake names. We did that for a reason,
13 to protect people's identity, because we took their security
14 and safety seriously. And so we explain that.

15 This is how qualitative research is done. Transparent
16 about what you do. And we were transparent about that.

17 **BY MR. MIHET**

18 **Q.** I see.

19 Now, in your -- in your law professor work as you teach
20 courses on the Constitution, I take it you cover the First
21 Amendment in your teaching?

22 **A.** Only briefly. I don't teach that class.

23 **Q.** All right. You believe that your publication of these
24 facts in your book that are not literally true is protected by
25 the First Amendment?

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1 **A.** Yes.

2 **MR. MIHET:** Thank you, sir.

3 **THE COURT:** Anybody else?

4 (No response)

5 **THE COURT:** Redirect?

6 **MS. BOMSE:** No further questions.

7 **THE COURT:** All right, Mr. Cohen. Thank you.

8 **THE WITNESS:** Thank you.

9 (Witness excused)

10 **MS. MAYO:** Good afternoon, Your Honor. The
11 plaintiffs call Kevin Paul.

12 **KEVIN PAUL,**

13 called as a witness for the Plaintiffs, having been duly sworn,
14 testified as follows:

15 **THE CLERK:** State your full name, and spell it for
16 the court reporter.

17 **THE WITNESS:** My name is Kevin Paul. K-E-V-I-N, last
18 name P-A-U-L.

19 **DIRECT EXAMINATION**

20 **BY MS. MAYO**

21 **Q.** Good afternoon, Mr. Paul.

22 **A.** Good afternoon.

23 **Q.** What is your occupation?

24 **A.** I'm an attorney in private practice.

25 **Q.** And how long have you been an attorney in private

1 practice?

2 **A.** This is my 30th year.

3 **Q.** Congratulations.

4 **A.** Thank you.

5 **Q.** I'm one behind you.

6 Do you have any affiliation with Planned Parenthood?

7 **A.** I do have an affiliation with Planned Parenthood of the
8 Rocky Mountains.

9 **Q.** And what is your affiliation with Planned Parenthood of
10 the Rocky Mountains?

11 **A.** I serve as general counsel to the organization, which
12 means I'm its chief legal adviser.

13 **Q.** And how long have you served as -- if I refer to Planned
14 Parenthood of the Rocky Mountains as "PPRM," you will
15 understand that, right?

16 **A.** I will.

17 **Q.** Okay. How long have you served as PPRM's general counsel?

18 **A.** This month I start my 26th year.

19 **Q.** All right. And do you serve as outside general counsel?
20 Or in-house general counsel?

21 **A.** I served in both capacities. I began in 1994, in an
22 in-house position. And then in 2001, I transitioned to working
23 in a private law firm, with PPRM continuing to be my client.

24 **Q.** All right. So you currently are still PPRM's outside
25 general counsel.

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1 **A.** I am.

2 **Q.** What geographic area does PPRM cover?

3 **A.** PPRM is responsible for the states of Colorado, New
4 Mexico, Nevada and Wyoming.

5 **Q.** How many health centers does PPRM operate?

6 **A.** At present, 25, scattered among those states.

7 **Q.** And where is PPRM headquartered?

8 **A.** In Denver, Colorado.

9 **Q.** Is there a particular name of the headquarters building in
10 Denver?

11 **A.** Yes. It's located in a part of northeast Denver that's
12 referred to as the Stapleton neighborhood, so we typically
13 refer to the building as "the Stapleton campus."

14 **Q.** And what PPRM functions are located in the Stapleton
15 campus headquarters?

16 **A.** On the first floor -- it's a two-story building. On the
17 first floor, the organization operates a large comprehensive
18 healthcare facility. There are also facilities for the
19 activities of its board of trustees. In the basement of the
20 building it has a centralized call center, and the billing
21 functions operate from the basement.

22 And then on the second floor are all the administrative
23 functions, the back-office operations, finance and accounting,
24 things of that sort, a large government affairs staff, and also
25 a large public education staff, as well as its development

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1 department.

2 **Q.** Does PPRM have a chief medical officer?

3 **A.** It does.

4 **Q.** And who was the chief medical officer in the 2014 to 2016
5 timeframe?

6 **A.** Dr. Savita Ginde.

7 **Q.** And what was Dr. Ginde's full title at PPRM?

8 **A.** In addition to chief medical officer, she served as a
9 vice-president as part of the management team.

10 **Q.** How long have you known Dr. Ginde?

11 **A.** Since 2003.

12 **Q.** Is that when she was hired?

13 **A.** Yes.

14 **Q.** Have you worked closely with her since 2003? Through
15 2016?

16 **A.** I'm sorry. I did work closely with her between 2003 when
17 she began her tenure and June of 2017 when she moved on to
18 another opportunity.

19 **Q.** And what were Dr. Ginde's responsibilities at PPRM?

20 **A.** As chief medical officer, she was responsible for
21 supervising the medical staff, which consisted of about 40
22 physicians at its largest. She also had administrative
23 responsibilities for our nursing team, and for our pharmacy
24 practice.

25 And in addition to that, she was responsible for,

1 actually, clinical care, providing care to our patients at many
2 of our health centers.

3 **Q.** All right. Do you know whether Dr. Ginde was known for
4 anything in particular in the medical community in Denver?

5 **MR. BREEN:** Objection, vague.

6 **THE COURT:** Sustained. Can you be a little more
7 clear?

8 **MS. MAYO:** Certainly.

9 **BY MS. MAYO**

10 **Q.** Did Dr. Ginde conduct any research?

11 **A.** Yes, she did.

12 **Q.** And what type of research did Dr. Ginde focus on?

13 **A.** She was well regarded within the Planned Parenthood
14 community as well as the larger medical community for her work
15 in family-planning care, and particularly in contraception.

16 **Q.** And how would you describe Dr. Ginde's level of
17 sophistication regarding medical research?

18 **A.** From my perspective, it was quite high. She was trained
19 in research in her residency program. And then when she joined
20 Planned Parenthood of the Rocky Mountains, she essentially
21 established our research program. We had been involved in some
22 minor research protocols before her arrival, but she
23 established a division in the department of clinical services
24 that was dedicated to medical research.

25 **Q.** Was Dr. Ginde also an abortion provider?

1 **A.** Yes, she was.

2 **Q.** And do you know whether PPRM took any steps to protect her
3 identity as an abortion provider?

4 **A.** Yes, the organization --

5 **MS. SHORT:** Objection, foundation.

6 **THE COURT:** Overruled.

7 **THE WITNESS:** Yes, the organization did so.

8 **BY MS. MAYO**

9 **Q.** And how do you know that?

10 **A.** For a period of time, I was responsible for supervising
11 the security -- safety and security program at Planned
12 Parenthood of the Rocky Mountains. And throughout my tenure,
13 I've been engaged with its internal security program.

14 **Q.** And what particular steps did PPRM take to protect
15 Dr. Ginde's identity as an abortion provider?

16 **A.** At various times during her tenure, we provided executive
17 protection to her, that would include everything from
18 transporting her to and from the facility in an automobile that
19 was not traceable to her. We, in fact, constructed the
20 facility so that she could get into and out of the health
21 center without being seen by folks outside the facility who
22 might be there to protest.

23 She also had great concern, as social media became more
24 popular, with her presence on social media, and protecting her
25 identity from being disclosed, and particularly protecting her

1 personal residence from being disclosed to the public. She's
2 married. And at the time, in 2014, I believe, she became the
3 mother to two small children. And it was very important to
4 her; her privacy was very important to her.

5 **MR. BREEN:** Objection. Foundation, as to that final
6 statement.

7 **THE COURT:** Overruled.

8 **BY MS. MAYO**

9 **Q.** Did you personally take any steps with respect to
10 protecting Dr. Ginde's identity?

11 **A.** Yes. And if you could perhaps narrow that to a timeframe,
12 because there were different things that we did.

13 **Q.** Yes. Specifically with respect to the Colorado Medical
14 Board.

15 **A.** Yes. Colorado, like many states, requires the disclosure
16 of personal information by physicians who are licensed that
17 then is, in many instances, posted to a website. I was called
18 upon to interact with the medical board to assure that
19 Dr. Ginde's residential address and other information about her
20 did not have to be posted. And we were successful in doing
21 that.

22 **Q.** All right. Now, Mr. Paul, have you personally attended
23 any conferences put on by Planned Parenthood Federation of
24 America, or PPFA?

25 **A.** Yes, I have, over the years.

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1 Q. And which ones have you attended?

2 A. Most frequently I attend an annual meeting of the board of
3 trustees, which is a multi-day conference that includes
4 educational opportunities at which I have been asked to
5 present.

6 I also attend the annual conference of the affiliate
7 security program, which I helped to found, and which I speak at
8 every year.

9 Q. And could you tell us more about the PPFA affiliate
10 security program.

11 A. The program began at about the same time that I began my
12 employment with Planned Parenthood in the early nineties.
13 Planned Parenthood of the Rocky Mountains was the first
14 affiliate of Planned Parenthood Federation of America to
15 establish an in-house internal safety and security program led
16 by an employed security director.

17 I drew the short straw among the management team, and was
18 responsible for supervising that program, for hiring our first
19 security director, and then working alongside him.

20 And as I said, I've been involved in affiliate security
21 programs throughout pretty much my entire tenure with PPRM.

22 Q. At some point did PPRM become aware of the possibility
23 that Dr. Ginde had been videotaped by the defendants?

24 A. Yes. In the summer of 2015, we did become aware of that.

25 Q. How did PPRM become aware of that?

1 **A.** I received a phone call on July the 14th in the evening,
2 July 14th of 2015, from the chief operating officer, indicating
3 that she and Dr. Ginde had become aware that there were videos
4 that had been posted to the internet, that included a person
5 that she had known as "Robert Sarkis," that had now been
6 disclosed as someone named David Daleiden.

7 And that the videos were images of -- at least I believe
8 the first of the videos involved Dr. Nucatola, who we knew to
9 be an employee of Planned Parenthood. Dr. Ginde was very
10 concerned at that point.

11 **MR. BREEN:** Objection. Foundation, hearsay.

12 **THE COURT:** Sustained.

13 **BY MS. MAYO**

14 **Q.** Did PPRM have any concerns about this, the release of this
15 video?

16 **A.** Yes, we did.

17 **MS. SHORT:** Objection. PPRM have concerns?

18 **THE COURT:** Overruled.

19 **THE WITNESS:** Yes, we did.

20 **BY MS. MAYO**

21 **Q.** And what were PPRM's concerns?

22 **A.** Primarily that given that Mr. Daleiden had been provided
23 access to the health center on the first floor of the Stapleton
24 campus, that it was at least possible that he could have had
25 the opportunity to video patients who had been at the health

1 center for treatment.

2 **Q.** Were there any other concerns that PPRM had regarding the
3 taping?

4 **A.** Yes, because Mr. Daleiden had not only been provided
5 access to the health center but also to the second-floor
6 administrative facilities, that staff members of the
7 organization might also have been videotaped.

8 **Q.** So who did PPRM do to address these concerns, from the
9 outset? What was the first step that PPRM took?

10 **A.** A group of us that included the chief operating officer,
11 the chief financial officer, the security director, myself, the
12 director of communications, and a lawyer that I assigned from
13 my firm to work on a day-to-day basis to work with Planned
14 Parenthood to address this problem, first of all made an effort
15 to determine exactly who was in the building on that day -- it
16 was April 7th of 2015 -- both from the staff and from our
17 patient logs. So that we could determine the scope of the
18 problem that we might be facing.

19 **Q.** What did you do next?

20 **A.** We then determined, based largely upon Dr. Ginde's
21 recollection of Mr. Daleiden's activities while in the
22 building, where it was we believed that he was able to
23 infiltrate.

24 And we were able -- because of the way that our health
25 center is constructed -- it was designed by an architect who

1 works with our affiliate and was designed specifically to allow
2 foam visit the health center -- people like me, for instance,
3 to visit the health center for purposes of visiting the
4 research facility or the laboratory for business purposes, but
5 not have any contact with patients.

6 And once we -- we were able to determine that Mr. Daleiden
7 had not been allowed to move outside of those areas, we were
8 able to rule out the possibility that the patients had been
9 videotaped. Which was our largest concern.

10 **Q.** All right. And also, as part of your investigation --
11 well, first, let me ask you, was this investigation within the
12 scope of your duties as outside general counsel for PPRM?

13 **A.** Yes, it was.

14 **Q.** And as part of your investigation, did you conduct any
15 interviews with Dr. Ginde to find out what happened?

16 **A.** Yes. I did meet with Dr. Ginde on several occasions for
17 extended periods, to determine the best we could what had
18 happened.

19 **Q.** And during your investigation, did you learn where
20 Dr. Ginde first met Robert Sarkis?

21 **MS. SHORT:** Objection. Hearsay.

22 **MR. BREEN:** Objection. Hearsay, foundation.

23 **MR. MIHET:** And Your Honor, also relevance, in light
24 of the narrowing scope of this entity's claims.

25 **THE COURT:** Yeah.

1 So where are we going, Ms. Mayo?

2 **MS. MAYO:** We're going to lead up to a clip, a video
3 clip showing the first encounter between Mr. Daleiden and
4 Dr. Ginde for purposes of identification of her only as being
5 on the tape.

6 And Mr. Daleiden has already testified that he met with
7 her.

8 **THE COURT:** So I'm going to overrule the objections.

9 Ladies and gentlemen, the testimony is being allowed for
10 the purpose of describing the investigation, itself. It's not
11 admitted for the truth of what happened with Mr. Ginde (sic);
12 it's admitted for what PPRM did in response to it.

13 **MR. MIHET:** May I have a continuing relevance
14 objection in light of the entity's claims in the case,
15 Your Honor?

16 **THE COURT:** Yes.

17 **MR. MIHET:** Thank you.

18 **BY MS. MAYO**

19 **Q.** So Mr. Paul, did you learn where Dr. Ginde first met the
20 defendants?

21 **A.** Yes. It appeared that Dr. Ginde had first met
22 Mr. Daleiden at a conference called the North American Forum on
23 Family Planning that was held in October, 2014, in Miami,
24 Florida.

25 **MS. MAYO:** And Your Honor, at this time I would like

1 to play a video clip which has been designated Exhibit 5960-A.
2 And I have a transcript. It is a very short clip.

3 (Document handed up to the Court)

4 **MR. BREEN:** And Your Honor, it was our understanding
5 that the video was is going to be played without audio. If
6 this is the same video that we were shown a few weeks ago.

7 **MS. MAYO:** Your Honor, since that time, Mr. Daleiden
8 has testified that he actually met with her. And if you look
9 at the transcript, I think it's very -- it's just the
10 introduction.

11 **MR. BREEN:** And may we have a copy of the transcript?

12 **MS. MAYO:** Absolutely.

13 (Document tendered)

14 **MR. BREEN:** Again, Your Honor, I don't see how this
15 witness can testify to the contents, or -- or has any need. If
16 the purpose of this clip is to identify Dr. Ginde, then let's
17 identify Dr. Ginde. But to sit there and include audio with it
18 serves no purpose.

19 **THE COURT:** I agree, Mr. Breen. And I'm also
20 cognizant of Mr. Mihet's objection. So, sustained.

21 **MS. MAYO:** Okay. Can I play the video without audio,
22 for purposes of identification of Dr. Ginde?

23 **THE COURT:** Yes.

24 **MR. KOTARSKI:** Ms. Davis, can you switch?

25 **THE CLERK:** Yeah, you're set.

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1 **MS. MAYO:** Your Honor, while we're waiting for that,
2 I will just point out that we do have Colorado taping claims
3 related to Dr. Ginde's taping. So -- to address the relevance
4 objection.

5 **MR. BREEN:** Your Honor, it is my understanding
6 Colorado doesn't have a taping law.

7 **MR. MIHET:** Could we have a sidebar, Your Honor?

8 **MS. MAYO:** Florida.

9 **MR. MIHET:** We haven't had one.

10 **THE COURT:** I know we haven't had one. I've been
11 very proud of myself.

12 I'm -- at the moment, I'm going to stick with the ruling
13 that I made, which is that this may go on, but not with sound.

14 Is it ready now?

15 **MR. KOTARSKI:** I was waiting on Ms. Davis to turn on
16 the jury monitor.

17 **THE CLERK:** Oh, okay. With no audio. There we go.
18 Sorry. Yeah. Okay.

19 (Videotape played without audio, with captions at
20 bottom of screen)

21 **THE COURT:** And without the -- without the -- stop it
22 if you would, please.

23 (Request complied with by Mr. Kotarski)

24 **THE COURT:** If you can't take it without the
25 transcript, then let's move on.

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1 (Videotape played without audio and without captions)

2 **MR. KOTARSKI:** What happened to the jury one?

3 **THE CLERK:** Okay, I'll bring it back. Okay.

4 (Videotape played without audio and without captions)

5 **BY MS. MAYO**

6 **Q.** Mr. Paul, who is the woman with the orange blouse depicted
7 in Exhibit 5960-A?

8 **A.** I recognize that as former Planned Parenthood of the Rocky
9 Mountains vice-president and chief medical officer, Savita
10 Ginde.

11 **Q.** All right. And as part of PPRM's investigation, did you
12 come to learn where this video was taken?

13 **A.** Yes, we did.

14 **Q.** And where was it taken at?

15 **A.** In Miami, Florida.

16 **Q.** And what conference was that at?

17 **A.** The North American Forum on Family Planning.

18 **Q.** And during your investigation, did you come to learn
19 whether Dr. Ginde knew she was being taped?

20 **MR. BREEN:** Objection. Hearsay, foundation.

21 **THE COURT:** Overruled. You can --

22 **A.** She did not.

23 **BY MS. MAYO**

24 **Q.** As part of your investigation, did you learn whether there
25 was any contact between Dr. Ginde and Mr. Daleiden in the

1 months after the video that you just saw, Exhibit 5960-A,
2 whether or not that took place?

3 **A.** Yes. We determined that in the months between the forum
4 in October of 2014 and Mr. Daleiden's presence at our
5 healthcare facility in April of 2015, he communicated on
6 several occasions with Dr. Ginde via email.

7 **Q.** All right. And what were the subject of those discussions
8 between Dr. Ginde and Mr. Daleiden?

9 **MR. BREEN:** Objection. Hearsay, foundation.

10 **MR. MIHET:** And relevance.

11 **THE COURT:** All right. This is admitted solely for
12 the investigation. It's not offered for the truth of the
13 matter. Overruled.

14 (Trial Exhibit 5960-A, without audio or captions,
15 received in evidence)

16 **THE WITNESS:** The subject of the email communications
17 was Mr. Daleiden soliciting Dr. Ginde's interest in a potential
18 program through which Planned Parenthood patients would be
19 offered the opportunity to donate things that was the product
20 of abortion procedures that they had undergone, for purposes of
21 medical research.

22 **BY MS. MAYO**

23 **Q.** And did Dr. Ginde at some point meet with Mr. Daleiden to
24 discuss those opportunities?

25 **A.** Yes. That occurred on April 7, 2015, at the Stapleton

1 campus in Denver.

2 **MS. MAYO:** And Your Honor, I would like to show a
3 short video clip. And I assume that you would want it to be
4 without audio. It is Exhibit --

5 **THE COURT:** What is it?

6 **MS. MAYO:** Exhibit 5166-A. I do have the transcript,
7 if you would consider playing the --

8 **THE COURT:** Well, why don't you show me the
9 transcript, show the defendants the transcript, and let's --

10 (Document handed up to the Court)

11 (Document tendered)

12 (Off-the-Record discussion between counsel)

13 **MR. BREEN:** Your Honor, we had dealt with this clip
14 previously. We objected to the audio. The Court indicated
15 that audio would not be played. We have no objection to just
16 showing the clip, though.

17 **THE COURT:** All right. So, 5166-A is admitted,
18 without sound or transcript.

19 (Trial Exhibit 5166-A, without audio or captions,
20 received in evidence)

21 **MR. KOTARSKI:** Ms. Davis?

22 **THE CLERK:** I think you're set.

23 **THE COURT:** Without the transcript, please.

24 (Videotape played without audio or captions)

25 **MS. MAYO:** And could you pause it there?

1 **BY MS. MAYO**

2 **Q.** We paused at Frame 37455.

3 Mr. Paul, could you identify -- could you tell the jury
4 what that building is?

5 **A.** This is the building that is the headquarters of Planned
6 Parenthood of the Rocky Mountains, in the Stapleton
7 neighborhood of Denver that I refer to as "the Stapleton
8 campus."

9 **Q.** And who owns this building?

10 **A.** It is owned by Planned Parenthood of the Rocky Mountains.

11 **Q.** All right.

12 **MS. MAYO:** And if you could continue playing the
13 video.

14 (Videotape played without audio or captions)

15 **BY MS. MAYO**

16 **Q.** All right. Mr. Paul, who is that gentleman with the black
17 hair, closest in view?

18 **A.** His name is J.R. Johnstone. And at the time,
19 Mr. Johnstone was Dr. Ginde's senior research assistant.

20 **Q.** Is Mr. Johnstone still currently employed by PPRM?

21 **A.** No. He left PPRM in 2016 in order to accept a position in
22 a research facility at the Johns Hopkins University in
23 Baltimore.

24 **Q.** As part of your investigation, did you come to have an
25 understanding of the purpose of the meeting between Dr. Ginde

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1 and Mr. Daleiden and Ms. Merritt at the Stapleton campus
2 building?

3 **A.** Yes. It was to discuss the possibility of implementing a
4 program through which patients could donate tissue for purposes
5 of medical research.

6 **Q.** Now, at the time of the meeting between Mr. Daleiden and
7 Ms. Merritt with Dr. Ginde and Mr. Johnstone, did PPRM have a
8 procedure for handling visitors to the Stapleton campus?

9 **A.** Yes.

10 **Q.** And specifically with respect to visitors at the Stapleton
11 campus who are there for a meeting with the, for example, chief
12 medical officer?

13 **A.** Yes.

14 **Q.** What was that procedure?

15 **A.** In that instance where a member of the executive
16 management team was aware of and had an existing relationship
17 with a visitor, that person was essentially permitted to vouch
18 for that -- the visitor's authenticity, and there was no over
19 specific security protocol that related to them.

20 **Q.** And why did PPRM allow Robert Sarkis and Susan Tennenbaum
21 into the facility?

22 **A.** Because they had represented themselves to Dr. Ginde and
23 Mr. Johnstone over the course of several months as people
24 involved in medical research, and had secured their trust
25 through misrepresentations of their identities and their

1 intended activities when they gained access to your facility.

2 **MR. BREEN:** Objection, Your Honor. Foundation,
3 hearsay, and non-responsive to the question.

4 **THE COURT:** Overruled.

5 **MR. MIHET:** And relevance.

6 **THE COURT:** Overruled.

7 **BY MS. MAYO**

8 **Q.** During your investigation, did you come to have an
9 understanding of why Dr. Ginde agreed to meet with the BioMax
10 representatives?

11 **A.** Yes, I did.

12 **MR. BREEN:** Again, if I may have a continuing
13 objection, hearsay and foundation. This goes right to
14 Dr. Ginde's state of mind.

15 **THE COURT:** Again, ladies and gentlemen, this goes to
16 the investigation and what PPRM learned. It does not go to the
17 truth of the matter. It's just what they interpreted the
18 information to be.

19 **BY MS. MAYO**

20 **Q.** And Mr. Paul, I think you answered yes. What was your
21 understanding?

22 **A.** Dr. Ginde was persuaded by Mr. Daleiden, and less so by
23 Ms. Merritt -- she didn't have as much interaction with her --
24 that they were genuinely involved in a startup business that
25 intended to obtain human tissue for purposes of conducting

1 medical research. That was something of interest to Dr. Ginde.

2 And otherwise, they would not have been admitted to the
3 facility.

4 **MS. MAYO:** Your Honor, I would like to show a
5 screenshot marked has Exhibit 5977-A.

6 **THE COURT:** All right. Well, let's --

7 **MS. MAYO:** One previously provided to defendants.

8 **THE COURT:** Okay. First, let's identify the last
9 thing that was on the screen, which was from Frame 38928.

10 And so what, now, do you want to do?

11 **MS. MAYO:** A screenshot not of that video, it's of a
12 different video. And it's Exhibit 5977-A.

13 **MR. BREEN:** A copy of that?

14 **MS. MAYO:** I gave it to you before.

15 **MR. BREEN:** I don't have it.

16 **THE CLERK:** Do you want to just display it,
17 restricted to counsel?

18 (Off-the-Record discussion between counsel)

19 **MR. BREEN:** Your Honor, I believe the purpose -- we
20 would object to the screenshot without showing a foundation, in
21 that the purpose is not to identify Dr. Ginde; it's to identify
22 her at a particular place, doing a particular thing. Which the
23 witness was not present for.

24 **THE COURT:** All right. Well, let's -- why don't --
25 show the screenshot to the witness, and not to the jury. And

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1 let's see whether there is a foundation that can be laid for
2 this.

3 (Photograph displayed to Court and Counsel and
4 Witness)

5 **BY MS. MAYO**

6 **Q.** Now, Mr. Paul, do you know who is depicted in that
7 screenshot?

8 **A.** Yes. This is Dr. Savita Ginde.

9 **Q.** And you see that she's wearing something around her neck.
10 Do you see that?

11 **A.** Yes.

12 **Q.** Can you identify what that item is?

13 **A.** I believe it's a lanyard from a National Abortion
14 Federation conference.

15 **MR. MIHET:** Objection. Lacks foundation.

16 **THE COURT:** Can you lay a further foundation?

17 **MS. MAYO:** Sure.

18 **BY MS. MAYO**

19 **Q.** Mr. Paul, have you attended, personally, any conferences
20 of NAF or put on by NAF?

21 **A.** I have.

22 **Q.** Are you familiar with the security lanyards and badges
23 that NAF attendees wear?

24 **A.** Yes.

25 **Q.** And can you identify the lanyard around Dr. Ginde's neck

1 in this picture?

2 **THE COURT:** Let me ask a different question.

3 **THE WITNESS:** Sure.

4 **THE COURT:** Did you attend this conference?

5 **THE WITNESS:** I did not.

6 **THE COURT:** Okay. So I think we've seen Dr. Ginde's
7 picture before. And the objection is sustained.

8 **MS. MAYO:** All right. And there is a date on this
9 screenshot, Your Honor. This is from defendants' video -- from
10 their production, with a date on it.

11 **THE COURT:** And?

12 **BY MS. MAYO**

13 **Q.** And Mr. Paul, would the date tell you what conference
14 Dr. Ginde was at?

15 **MR. MIHET:** Same objections, Your Honor.

16 **THE COURT:** Yeah. Sustained.

17 (Document removed from display.)

18 **BY MS. MAYO**

19 **Q.** Mr. Paul, at some point was a video of Dr. Ginde released
20 by the defendants?

21 **A.** Yes.

22 **Q.** And what happened after that video was released?

23 **MR. MIHET:** Objection, vague.

24 **MR. BREEN:** Objection, vague.

25 **THE COURT:** Sustained.

1 **BY MS. MAYO**

2 **Q.** Did PPRM take any action in the aftermath of the release
3 of the tape -- videotape with Dr. Ginde?

4 **MR. MIHET:** Objection. Vague as to time.

5 **THE COURT:** Can you cabin it, please?

6 **MS. MAYO:** Sure.

7 **BY MS. MAYO**

8 **Q.** Mr. Paul, do you know when the tape of Dr. Ginde was
9 released?

10 **A.** I do.

11 **Q.** And what, if -- did PPRM take any action -- well, when was
12 it released?

13 **A.** There were two instances in which video was released.
14 Initially on July 28th, and then again on July 30th, of 2015.

15 **Q.** And did PPRM take any action in -- upon the release of the
16 videotape on July 28th or July 30th, 2015?

17 **A.** Yes, we did. Because we had been aware since
18 approximately ten days preceding that, that this might happen,
19 we had assembled a team particularly -- particularly to monitor
20 social media of all sorts, as well as television coverage.
21 Watching for what the public response to a release of a video
22 that we didn't know the content of, until it was released, but
23 that we assumed would not be favorable toward Dr. Ginde or our
24 organization.

25 Over the course of the next I'd say week to ten days

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1 following the release of that video, we continued the process
2 of monitoring every source of information that was available to
3 us, both directly and through our colleagues at Planned
4 Parenthood Federation of America, particularly to make certain
5 that we were aware of any threats of harm to Dr. Ginde or
6 anyone else from our staff.

7 **Q.** And as part of monitoring the social media in the -- upon
8 the release of the video, did you did learn of the existence of
9 anything that caused PPRM concern on social media regarding
10 Dr. Ginde?

11 **MR. MIHET:** Relevance.

12 **THE COURT:** Overruled.

13 **THE WITNESS:** Yes. There were statements that were
14 directed at Dr. Ginde that threatened her life.

15 **BY MS. MAYO**

16 **Q.** And could you describe those statements.

17 **A.** They used words like "dismemberment" and "electric chair,"
18 and similar statements to that.

19 **Q.** And did PPRM take any action in response to learning of
20 those threats to Dr. Ginde?

21 **A.** Yes. We immediately assisted Dr. Ginde in finding a place
22 to move her family and herself in a temporary fashion. We had
23 access to a couple of homes in the mountains.

24 And she took herself out of the rotation at the health
25 center and left her home, which she was very concerned might

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1 now be the target of demonstration activity or other things.

2 **Q.** Were any other security measures taken with respect to
3 Dr. Ginde?

4 **A.** Yes. Along with physically assisting her to move to a
5 location that would not be identified or identifiable with her,
6 we provided her with 24-hour-a-day executive protection.

7 **MS. MAYO:** Your Honor, may I approach?

8 **THE COURT:** You may. How much longer do you have in
9 your direct?

10 **MS. MAYO:** I have two more exhibits --

11 **THE COURT:** That doesn't answer my question. How
12 much longer?

13 **MS. MAYO:** Ten minutes. Five to ten minutes.

14 **THE COURT:** Okay.

15 Ladies and gentlemen, I would like to have the direct
16 examination of this witness finished. So if -- unless anybody
17 screams, we're going to go for the next five or ten minutes.
18 And then we will finish up for today.

19 Go ahead, Ms. Mayo.

20 **MS. MAYO:** I'll try to be fast. And Your Honor,
21 here's a copy for you.

22 (Binder handed up to the Court)

23 **THE COURT:** Thank you.

24 (Binder tendered)

25 **THE WITNESS:** May I (Indicating)?

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1 **THE COURT:** Yes.

2 **THE WITNESS:** Thank you.

3 **THE COURT:** Is that fresh?

4 **THE WITNESS:** I think so.

5 **BY MS. MAYO**

6 **Q.** Mr. Paul, could you turn in your binder to Exhibit 875.

7 (Request complied with by the Witness)

8 **A.** I have that.

9 **Q.** And could you tell us what that document is.

10 **A.** It is a letter drafted over the signature of Vicki Cowart,
11 who is the president and CEO of PPRM, directed to Krista Noah,
12 who is the director of the affiliate security program at PPFA
13 that I described earlier, requesting financial support from
14 PPFA through the security program for some of the expenses that
15 PPRM incurred in assisting Dr. Ginde.

16 **Q.** And did you have any involvement in preparing this
17 document, Exhibit 875?

18 **A.** I drafted the letter.

19 **MS. MAYO:** Your Honor, I would move 875 into
20 evidence.

21 **THE COURT:** Any objection?

22 **MR. BREEN:** Your Honor, some of the exhibits are
23 redacted in a way that I think would be relevant to the subject
24 matter. So if we could have an unredacted copy provided to us
25 afterward. I have no objection at this time, so that we can

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1 proceed. But I would like to have an unredacted copy.

2 **THE COURT:** All right. We'll deal with that after
3 the break.

4 **MR. BREEN:** (Nods head)

5 **THE COURT:** So it's admitted.

6 (Trial Exhibit 875 received in evidence)

7 (Document displayed)

8 **BY MS. MAYO**

9 **Q.** And Mr. Paul, could you tell me what is attached to the
10 letter in Exhibit 875.

11 **A.** The first page that's attached to the letter that has the
12 number 11721 in the bottom right-hand corner is a September 1,
13 2015 invoice from a company called Lincoln Property.

14 **MS. TROTTER:** I'm sorry. Ms. Davis, the juror screen
15 isn't on.

16 **THE CLERK:** Oh, sorry.

17 (Document displayed)

18 **THE COURT:** There we go.

19 **THE WITNESS:** Shall I start again?

20 **BY MS. MAYO**

21 **Q.** Yes, please.

22 **A.** Very well.

23 This is an invoice from a company called Lincoln Property
24 Company, dated September 1, 2015. And it reflects the rent
25 that was due on an apartment that I helped to secure for

1 Dr. Ginde to move her family into, as of that date.

2 **Q.** All right. And the attachments to, or the two pages
3 following that invoice?

4 (Document displayed)

5 **A.** So the next page of the exhibit, which is numbered 11722
6 in the bottom right-hand corner, is a check that was issued by
7 Planned Parenthood of the Rocky Mountains, in the amount of
8 \$33,210.

9 That was the full amount of the rent that was due for a
10 six-month lease. We negotiated that term into the lease
11 arrangement with Lincoln Property.

12 **Q.** And the final page of the exhibit.

13 (Document displayed)

14 **A.** This is a page numbered 11723 in the bottom right-hand
15 corner. It is a copy of a check, again from Planned Parenthood
16 of the Rocky Mountains, in the amount of \$850. This was the
17 security deposit and application fee that we were required to
18 pay the Lincoln Property in order to make application for the
19 unit.

20 **Q.** And Mr. Paul, could you turn to the last document in your
21 binder. It's Exhibit 893.

22 **A.** And I have that in front of me.

23 **MS. MAYO:** Your Honor, this is already in evidence.

24 **THE COURT:** Okay.

25 (Document displayed)

1 BY MS. MAYO

2 Q. And Mr. Paul, could you tell us what this document is?

3 A. This is a document that was forwarded to Planned
4 Parenthood of the Rocky Mountains by Planned Parenthood
5 Federation of America, in response to the grant request that we
6 looked at just a moment ago in Exhibit 875.

7 This essentially reflects that PPFA granted a portion of
8 the -- the request that was made by PPRM for financial support.

9 Q. All right. Did PPRM change its security procedures for
10 visitors following the infiltration?

11 A. Yes, it did.

12 Q. How so?

13 A. Now, in order to enter the building, one must present a
14 state-issued or other official photo ID. We then have a camera
15 system through which, like in many other office buildings, you
16 have your picture taken.

17 That picture is then transferred to a credential, a
18 printed credential that you're provided that either is on a
19 clip or on a lanyard, that you must display at all times when
20 you are inside the building.

21 That same process -- I've worked for the organization for
22 26 years. It applies to me every time I walk in the building,
23 just as it does with everyone else.

24 MS. MAYO: And, sorry, I had one last document to
25 look at. It's already in evidence. It's Exhibit 5292 which

1 was the demonstrative that you (Indicating) used yesterday.

2 Can we take a look at that.

3 (Photograph displayed)

4 **BY MS. MAYO**

5 **Q.** And Mr. Paul, can you tell us what is depicted here in
6 Exhibit 5292?

7 **A.** Yes. On the right-hand side of the page, taking up
8 approximately half of it, is an aerial view of the entire
9 Stapleton campus. That is the city block that the facility is
10 constructed on.

11 **Q.** And in the lower left-hand part of Exhibit 5292, there is
12 a sign there.

13 **A.** Uh-huh.

14 **Q.** Are you familiar with that sign?

15 **A.** I am.

16 **Q.** And how so?

17 **A.** It reflects language that a long time ago I wrote, and
18 that we've continued to use in accordance with Colorado state
19 law to put the public on notice that audio monitoring may be in
20 use in the vicinity of the area that is marked with this sign.

21 **Q.** And how far away from the Stapleton campus building is
22 this sign located, approximately?

23 **A.** It's about 200 feet, a little more than that, from the
24 entrance door. And, and it's located at the -- the sign that's
25 depicted there I believe is located where the circle is on the

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1 left-hand side of the aerial view, about two thirds of the way
2 up.

3 **Q.** All right. And are these audio monitoring devices
4 referenced in the signs recording any -- anything inside the
5 Stapleton campus building?

6 **A.** No. There is no audio recording machinery or mechanism
7 inside the building, other than for recording dictation or
8 something of that sort.

9 **MS. MAYO:** And, I'll pass.

10 **THE COURT:** All right. So, ladies and gentlemen, we
11 will break for the day. And we have a weekend in front of us.

12 Please remember all the admonitions. We are getting --
13 we're moving along. But it's -- there's still more to come.
14 It's important that you keep an open mind. It's important that
15 you not research and communicate. Follow all of the
16 instructions I've given you.

17 And then enjoy the weekend, and we'll see you first thing
18 on Monday morning.

19 (Jury excused)

20 (The following proceedings were held outside of the
21 presence of the Jury)

22 **THE COURT:** All right. Have a good weekend,
23 everybody.

24 **MR. LIMANDRI:** Your Honor, can I get just a little
25 more clarification --

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1 **THE COURT:** Come on up. Please be seated, lawyers.
2 People can leave if they want to.

3 You can step down. Yes, thank you.

4 (Witness excused)

5 **THE COURT:** Shall I leave this here (Indicating)?

6 **MS. MAYO:** Yes.

7 **MR. LIMANDRI:** It wasn't completely clear to us,
8 Your Honor, as to what you would expect by the end of --
9 presumably, end of next week, in the way of any type of
10 post-trial -- not post-trial motion, but motion at the end of
11 all the evidence.

12 As I understood you to say, it would be deemed submitted
13 and we can submit a formal motion later. But since my
14 understanding is the rules can be rather strict on potential
15 waivers of issues, we wanted to be sure that if we did need to
16 get something on file -- it sounded like you wanted something
17 in brief form, anyhow -- that we get more clarity as to what
18 exactly and when.

19 Sounded like the end of next week, Thursday or Friday,
20 depending on close of evidence, but it wasn't clear as to what
21 written form it should take.

22 **THE COURT:** So, so if it is -- I think it would be
23 helpful to have it in sort of bullet form. I'm -- I expect
24 that the -- the post-trial briefing will be --

25 **MR. MIHET:** Robust.

PROCEEDINGS

1 (Laughter)

2 **THE COURT:** That's such a much nicer term than I was
3 thinking.

4 (Laughter)

5 **THE COURT:** And, but I think it's -- but I think it
6 would be helpful just to have just a listing of issues. And if
7 there's any one that you think I have to grapple with before
8 closing arguments for some reason, then, then lay it out.

9 But, but other than that, I'm -- I don't think -- other
10 than that, I think it would just be useful to have a summary
11 list of things.

12 **MR. LIMANDRI:** Fine. Thank you, Your Honor.
13 Appreciate it.

14 **THE COURT:** Okay. All right. Thank you all.

15 **MR. MILLEN:** Thank you.

16 (Whereupon at 1:14 p.m. further proceedings
17 were adjourned until Monday, November 4, 2019
18 at 7:30 a.m.)

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CERTIFICATE OF REPORTER

We certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Debra L. Pas

Debra L. Pas, CSR 11916, CRR, RMR, RPR

Belle Ball

Belle Ball, CSR 8785, CRR, RMR, RPR

Friday, November 1, 2019