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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

BEFORE THE HONORABLE JUDGE ROBERT MCGUINESS

DEPARTMENT 22

JANE DOE,) No. HG115588324
)
Plaintiff,)
) ASSIGNED FOR ALL PURPOSES TO
v.) JUDGE ROBERT MCGUINESS,
) DEPARTMENT 22
WATCHTOWER BIBLE AND)
TRACT SOCIETY OF NEW)
YORK, INC., a)
corporation, et al.,)
)
Defendants.)
)
-----)

JURY TRIAL

JUNE 4, 2012

DAY 4

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1 JUNE 4, 2012

8:22 A.M.

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PROCEEDINGS

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THE COURT: Back on the record in the matter of Candace Conti versus Watchtower Bible and Tract Society, New York, Inc., et al. Counsel are present. We are coming back from the weekend. But during the course of the same, counsel was kind enough to file a number of briefs and requests.

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Today, in a moment, we are going to have Ms. Martinez as a witness. I requested that Mr. Simons to discuss with her fully the pretrial motions in limine that I made in this case to date.

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Have you had the opportunity to do that yet, Mr. Simons?

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MR. SIMONS: Yes, Your Honor.

THE COURT: Okay. And certainly I have indicated to counsel off the record the questions related to what she observed involving plaintiff and Mr. Kendrick during congregation activities as well within the realm of relative and relevant information.

Duty has been an ongoing briefed issue. We are going to be dealing with, I guess, Dr. Salter as our -- as your second witness?

MR. SIMONS: Third actually, but yes, this

1 morning.

2 THE COURT: All right. And just reminding
3 counsel, going back to a number of orders I made, one of
4 which was disfellowship being a protected activity.

5 And just inferentially, and by one comment
6 the other day, I presume the good doctor is not going to
7 go into any standard of care vis-a-vis
8 disfellowshipping. Correct?

9 MR. SIMONS: Correct, your Honor.

10 Counsel and I had a brief discussion about
11 that. And I absolutely agree with that, and she is on
12 board with that.

13 What many organizations, both secular and
14 religious did with a known offenders was to exclude
15 them.

16 Part of her opinion is that if you choose not
17 to exclude a known offender, then you have to warn
18 people about that offender's propensity.

19 THE COURT: Okay.

20 MR. SIMONS: And so by exclusion or banning,
21 we are not talking about disfellowshipping, and it does
22 apply to other organizations other than religious ones.
23 So that would be my offer, if you will, as to how to
24 address that subject.

25 And that was the context that she talked

1 about disfellowshipping is in either exclude them or
2 doing something else.

3 THE COURT: Mr. Schnack.

4 MR. SCHNACK: Your Honor, that gets right
5 into the church discipline issue. He was saying if you
6 don't disfellowship, if you don't exclude, then we have
7 other options. And we are right in the heart of the
8 church discipline, that is that you get into
9 Ecclesiastical extensions doctrine, according to
10 everything we briefed, and if you go there, you are
11 going to have error right from the start.

12 THE COURT: All right. Again, that will be
13 an initial brief.

14 So, Mr. McCabe?

15 MR. McCABE: Your Honor, Mr. Simons' comment
16 made me think of the Janice Perez case out of the Ninth
17 Circuit, which says that religion has the right to
18 associate or not associate with anyone they choose out
19 of the first amendment. So the banned you are excluding
20 is just another way of saying disfellowship.

21 THE COURT: Well, you know, it is difficult
22 to separate the wheat from the chaff.

23 So let's see if we can focus on where this
24 one is going.

25 The disciplining aspects -- and I already had

1 a discussion on the record with counsel, but certainly
2 disfellowship obviously is a protected activity.

3 If the doctor is going to talk about
4 excluding to this court, that is going to be off limits.
5 That is different from what the congregation and church,
6 what the church could have done, however, in terms of
7 informing and protecting.

8 Now in terms of duty, where I'm going on duty
9 is not too far away from the proposed special
10 instruction of the plaintiff. I'm not saying that's
11 going to be exactly how it is going to come out.

12 But I hinted a couple weeks ago when we
13 started this that shorn of the religious cloak, in the
14 Court's opinion, this is a negligence case.

15 Now, my duty is -- and I think we all agree,
16 notwithstanding all the briefing and arguments, that it
17 is the Court's duty to determine the legal duty.

18 Now one of the cases -- I thought they did a
19 nice job, kudos to protect his client, is there is a
20 legal duty, and then there is a duty in fact, and then
21 there is causation. And it is kind of an admixture of
22 circumstances --

23 And I fully understand the nexus between --
24 and the difficulties of attempting to ferret out the
25 religious aspects and the duty aspects.

1 However -- and there is a proposed special
2 instruction, too, based upon Juarez that talks about the
3 volunteers with responsibilities.

4 This case is kind of, what I will call a
5 tweener, because in the duty context or in the action
6 context, the church disciplined Mr. Kendrick by removing
7 him from ministerial duties. So he is not like Juarez
8 who continued, by allegation -- that was a motion for
9 summary judgment, by the way -- and Juarez said, hey,
10 there is a duty. This is reversible error because the
11 standard is known or should have known.

12 Now this case is different because the church
13 knew it wasn't about should have known by observing and
14 raising questions and concerns. That they knew that
15 there had been inappropriate conduct here. So where the
16 court is going is: Yes, there is a legal duty to do
17 something.

18 I think it is. And I'm not saying that the
19 duty -- that it is a strict duty to warn. That
20 instruction that was proposed is for the jury to
21 consider whether that was something reasonable to do,
22 and to consider other ameliorative actions that were
23 taken or could have been taken.

24 And that's how I'm going to frame duty, is
25 basically within the association aspects of Juarez minus

1 the acts of volunteer.

2 I'm going to find, basically, a common law
3 duty to do something, including considering warning and
4 taking other steps to educate the congregation so the
5 children in circumstances like this do not find
6 themselves in a position of, well, it is not our
7 responsibility, so what happens happens.

8 And I don't believe -- in the framework of
9 this case -- I have read all those other cases, and
10 there are many, that I think differ from this particular
11 case.

12 So just in fairness to counsel, and it is not
13 necessarily the instruction I'm going to absolutely
14 give, but I was playing with it for two hours this
15 weekend, but it will be fairly similar to Special
16 Instruction Number 1 proposed by plaintiff as to duty.

17 So do I think there is a duty? Yes.

18 Do I think the jury can consider -- certainly
19 they are not going to consider causation, because that
20 is certainly bandied about on pro and con in terms of
21 evidence -- but it will be from a framework of
22 protecting, slash, informing, slash, educating upon that
23 disclosure.

24 Now, exactly how it fits A-B-C is going to be
25 something similar to that proposed instruction. I'm not

1 going to, as a matter of legal duty -- understanding
2 very precise, well brought arguments -- I'm not going to
3 determine that there is no legal duty in this case.

4 MR. SCHNACK: So all testimony from Salter
5 regarding excluding Kendrick is out?

6 THE COURT: Excluding Kendrick is out.

7 MR. SIMONS: Okay. I should probably grab a
8 little break before she comes in to tell her.

9 THE COURT: I told you all at the end the
10 other day, I have been very impressed at the
11 professionalism and understanding.

12 I think I told you, it's a tough case on
13 judges, jurors and lawyers. So -- but in terms of a
14 duty, I'm going to find there is a duty.

15 And that, of course -- and I got lobbied left
16 and right as to special relationships, which is an
17 evolving concept, by the way, both under the restatement
18 to and case law.

19 And I believe there is a relationship such
20 that a duty should be imposed, but I have been very
21 clear in some limitations, particularly -- and look, I
22 have got very good defense lawyers here -- particularly
23 as it relates to punishment and activity by the church
24 in response.

25 MR. SIMONS: It was to be excluded.

1 THE COURT: Yes.

2 MR. SCHNACK: Then one other issue, your
3 Honor.

4 It appears Mr. Simons is going to have
5 Dr. Salter do all the opinions she expressed in her
6 deposition.

7 He represented that she will be prepared to
8 give a full deposition. She did that. And I asked her
9 if she had any other opinions with respect to what's
10 going to be her opinion and, number one, she said no.
11 And it sounds like she is going to go beyond that. And
12 I would ask that we exclude that from trial.

13 MR. SIMONS: The specific testimony that I
14 think counsel is referring to is that she had testified
15 particularly about the documents in the deposition that
16 major religions in the United States have adopted
17 policies of transparency, et cetera, et cetera. And I
18 don't think that is the -- the nature of the objection.

19 One of the things she will say is that the
20 1993 Awake Magazine that we have all seen in evidence
21 and heard about is consistent with those policies that
22 the other major religions adopted. So I just don't see
23 that as a different opinion or a newer opinion. I just
24 see that as part of the same thing.

25 THE COURT: All right. Am I going to hear an

1 objection from the defense on that one?

2 MR. SCHNACK: That's not how Mr. Simons
3 described it to me earlier. But if she is going to say
4 that they had a policy that informed, I guess she can
5 say it. Yes.

6 MR. SIMONS: Your Honor, I have indicated
7 that there has been a little yin and yang to this trial.
8 And certainly, if that's what she is going to testify
9 to, I don't hear a defense objection.

10 MR. SCHNACK: That's correct.

11 THE COURT: Thank you.

12 Let's get our folks in here.

13 (Whereupon, the following proceedings
14 were heard in the presence of jurors)

15 THE COURT: All right. To our jurors, thank
16 you, as always for your commitment in this matter. And
17 I hope each of you had a nice weekend.

18 All right. In terms of today, a couple
19 things. We have a number of jury trials on this floor,
20 so today you will have your real jury room, which Hill
21 will get you to, which is right to the left here. But
22 he will orchestrate that. That may change again because
23 we are selecting a jury in the department next door.

24 Further, this week, Thursday and Friday,
25 and -- I'm going to look you all in the eye when I tell

1 you this -- I really dislike interrupting jury trials
2 because of the imposition on each of you.

3 However, under the laws of the State of
4 California, we judges have to do a number of hours of
5 judicial education.

6 Now I, of course, get educated in this
7 courtroom every day. But notwithstanding, saying I have
8 to satisfy an obligation. And seven months ago, because
9 they only offer it twice a year, I signed up for it in
10 Sacramento. Otherwise, I was going to get stuck with
11 going to L A. So, I apologize. I wish I didn't have to
12 say that to you, but this is the only time I can satisfy
13 the rule of law. So Thursday and Friday we will not be
14 here.

15 We remain clearly on pace, and there are a
16 lot of good reasons for that. Certainly the
17 professionalism on both sides as to everything we told
18 you about timing and submission in the case and the like
19 on circumstances.

20 So I will keep, every day, alerting you of
21 anything going on, pro or con. So we are really very
22 much on pace to submit this to you certainly no later
23 than June 15.

24 That being the case, Mr. Simons, you have
25 your next witness?

1 MR. SIMONS: Yes. Investigator Robert
2 Davila.

3

4 ROBERT DAVILA

5 WAS DULY SWORN TO TELL THE TRUTH BY THE CLERK

6 AND TESTIFIED AS FOLLOWS:

7 THE CLERK: Please state your name and spell
8 your first and last name for the record.

9 THE WITNESS: Robert Davila. D-A-V-I-L-A.

10 THE CLERK: Spell your first name.

11 THE WITNESS: Oh. R-O-B-E-R-T.

12 THE CLERK: Thank you.

13 DIRECT EXAMINATION

14 BY MR. SIMONS:

15 Q. And Mr. Davila, by whom are you currently
16 employed?

17 A. I am currently employed by the County of
18 Alameda.

19 Q. And what is your job?

20 A. I'm the inspector with the county attorney's
21 office.

22 Q. And very briefly, what is the general nature
23 of the work that you do?

24 A. Currently?

25 Q. Yes.

1 A. Currently, I'm working in the Workers' Comp
2 area of the DA's office.

3 Q. Do you investigate fraud and that sort of
4 thing?

5 A. Yes, I do.

6 Q. Before working for the Alameda County
7 District Attorney's office, where were you employed?

8 A. Fremont Police Department.

9 Q. And was that where you were working back in
10 1994?

11 A. Yes, sir.

12 Q. Do you remember what your assignment was in
13 1994?

14 A. I was assigned to the Crimes Against Persons
15 unit as an investigator.

16 Q. And did that unit at that time include crimes
17 of a sexual nature against children?

18 A. Yes, it did.

19 Q. Were you notified by CPS, Child Protective
20 Services, of a possible complaint involving a Jonathan
21 Kendrick?

22 A. Yes, I was.

23 Q. And have you had an opportunity to go back
24 and look through your old notes from that case?

25 A. Yes, sir.

1 Q. Was the victim cooperative in your
2 investigation?

3 A. As I recall, she was.

4 Q. And part of your investigation involved
5 taking statements?

6 A. Yes, sir.

7 Q. And is it accurate to say you took tape
8 recorded statements at that time?

9 A. Yes, sir.

10 Q. Okay. But the tape recordings have not
11 survived the many years, is that --

12 A. I don't know what the status of them are.

13 Q. You have your notes that are summaries of the
14 statements.

15 A. I have a police report, yes.

16 Q. Do you have a recollection, independent of
17 your notes, of this particular case?

18 A. I vaguely remember it. It has been quite
19 some time.

20 Q. And do you have a recollection of having
21 taken a statement from Jonathan Kendrick?

22 A. Yes, sir.

23 Q. Did Mr. Kendrick admit to you in his
24 statement that he had had touching of a sexual nature
25 with his stepdaughter?

1 A. Yes, he did.

2 Q. And what specifically did he tell you?

3 A. He admitted to fondling the breast area of
4 his stepdaughter.

5 Q. Did he admit to you that he had knowledge
6 that the victim had taken Vicodin?

7 A. I don't recall that.

8 Q. If you take a look at your report at Page 3.
9 I'm sorry. I beg your pardon. It is Page 4.
10 And see if that refreshes your recollection
11 as to whether Mr. Kendrick did or did not tell you
12 anything about Vicodin.

13 A. Did you say Page 4?

14 Q. Yes.

15 Well, let's see if your Page 4 and mine look
16 the same.

17 It begins with the March 4th, 1994 11:48
18 hours.

19 A. Okay.

20 Q. Did he or did he not tell you anything about
21 Vicodin?

22 A. Not in this paragraph. There is nothing to
23 indicate that.

24 Q. And in his statement to you, did he describe
25 or admit to the same degree of physical contact with the

1 minor victim that was reported to you independently by
2 the victim?

3 A. As I recall, he kind of minimized what
4 occurred.

5 Q. Based on the statements that you took, did
6 you make a recommendation to the District Attorney's
7 Office?

8 A. Yes, I did.

9 Q. What did you recommend?

10 A. I took the case over to the District
11 Attorney's Office for review.

12 Q. And did you make a recommendation as to that?

13 A. Yeah. I filed a formal complaint.

14 Q. Do you know who the district attorney was who
15 was assigned to that case?

16 A. Yes, I do.

17 Q. Who was that?

18 A. Reg Saunders.

19 Q. And do you know what capacity he serves in
20 presently?

21 A. Yes, I do.

22 Q. What is that?

23 A. He is a judge in Alameda County.

24 Q. Now, in the course of your investigation,
25 after taking these statements and before going to the

1 district attorney with them, did you have any need to
2 contact anyone from the Jehovah's Witnesses
3 congregation?

4 A. No.

5 Q. And did you feel you had sufficient
6 information that you could present your case to
7 Mr. Saunders of the District Attorney's Office?

8 A. Yes, sir.

9 Q. You now work in the District Attorney's
10 Office as an investigator.

11 Were there investigators in the District
12 Attorney's Office back in the 1994 time frame?

13 A. Yes.

14 Q. And if -- based on your experience in the
15 system for all these years, if the district attorney in
16 the case required further information, could he assign a
17 district attorney's investigator to go get it?

18 A. Yes, they can. Once the complaint is filed,
19 it then becomes their job to do whatever duties or
20 whatever else needs to be done after the fact.

21 Q. But this was a pretty complete case, just
22 with what you thought you had.

23 A. I thought it was.

24 MR. SIMONS: Thank you.

25 Nothing further.

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CROSS-EXAMINATION

BY MR. SCHNACK:

Q. Officer Davila, you wrote the police report that Mr. Simons showed you; is that correct?

A. Yes, sir.

Q. And I notice on the second page it calls it a confidential report; is that correct?

A. Yes.

Q. And it was confidential why?

A. Well, based on the fact that because the victim was a juvenile at the time, there were laws that protect them from their names being on police reports.

Q. And your police investigation was initiated by a report from the Child Protective Services; is that correct?

A. Yes, sir, it was.

Q. And do you know who reported it to Child Protective Services?

A. I don't recall at this time.

Q. And your police report also mentions that when you conducted the interviews, there was a Child Protective Services case worker with you?

A. Yes, sir.

Q. And do you recall that?

1 A. Yes.

2 Q. So you have some specific memory?

3 A. Basically. It has been a long time.

4 Q. Yes.

5 A. I investigated a lot of cases in that time
6 frame.

7 Q. But it has been 18 years.

8 And is there anything in the report that you
9 would say is not accurate, essentially, now, 18 years
10 later?

11 A. Yes. I didn't see anything that is
12 inaccurate.

13 Q. Okay. And at the time that you wrote it, you
14 intended it to be accurate?

15 A. Yes, sir.

16 Q. So you wrote in the report that the victim --
17 and her name has been out here, Andrea is what she has
18 been called -- she told you that, quote, she took one
19 Vicodin for her back problem and laid down in her room
20 around 7:00 or 8:00 p.m., close quote.

21 So is it your testimony that the victim told
22 you that she had taken the Vicodin?

23 A. Yes.

24 Q. And she didn't tell you that Mr. Kendrick had
25 given her the Vicodin; is that correct?

1 A. I don't recall.

2 Q. But you would have written that in your
3 report if she had told you that Kendrick had given her
4 the Vicodin.

5 A. It's been a long time. I don't know.

6 Q. But you intended the report to be accurate
7 when you reported it?

8 A. Yes, sir.

9 Q. You also wrote that Andrea told you that
10 Jonathan Kendrick had admitted the incident to, quote,
11 the elders of the church, close quote.

12 Do you recall writing that?

13 A. Yes, I do.

14 Q. And do you recall her telling you that?

15 A. Yes, sir.

16 Q. And you didn't talk to the elders in the
17 church at all, did you?

18 A. No, I did not.

19 Q. And if you had interviewed them, you would
20 have written that in your report, as well?

21 A. Yes, sir.

22 Q. Did you ever notify any of the elders or
23 anyone else in the church that Kendrick had been charged
24 with a sex crime?

25 A. I don't believe so.

1 Q. Do you know what the results of the charges
2 that were brought against Mr. Kendrick were?

3 A. No, I do not.

4 Q. So you didn't take any steps to inform anyone
5 at the church that Mr. Kendrick was a child molester; is
6 that correct?

7 A. No, I did not.

8 Q. Do you know if anyone else at the police
9 department did that?

10 A. I don't know.

11 Q. And do you know if the Child Protective
12 Services took any steps to notify the congregation or
13 anyone at the church that Kendrick was a child molester?

14 A. I don't know.

15 Q. Do you know if the DA's office did that?

16 A. No. I don't.

17 Q. You don't know if the probation department
18 did anything in that regard either?

19 A. No, I do not.

20 Q. In fact, in the 1993 and 1994 time frame, was
21 there any type of community notification regarding child
22 molesters?

23 A. I don't know if there was in that time frame.
24 I don't know if it came out after the facts with the
25 Megan's Law and all that.

1 Q. But nonetheless, you didn't take any steps
2 with regards to community notification at that time; is
3 that correct?

4 A. No, I did not.

5 MR. SCHNACK: That's all I have, your Honor.

6

7

CROSS-EXAMINATION

8 BY MR. McCABE:

9 Q. Just a couple questions, Officer Davila.
10 You took this report seven months after the
11 incident?

12 A. I remember being notified several months
13 after the incident.

14 Q. So the incident took place sometime in the
15 summer, in July?

16 A. Yes, sir.

17 Q. And I believe the victim said it took place
18 real close to her birthday on July 16?

19 A. As I recall, yes.

20 Q. And the family had continued to live together
21 during the interim?

22 A. Yes, sir.

23 Q. And do you know what happened though once you
24 referred the case to the District Attorney's Office?

25 A. I know the case was filed, but as far as what

1 the ultimate outcome was, I do not know.

2 Q. You were never called to testify in a trial
3 or anything?

4 A. I don't believe so.

5 Q. And just prior to the report being made to
6 Child Protective Services and then to your office, was
7 there some kind of altercation at the Kendrick home?

8 A. I do recall being advised there was some type
9 of altercation that had been reported to the police.

10 Q. Then this report was made shortly thereafter?

11 A. Correct.

12 MR. McCABE: I have nothing further.

13 Thank you.

14 THE COURT: May I have counsel up here for a
15 minute.

16 (Sidebar discussion)

17

18 REDIRECT EXAMINATION

19 BY MR. SIMONS:

20 Q. Officer, just two further things.

21 Number 1, since you were informed by the
22 victim that the elders of the church were already aware
23 of the incident, would there have been any purpose in
24 your contacting them to notify them of it?

25 A. At that point, I didn't think it would be

1 necessary, based on what I had.

2 Q. And secondly, we talked about confidentiality
3 of a minor victim.

4 But once the charges were filed, there was no
5 confidentiality as to the name of Mr. Kendrick, was
6 there?

7 A. I'm not sure what the reporting processes or
8 the records were in that time period. I don't know.

9 Q. Charges are filed in court. Correct?

10 A. Well, they were filed with the DA's office.

11 Q. Yeah.

12 And the complaint is filed in the Alameda
13 County Superior Court?

14 A. Correct.

15 Q. And that would be People versus Jonathan
16 Kendrick?

17 A. Correct.

18 MR. SIMONS: Thank you.

19 THE COURT: Anything further?

20 MR. SCHNACK: No, your Honor.

21 MR. McCABE: No, your Honor.

22 THE COURT: All right. Just for a minute to
23 the jury.

24 I'm going to introduce you to the concept of
25 limiting instructions.

1 At the start of the case, we, counsel, and
2 court indicated Mr. Kendrick is a defendant in this
3 matter. And the concept of limiting instruction is that
4 you are sitting here considering evidence against each
5 and all defendants, including Mr. Kendrick who is not
6 here before us, physically.

7 At the close, when I give you these
8 instructions, I will give you limiting instructions as
9 to certain evidence that is being offered as to a
10 specific defendant.

11 So the evidence you are all listening to is
12 not necessarily offered against each and all defendants.
13 And when you deliberate, your deliberations will be
14 subject to the limiting instruction I give you as to
15 which defendants certain evidence has been offered,
16 relative to your consideration.

17 Does everybody understand the concept that at
18 least certain evidence will go perhaps solely to one
19 defendant? And I will instruct you accordingly which
20 evidence that is for those deliberations as to any
21 liability of questions.

22 Do we all understand each other on that
23 concept?

24 JURORS: (Jurors indicate).

25 THE COURT: Okay, thank you.

1 MR. SIMONS: May this witness be excused,
2 your Honor?

3 THE COURT: Everybody agree?

4 MR. SCHNACK: Yes, your Honor.

5 MR. McCABE: Yes, your Honor.

6 THE COURT: All right. Thank you for your
7 time.

8 MR. SIMONS: Next witness is Carolyn
9 Martinez.

10

11 CAROLYN MARTINEZ

12 WAS DULY SWORN TO TELL THE TRUTH BY THE CLERK

13 AND TESTIFIED AS FOLLOWS:

14 THE CLERK: Will you please state your name
15 and spell your first and last name for the record?

16 THE WITNESS: Carolyn Martinez. My first
17 name, C-A-R-O-L-Y-N. And the last name, Martinez,
18 M-A-R-T-I-N-E-Z.

19 THE CLERK: Thank you.

20

21 DIRECT EXAMINATION

22 BY MR. SIMONS:

23 Q. Good morning, Ms. Martinez.

24 Where do you live at present?

25 A. In Carlsbad.

1 Q. And that's down by San Diego?

2 A. Yes. North of San Diego County.

3 Q. Was there a time that you lived up here in
4 Alameda County?

5 A. Yes.

6 Q. What is your occupation?

7 A. I work in accounting in a biotech company.

8 Q. And when you lived up here in Alameda County,
9 were you employed outside the home?

10 A. Yes.

11 Q. What kind of work did you do?

12 A. Accounting as well.

13 Q. Were you ever a member of the North Fremont
14 Jehovah's Witnesses?

15 A. Yes.

16 Q. When did you first become a member?

17 A. I believe I was baptized in probably 1985.

18 Q. Was that into the North Fremont Congregation?

19 A. It was in the Central Congregation, but then
20 shortly after, a year later, I became a member of the
21 North Congregation.

22 Q. And were you married at the time?

23 A. Yes.

24 Q. And to whom were you married?

25 A. His name was Paul Inman.

1 Q. Was he also involved in the North Fremont
2 Congregation?

3 A. Yes.

4 Q. And what position, if any, did he serve in?

5 A. Well, eventually, he became an elder in the
6 congregation.

7 Q. You had children as well?

8 A. Yes.

9 Q. And were they also involved in Jehovah's
10 Witnesses activities?

11 A. Yes.

12 Q. In the time period in the mid-1990s, 1993,
13 '04, '05, '06, in that time period were you very active
14 in your congregation?

15 A. Yes.

16 Q. And describe for us, if you would, the level
17 of activity that you had in congregation activities in
18 the mid-1990s.

19 A. Well, I was very active, I was a member of
20 the Theocratic Ministry School, in which, you know, you
21 participate by giving talks.

22 I was out in field service and, you know, a
23 lot of social activities with the congregation.

24 Q. And were social activities with the
25 congregation a part of life for a Jehovah's Witnesses'

1 family?

2 A. Yes.

3 Q. Did you know Jonathan Kendrick?

4 A. Yes.

5 Q. And how did you meet him?

6 A. He was a member of our congregation and
7 became a friend of my husband's.

8 Q. Can you describe him for us?

9 A. Well, I would say -- I would say I was just
10 disappointed that my husband chose to associate with
11 him, because he kind of gravitated toward people that
12 were a little weaker and I tended to gravitate toward
13 people who were stronger in the faith.

14 Q. You are talking about faith?

15 A. Yes, in the faith.

16 Q. Do you remember Mr. Kendrick having a dog?

17 A. Yes.

18 Q. What do you remember about the dog?

19 A. Slobbering all over.

20 THE COURT: You know, I have been thinking
21 about this throughout the trial. And there was another
22 dog, relative to that other dog, I was thinking I needed
23 to appoint a lawyer for him. Let's see what happens
24 with this dog.

25

1 BY MR. SIMONS:

2 Q. Did you know Candace Conti?

3 A. Yes.

4 Q. And how old was Candace when you first met
5 her?

6 A. I think she was a baby. She was the same age
7 as my oldest daughter.

8 Q. And did you know the parents?

9 A. Yes.

10 Q. What do you remember about Candace Conti as a
11 child?

12 A. Annoying.

13 Q. Why?

14 A. Just in need of attention. She was just kind
15 of a little bratty. You know, she had some brightness
16 to her, but mainly she was annoying.

17 Q. Now, is it true that your marriage to
18 Mr. Inman came to an end?

19 A. Yes.

20 Q. And did you remarry?

21 A. Yes.

22 Q. Who did you marry?

23 A. Candace's dad.

24 Q. Neal Conti?

25 A. Yes.

1 Q. In what year?

2 A. 1998.

3 Q. And that marriage ended?

4 A. Yes.

5 Q. In divorce?

6 A. Yes.

7 Q. Approximately when?

8 A. I think the divorce was final in 2003, but we
9 separated in 2002.

10 Q. Did you have a good relationship with Candace
11 during those years?

12 A. Not really, no. It was very strained. There
13 was a lot of distractions -- a lot of stuff going on
14 with ex-wives and -- you know, Neal's mom. And there
15 was a lot of stuff going on at that time, so it was very
16 strained with Candace. It was just a lot of, you know,
17 difficulties to deal with.

18 Q. After your relationship with Neal Conti
19 ended, did you continue to stay in touch with Candace?

20 A. Not at all.

21 Q. Have you been in touch with her all these
22 many years?

23 A. Not at all.

24 Q. Back at the time that Neal was married to
25 Kathy Conti, do you remember having an impression of

1 Kathy Conti?

2 A. Yes.

3 Q. Were you acquainted with her from the North
4 Congregation?

5 A. Yes.

6 Q. What did you see in her?

7 A. Just -- I don't know. Maybe like some mental
8 illness. That's just my impression.

9 Q. Now, were there times that you saw Jonathan
10 Kendrick together with Candace Conti?

11 A. Oh, yes.

12 Q. And where do you recall having seen them
13 together?

14 A. Well, they were, at times -- Neal Conti, when
15 he was married to Kathy -- they were in our book study
16 which was at our house. And Jonathan was in that book
17 study as well. So I would see Jonathan around Candace
18 there too.

19 Q. Did you ever see them together at the Kingdom
20 Hall?

21 A. Yes, all the time.

22 Q. What do you recall seeing?

23 A. He just was very enamored with her. He just
24 looked at her inappropriately. That's what I remember.
25 And, you know, I remember them holding hands. I

1 remember his arm around her. I remember them being out
2 in service together. And that's what I remember.

3 Q. And when you say you remember his arm around
4 her, was that on more than one occasions?

5 A. Yes.

6 Q. Was it something you saw frequently?

7 A. Well, frequent enough that I remember it.

8 Q. Was that something you saw in the Kingdom
9 Hall or around the Kingdom Hall property, at least?

10 A. Yes.

11 MR. SIMONS: Is there an objection to Exhibit
12 30?

13 MR. McCABE: No.

14 MR. SIMONS: Your Honor, we are going to
15 offer into evidence, Exhibit 30.

16 THE COURT: Plaintiff's Exhibit 30?

17 MR. SIMONS: Plaintiff's Exhibit 30 does not
18 have a corresponding number.

19 THE COURT: Any objection from defense
20 counsel?

21 MR. McCABE: No, your Honor.

22 MR. SCHNACK: No, your Honor.

23 THE COURT: Plaintiff's 30 is in.

24 (Whereupon, Plaintiff's Exhibit Number 30
25 was admitted into evidence)

1 MR. SIMONS: In fact, let me perhaps give a
2 copy to the witness to look at.

3 BY MR. SIMONS:

4 Q. Now, do you recognize this as the aerial
5 view?

6 A. Yes.

7 Q. And is this the Kingdom Hall?

8 A. Yes.

9 Q. What is this big area here?

10 A. That's the parking lot.

11 Q. And how about that kind of triangle, brown
12 triangle up there?

13 Do you remember that?

14 A. That's just an open area.

15 Q. Was it accessible?

16 A. I think it was, but I have never been over
17 there.

18 Q. Do you recall it being used for overflow
19 parking sometimes?

20 A. Up there, that triangle?

21 Q. Yeah, the dirt part. Yeah.

22 A. Possibly.

23 Q. Do you recall from time to time maybe kids
24 running around the parking lot, either before or after
25 services?

1 A. You know, I don't really recall that, but it
2 is possible because kids do things.

3 Q. Do you remember that there would be kids at
4 the Kingdom Hall on service days?

5 A. Yes.

6 Q. And before and after, would there be
7 socializing in and around the building?

8 A. Of course, yes.

9 Q. And you mentioned field service.

10 A. Yes.

11 Q. Describe for us what field service is.

12 A. That's when we go off in pairs. They go off
13 in pairs, and they go and knock on people's doors and
14 they try to teach people the Bible. So that's field
15 service.

16 Q. Does field service start with a meeting
17 somewhere?

18 A. Yes.

19 Q. Where, back in the mid-1990s, did field
20 service for the North Congregation usually start?

21 A. It depended on the day. It could be at
22 someone's house or it could be at the Kingdom Hall.

23 Q. And how would people know where to go for
24 field service?

25 A. Because you were assigned by the congregation

1 where to go.

2 Q. Would there be an elder or someone who would
3 have made that assignment?

4 A. Uh-huh.

5 Q. Is that a yes?

6 A. Yes.

7 Q. I'm sorry.

8 A. Sorry.

9 Q. That's okay.

10 And you saw Jonathan Kendrick and Candace
11 Conti together in field service?

12 A. Yes.

13 Q. And more than once?

14 A. Yes.

15 Q. And that was during the time that Candace was
16 still living with her parents? They were married
17 together?

18 A. Yes.

19 Q. When did you learn that there was an
20 allegation that Jonathan Kendrick had sexually molested
21 Candace during the time that they were in the North
22 Fremont Congregation?

23 A. When you contacted me.

24 Q. And how long ago was that?

25 A. About ten months ago.

1 Q. Before that, you had no idea?

2 A. No idea.

3 Q. Did you know that Jonathan Kendrick had
4 molested any child before you and I spoke a few months
5 ago?

6 A. No. No knowledge.

7 Q. And during the time that you were a member of
8 the North Fremont Congregation, were you aware of any
9 allegation of child sex abuse against Jonathan Kendrick?

10 A. No.

11 MR. SIMONS: Thank you, your Honor.

12

13 CROSS-EXAMINATION

14 BY MR. McCABE:

15 Q. Good morning, Mrs. Martinez.

16 You mentioned in your testimony that you saw
17 Jonathan Kendrick holding hands with Candace Conti.

18 Did you ever speak to an elder about that?

19 A. No.

20 Q. You also mentioned that you saw him with his
21 arm around her.

22 Did you ever speak with an elder about that?

23 A. No.

24 Q. Did you ever see Candace Conti come to
25 Kingdom Hall without one or both of her parents?

1 A. No.

2 Q. Did you ever see Candace Conti come to field
3 service without one or both of her parents?

4 A. No.

5 Q. You mentioned about the ground area of the
6 exhibits you were just shown.

7 Have you ever seen cars parked there at
8 Kingdom Hall meetings?

9 A. I believe so. I think there were times that
10 we had a memorial and there would be a need for overflow
11 parking.

12 Q. So the memorial, what's that?

13 A. That's a celebration of Jesus' death once a
14 year.

15 Q. Okay. So once a year you saw cars parked
16 there?

17 A. Yeah.

18 Q. And would that be for a daytime meeting?
19 Nighttime meeting?

20 A. Kind of right before it turns to the evening.

21 Q. Okay. When did your family host a
22 congregation book study that you talked about? What
23 years?

24 A. Oh, boy.

25 Somewhere around 1990 to maybe '92.

1 Q. Okay. And during that entire time period was
2 the Conti family attending that book study?

3 A. I believe so.

4 Q. And what about Mr. Kendrick, during that
5 entire time was he attending the book study?

6 A. Yes.

7 Q. But after '92 that stopped?

8 A. Yes.

9 Q. And you stopped having the Bible Study in
10 your home?

11 A. Uh-huh.

12 Q. How old is your oldest child?

13 A. She is 26.

14 Q. About the same age as Candace, I think you
15 said?

16 A. Yes.

17 Q. When you married Neal Conti, did your
18 daughters get along with Candace Conti?

19 A. I think my oldest daughter did, but, you
20 know, they kind of picked on my youngest daughter, so
21 that was a problem.

22 Q. They would gang up together?

23 A. Yes.

24 Q. How about you; did you get along with Candace
25 during your marriage to Neal?

1 A. Well, it was a little bit of a challenge
2 because at that time I would want --

3 You want a straight answer? No.

4 MR. McCABE: That's all I have, your Honor.

5 MR. SCHNACK: Nothing, your Honor.

6 THE COURT: Anything further?

7 MR. SIMONS: Yes. Just one further. I
8 neglected to mention this. I apologize.

9

10 REDIRECT EXAMINATION

11 BY MR. SIMONS:

12 Q. Did you ever see Candace Conti sit on
13 Jonathan Kendrick's lap?

14 A. Yes.

15 Q. More than once?

16 A. I think so, yes. Uh-huh.

17 MR. SIMONS: Thank you.

18

19 CROSS-EXAMINATION

20 BY MR. McCABE:

21 Q. Where?

22 A. This would be at our book study.

23 Q. In your home?

24 A. Yes.

25 Q. In 1991 and '92?

1 A. Yes, to '92.

2 MR. McCABE: Thank you. Nothing further.

3

4 CROSS-EXAMINATION

5 BY MR. SCHNACK:

6 Q. And Candace Conti's parents were present at
7 that book study?

8 A. Her dad. Her mom was rarely there.

9 Q. But her dad was there?

10 A. Yes.

11 Q. And your husband was an elder at the time?

12 A. Yes.

13 Q. And did you think that was strange that she
14 sat on his lap at that book study?

15 A. Well -- okay. It was noted. In my mind, I
16 noted it. So I would say, yes, I thought it was
17 strange.

18 Q. And it was in the presence of Neal Conti?

19 A. Yes.

20 MR. SCHNACK: Nothing further.

21 MR. SIMONS: May this witness be excused?

22 THE COURT: Ms. Martinez, thank you very much
23 for your appearance. You are now excused.

24 MR. SIMONS: Dr. Anna Salter.

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ANNA SALTER, Ph.D.

WAS DULY SWORN TO TELL THE TRUTH BY THE CLERK
AND TESTIFIED AS FOLLOWS:

THE CLERK: Please state your name and spell
it.

THE WITNESS: Anna Carol Salter.
Anna, A-N-N-A. Salter, S-A-L-T-E-R.

VOIR DIRE EXAMINATION

BY MR. SIMONS:

Q. Dr. Salter, where do you live?

A. I live in Madison, Wisconsin.

Q. And what is your current occupation?

A. Well, I do several things.

I consult to the Department of Corrections
half time. I also train lots of different groups that
deal with child sexual abuse.

I have trained in 50 states and ten countries
on child sexual abuse.

I also do civil commitment evaluations for
the State of Iowa. That involves evaluating sex
offenders to determine how dangerous they are.

And I also, on occasion, testify in court
cases as an expert witness.

1 Q. Do you hold a license in a professional
2 capacity?

3 A. Yes. I am a clinical psychologist, and I'm
4 licensed in the State of Wisconsin.

5 Q. And we call you Dr. Salter.
6 What is your formal education?

7 A. I have a BA in Philosophy and English from
8 University of North Carolina. And I have a Master's in
9 Child Studies from Tufts University. And I have a Ph.D.
10 in Clinical Psychology and Public Practice from Harvard.

11 Q. Now, you mentioned that your work is in the
12 field of child sexual abuse.

13 How did you become first interested in this
14 field?

15 A. When I finished my degree at Harvard, I first
16 worked in a small liberal arts college for a couple of
17 years but didn't like it so I got a job at a community
18 mental health center. And what I discovered right away
19 was that a huge percentage of the kids who were coming
20 in were child sexual abuse victims.

21 And I didn't have any preparation for that.
22 I had had maybe one lecture on sexual abuse victims in
23 my entire five years at Harvard, and never had a course
24 on it or had sufficient information. So I had to really
25 start studying about what childhood sexual abuse was all

1 about.

2 Then offenders started coming in. And I knew
3 for sure that I didn't have the training and experience
4 to work with offenders.

5 The victims, you could use some of the
6 techniques we used with non-victims.

7 But offenders, I knew required a different
8 type of treatment.

9 So I obtained a grant from the State of
10 Vermont, and I went around the country in the early '80s
11 looking for programs that treated sex offenders, and I
12 found several. One in particular in Seattle, Washington
13 that had been treating them really with state of the art
14 techniques for a number of years in Northwest Treatment
15 Associates.

16 And I started writing my report for Vermont,
17 and I just kept writing, and that ended up my first
18 book, which I brought today, which was published in 1988
19 on treating child sex offenders and victims.

20 I kind of got drawn into it.

21 During this period of time, I was invited by
22 Harvard Medical School to serve as the consultant for
23 their child abuse program. This was actually a child
24 sexual abuse program.

25 And this was actually before I had done much

1 work on the book. And my initial reaction was, I don't
2 want to deal with childhood sexual abuse. It upsets me.

3 They said, you will be dealing with
4 clinicians who deal with it. You will be supporting
5 them. You won't be dealing with it directly.

6 And that's how I got involved initially.
7 Ended up in a faculty department, growing two
8 departments, working in a number of areas, one was their
9 child abuse program.

10 Q. As part of the book that was published in
11 1988, did you do a research project into the history of
12 information and knowledge available on the subject of
13 childhood sexual abuse and its causes and prevention?

14 A. Yes. The first part of the book was a review
15 of the history of childhood sexual abuse and how it had
16 been treated.

17 Q. And your book was published in 1988.

18 When did you complete the research that was
19 necessary to get it out and published in '88?

20 A. I think there was almost a two-year wait for
21 publication. So it probably went out in mid-1986, so I
22 had to have all research done by that time.

23 Q. Have you continued to do research and writing
24 in the field of child sexual abuse and its prevention
25 and understanding its causes?

1 A. Well, it's been my field ever since. I have
2 published two additional books, and I'm working on my
3 fourth book on child sexual abuse now.

4 Q. You mentioned training.

5 What kind of training do you conduct?

6 A. Well, I conduct training in just about every
7 aspect of child sexual abuse. I train on impact on
8 victims. I train on characteristics of offenders. I
9 train on ways we can protect ourselves. I train on
10 assessment and treatment of offenders. I train on
11 deception and how sex offenders infiltrate organizations
12 and -- full organizations and full families.

13 And I train on the deception of detection.

14 And I have even made videotapes that organizations
15 use -- I guess they're called DVDs now -- that
16 organizations use to understand sex offenders better and
17 what they are up against. And those DVDs are comprised
18 of interviews with sex offenders on how they fooled
19 people, how they operated for as long as they did
20 without being detected. Many of them do operate for a
21 very long period of time without detection.

22 Q. Who are the people that receive the trainings
23 that you conduct?

24 A. I trained -- last week, I was in Idaho
25 training police and prosecutors. I have trained for

1 organizations many times. I have trained child
2 protection workers, teachers, members of organizations
3 that have activities involved with mental health,
4 judges. My trainings are all for professionals. I have
5 trained probation and parole. I have trained
6 corrections.

7 Most of my trainings are for anyone who works
8 in the field of childhood sexual abuse or has a need to
9 understand about offenders in order to protect children.

10 Q. And where have your trainings been conducted
11 over the years?

12 A. Well, just about everywhere. I have been in
13 all 50 states. Most of them several times.

14 Last week was Idaho. Thursday was Nebraska.
15 The week before that was Salt Lake. I'm on the road a
16 fair amount now. I have also trained in Costa Rica, in
17 six cities in Australia and six cities in New Zealand
18 and England and France and the Netherlands and Sweden,
19 in Scotland, and Canada many times, and so forth.

20 Q. Are your books published in languages other
21 than English?

22 A. Yes, they are.

23 Q. And without tooting your own horn
24 necessarily, can you give us a description of some of
25 the other languages that your books have been published

1 in?

2 A. Yes, sir.

3 I'm not sure all the countries it has been
4 published in because I can't read the books.

5 I believe it was published in Japan, a number
6 of other countries that speak other languages have
7 published the books.

8 Q. Have you consulted with differing
9 organizations involving the subject of protection of
10 youth from child sex abuse?

11 A. Yes. Over the years I have consulted with a
12 number of them. I have consulted with residential
13 programs frequently for abused and non-abused kids. I
14 have done training for church organizations. I did a
15 videotape for an insurance company that wanted to
16 develop a protection program because they were insuring
17 churches.

18 Last week I got a call from the Madison
19 School System about consulting with them.

20 I regularly consult because a large part of
21 what I do has to do with protecting children from child
22 sexual abuse.

23 Q. Were you conducting these various training
24 sessions and consultations in the mid-1990s?

25 A. Yes, I was.

1 After my first book came out, I was doing
2 quite a lot of training and consultation.

3 Q. And have you become familiar with the
4 different standards and policies of institutions and
5 organizations, including religious organizations, in
6 which there are activities that are sponsored or
7 promoted that involve children and adults together?

8 A. Yes. The book I'm familiar with -- first of
9 all, with the general public, knew at that period of
10 time, and secondly, what organizations were doing in
11 response to that knowledge, in two different decades.

12 MR. SIMONS: Your Honor, I would offer
13 Dr. Salter as an expert in childhood sexual abuse and
14 its causes and prevention.

15 THE COURT: Gentleman, want to voir dire
16 Dr. Salter?

17 MR. McCABE: No, your Honor.

18 MR. SCHNACK: No, your Honor.

19 THE COURT: Okay.

20 I find Dr. Salter qualified to give expert
21 opinions for the reasons requested.

22

23 DIRECT EXAMINATION

24 BY MR. SIMONS:

25 Q. Dr. Salter, in your research and your own

1 experience, was there significant information available
2 by 1993 to organizations, including religious
3 organizations, who were involved in activities of youth
4 and adults together on the subject of prevention of
5 childhood sexual abuse?

6 A. Certainly.

7 In the '90s, there was -- there was -- there
8 was material available to professionals long before
9 that, but it didn't hit the press and it didn't
10 really -- organizations didn't have sufficient awareness
11 of it until, I think, the mid-'80s, and that was when
12 the Catholic Church scandals first broke.

13 And those church scandals largely had to do
14 with the fact that the abuse was covered up, the outrage
15 of it seemed to be as much about the fact that
16 higher-ups knew about it and did nothing and moved
17 priests from one place to another as it was about the
18 actual abuse itself.

19 The first one was -- located, in 1984, in
20 Lafayette, Louisiana. And that was the first time that
21 evidence that a bishop who had done the abuse had become
22 public. Turns out that he reported the abuse to the
23 bishop several times since 1997.

24 In 1992, the Porter cases broke in Boston.
25 And Porter had numerous priests, and bishops and

1 dioceses had known about him, and had not warned the
2 congregations in which he was a priest. And he admitted
3 abusing more than 200 children.

4 Now, this hit the press so big that I
5 actually found in my records a San Jose Mercury News
6 from 1987 that was entirely devoted to the church's
7 secret child abuse dilemma and had articles on:

8 "Church hushes up child molester cases."

9 "Hiding molesters ensures more victims."

10 This was a nationwide expose. And I think
11 that was really warning in the '80s, organizations got
12 warnings that child molesters could and would infiltrate
13 organizations that had activities that involved youth.

14 They had clear warning on that. In fact, the
15 Baptists, I believe when they passed their 1997 policy,
16 said that we had had notice since 1984 of this problem.

17 So, yes, by the mid-'90s, this problem was
18 front and center on the national stage. And the problem
19 that was particularly -- people were particularly
20 concerned about was covering up abuse and not warning
21 congregations about abuse.

22 Q. Had the major youth groups and religious
23 organizations that involved activities that had youth
24 and adults together adopted policies of transparency
25 regarding known sexual abusers by 1993?

1 A. Yes, they have. There were a lot of
2 organizations that had talked about the problem in
3 general. For example, the American Cancer Association
4 in 1982 talked about adopting a policy about child
5 sexual abuse and screening.

6 But the issue here isn't screening. The
7 issue is speaking out about abuse or keeping it secret.
8 And the 1992 United States Conference of Catholic
9 Bishops published five principles involving receiving
10 accusations of child sexual abuse.

11 And the first is to respond promptly, relieve
12 the alleged offender promptly of his ministerial duties.
13 There are others. And the last was one was within the
14 confines of privacy for the individual involved, deal as
15 openly as possible with the members of the community.

16 I think that the Catholic Church, at least
17 they knew that covering this up was not going to help
18 them.

19 In 1992, the United Methodist Church put out
20 a policy. And they said the church is an entirely
21 appropriate place for these issues to be addressed. And
22 the father said before that in 1988 that the United
23 Methodist Church shall uphold the rights of children to
24 speak out when abuses occur and advocate for victims in
25 strict enforcement of these rights.

1 The Unitarian Universalist Association, as
2 early as 1977, put out a policy that said that the
3 general assembly urges all persons to support the
4 National Center for Child Abuse and Neglect, and they
5 should report incidences of child abuse and neglect and
6 that they should promote and support inter-agency
7 coordination of services by courts, police, legal
8 counsel, social rehabilitation agencies, medical
9 screening facilities, foster family services and other
10 agencies. In other words, that they should not keep
11 this secret, but that they should report this.

12 So there were a number of programs that
13 overtly said that these cases need not be covered up.
14 They need to be reported and they need to speak out.

15 In fact, I believe that the Watchtower had a
16 letter that was sent out a month before they were across
17 the 1993 case. In fact, in that letter, they talked
18 about the need not to hush these cases up, but the need
19 to deal with them openly.

20 Q. Now, have you reviewed information that is
21 specific to Jonathan Kendrick, Candace Conti and the
22 North Congregation of Fremont Jehovah's Witnesses?

23 A. Yes.

24 Q. And can you give us a general overview of the
25 information, that you have reviewed?

1 MR. SCHNACK: Your Honor, can we have a side
2 bar please.

3 (Sidebar discussion)

4 BY MR. SIMONS:

5 Q. Dr. Salter, can you give us an overview of
6 the information that you reviewed in connection with
7 this specific case?

8 A. I reviewed the school records of Candace
9 Conti. I reviewed the National Holistic Institute
10 records, tax records, Superior Court of California, the
11 Petition to Revoke Probation, criminal records,
12 deposition of Kathleen Conti, Claudia Francis, Neal
13 Conti, Jonathan Kendrick's criminal records, deposition
14 of Lawrence Lamerden --

15 MR. SCHNACK: Your Honor, can we have another
16 sidebar, please.

17 (Sidebar discussion)

18 THE COURT: To the jury, we will take a
19 20-minute break.

20 (Whereupon, the following proceedings
21 were heard outside the presence of jurors)

22 MR. SCHNACK: It bothers me I have to jump up
23 and down. It looks like we are hiding something. And
24 Mr. Simons knows better than this.

25 We brought up issues of credibility that

1 happened twice with Lewis. This is happening here. And
2 it bothers me that this is intentional.

3 THE COURT: I'm not going to agree with that,
4 but I wanted you to talk to make sure this is within
5 bounds. And I will also talk to the jury.

6 (Whereupon, the following proceedings
7 were heard in the presence of jurors)

8 THE COURT: Back to the jury for a minute.

9 I won't do that too often. It is just the
10 court administering the process of the case to make sure
11 it goes according to that rule employed, the Old English
12 rule.

13 And again, in terms of all of that, it is my
14 decision when and under what circumstances -- you are to
15 make no inference whatsoever. It's just this judge
16 administering to what I see as the needs of the case at
17 that time.

18 So hopefully we don't do that too often.

19 Back to you, Mr. Simons.

20 BY MR. SIMONS:

21 Q. Dr. Salter, now, we were talking about
22 materials reviewed.

23 You reviewed several depositions in the case.
24 Correct?

25 A. Yes, I did.

1 Q. And you reviewed the medical records of Ms.
2 Conti?

3 A. Yes.

4 Q. And you reviewed the deposition of Laura
5 Fraser?

6 A. Yes.

7 Q. And you reviewed, I believe -- you said the
8 Fremont Police report from Officer Davila?

9 A. Yes.

10 Q. And you reviewed some of the correspondence
11 that was involved as exhibits to these depositions.
12 Correct?

13 A. Yes.

14 Q. Now, based upon your training and experience
15 and materials that you reviewed in this case, did you
16 form an opinion as to whether or not the Jehovah's
17 Witnesses met the applicable standards of care for
18 organizations who sponsor or promote activities that
19 involve adults and children together in their handling
20 of the Jonathan Kendrick report of abuse in 1993?

21 A. Yes.

22 Q. And in your opinion, did they meet that
23 standard?

24 A. They did not meet that standard.

25 Q. And would you tell us, please, the basis for

1 your opinion?

2 A. By the mid-'80s, it was well known that you
3 cannot either move sex offenders from one congregation
4 to another, or leave them in a congregation unaware,
5 where their people are unaware.

6 It was well known that -- well, in my terms,
7 secrecy is the life blood of sexual aggression. And it
8 was well known that this policy was a complete failure
9 and that you needed to report these cases.

10 Standard of care was -- by the '90s. In the
11 '90s it was too late for an organization to say we
12 really didn't know what happened if we turned them
13 loose.

14 But in the '90s, the standard of care
15 involved reporting these cases and it involved not --
16 not making people aware of -- if they had a sex offender
17 in their midst.

18 Q. Now, have you prepared some slides that go
19 through the basis of this opinion and the information
20 that was known to organizations at that time?

21 A. Well, the slides that I prepared are mainly
22 on related topics. One was -- there is a set of
23 slides -- when experts knew, when it was known in the
24 field. And this is -- and some other things. This is
25 the prevalence.

1 When I did the 1988 book, I looked at the
2 research available at that time. And by that time,
3 there was a significant amount of research that I could
4 summarize.

5 So what you see here are just some prevalence
6 studies that were done back in '84. And what these
7 studies did is they tried to determine how many children
8 were being sexually abused, male and female.

9 Continuing to the next line.

10 As you can see, there was significant
11 literature out there by the '80s. The watershed from
12 this literature was somewhere in the mid-'70's, and that
13 was where you begin to get useful data on the prevalence
14 of sexual abuse and the predatory offenders.

15 The next slide.

16 So I had no trouble finding studies at that
17 point in time. It would not be correct to say that
18 there was no information out there.

19 The next slide.

20 And the book I wrote in '87 -- '88, I had 257
21 references. I could have had quite a lot more.

22 So that's what the experts knew. Now, what I
23 have talked about --

24 Could you go to the next line and see what it
25 is.

1 Sorry. I think that's a previous one.

2 What I talked about is the fact that this
3 body of knowledge that the experts had become public
4 knowledge when these cases broke. Not just the Catholic
5 Church scandal, but in 1991, there was a huge revival of
6 the series of the Boy Scouts, and how many children had
7 been abused before they instituted their new child
8 protection policy. And the numbers were really
9 staggering on how many children had been abused. Well
10 over a thousand.

11 That was true, even though the Boy Scouts had
12 started by the '20s, they had started developing a list
13 of ineligible volunteers, people who could not volunteer
14 to be around children in their program because they
15 were child molesters.

16 So the Boy Scout thing came out in '91. The
17 Catholic Church came out in '84.

18 Other scandals -- the George Reardon case
19 came out in '92. And that was the case of the
20 endocrinologist who had taken 60,000 pornographic
21 pictures of his child patients. And when it came out in
22 '92, he was immediately relieved of his license, so that
23 he was not able to be around children anymore.

24 By the '90s, people knew what the risk was
25 when you had a child molester. And the standard of

1 practice was not to keep it secret and let the person
2 continue in the same activities with the same access to
3 children. That was not the standard of care.

4 Q. Let me move to a different subject now, if we
5 could.

6 You reviewed Candace Conti's medical records?

7 A. Yes.

8 MR. SIMONS: Your Honor, Exhibit 55 has
9 previously been marked. I would move it into evidence
10 at this time.

11 THE COURT: Plaintiff's 55?

12 MR. SIMONS: Yes. No corresponding number.

13 THE COURT: Okay.

14 MR. SCHNACK: Your Honor, I think that
15 contains hearsay. There has been no doctor to basically
16 testify to the doctor's report. So we would object.

17 MR. SIMONS: Well, may we?

18 (Sidebar discussion)

19 THE COURT: All right. Mr. Simons.

20 MR. SIMONS: May Exhibit 55 be admitted?

21 THE COURT: It may be admitted. I will make
22 a record later about it.

23 THE COURT: Okay.

24 (Whereupon, Plaintiff's Exhibit Number 55
25 was admitted into evidence)

1 BY MR. SIMONS:

2 Q. Now are you familiar, Dr. Salter, with the
3 concept of delayed disclosure as it applies to victims
4 of childhood sexual abuse?

5 A. Yes, sir.

6 Q. Now, first of all, can you explain for us
7 what that concept involves?

8 A. It is really just more -- has to do with
9 research findings and being a concept.

10 When research has been done on children who
11 were sexually abused, they have pretty much -- the
12 studies have pretty much universally found that the
13 majority of children do not report right away.

14 There is something called delayed disclosure.
15 And I brought just a sample of this research, but there
16 is really quite a number of studies on this topic.

17 That's the next slide.

18 Okay. This is a summary of 11 retrospective
19 studies. And they discovered that one-third of the
20 children who were sexually abused revealed it to anybody
21 during childhood, and that only 10 to 18 percent of
22 those cases ever got to authorities.

23 The majority of sexual abuse just isn't
24 disclosed, period. And when it is disclosed, it is
25 typically not disclosed immediately.

1 Next slide.

2 These are other studies, 6 to 12 percent ever
3 got to authorities.

4 Next slide.

5 This is a study in 2000 by Smith. What they
6 found in an example of 388 children or adults who had
7 been sexually abused as children, was that only
8 18 percent reported it within the first 24 hours. 4 to
9 7 percent took more than five years. And 28 percent
10 never told anybody before the researcher asked them on
11 the phone or in person.

12 And consistently up to a third of adult
13 survivors of sexual abuse, when they have done surveys
14 on them, they told the researcher, you are the first
15 person I have ever told about it.

16 Next slide.

17 This shows how long we have had this
18 knowledge. Back in 1989, Sauzier did a study and
19 discovered that of the children who were sexually
20 abused, 24 percent reported within a week, 21 percent
21 reported within less than a year, 17 percent reported
22 more than a year, and 39 percent never reported, during
23 childhood, the sexual abuse.

24 Next slide.

25 I just brought a few of these slides. There

1 is much bigger, broader research on this.

2 In 1990, immediately boys, 40 percent.

3 Females, 40 percent.

4 Later, 14 percent males, 24 percent females.

5 Never as children, 42 percent males and 32
6 percent females.

7 Next slide.

8 Delayed disclosure, Gomes-Schwartz, et al,
9 '92, within a week, 24 percent.

10 Elliott and Briere, in '94, more than one a
11 year, 75 percent. More than 5 years, 18 percent.

12 Next slide.

13 Pipe, et al, 2007, the delay since the last
14 incident, less than a month, 43 percent. One to six
15 months, 19 percent, and so on.

16 So the point being that I have yet to see a
17 study, I have never seen a study that found that the
18 majority of children who were sexually abused reported
19 it right away. It is one of the rare cases in which the
20 research is in agreement.

21 I think that's the last one.

22 Q. Now one of the things you were asked to do in
23 this case was to take a look at the report prepared by a
24 Dr. Martin Williams. Correct?

25 A. Yes.

1 Q. And do you recall the report offering the
2 opinion that Candace Conti would likely to have been
3 addicted to drugs in a substance abuser because of her
4 mother's addiction?

5 A. Yes. I do recall that.

6 Q. Do you agree with that opinion?

7 A. No, I don't agree with that opinion.

8 Although it is true that the children of addicts have a
9 higher rate of addiction than other people.

10 But that doesn't mean a majority of them are
11 addictive. At least 50 percent of the variants is due
12 to the environment in these cases.

13 You could have -- let's say the rate of
14 population of people addicted is 2 percent. Well, you
15 could have, maybe even a four-time increase in children
16 of addicts to 8 percent. That doesn't mean it is the
17 majority of them.

18 I'm not aware of studies. And I hope he
19 produces them if that's a claim he is going to make that
20 shows that a majority of children of addicts become
21 addicts themselves. There is a huge environmental
22 factor involved.

23 Q. And additionally, in reviewing the question
24 of the report with Dr. Williams -- and we haven't heard
25 from him yet, so we are kind of doing this in a vacuum,

1 but he performed certain testing on Candace Conti.

2 Correct?

3 A. Yes.

4 Q. And you reviewed his report of that testing?

5 A. Yes.

6 Q. Did you agree with the testing approach as a
7 method of diagnosis in this kind of case?

8 A. Well, you can use testing in support for your
9 testimony. But if you are going to evaluate someone who
10 is claiming to be a survivor of sexual abuse, you have
11 to use the right instruments. And I don't have his
12 report in front of me. But my memory tells me that the
13 instruments he used had to do with general personality
14 traits.

15 But today the assessment of adult survivors
16 is much more specialized. So you would use tests that
17 specifically picked up trauma. Tests for PTSD. Tests
18 for disassociation. Tests for trauma-related symptoms.

19 If you are going to use tests, you should use
20 the tests that have to do with the trauma, not general
21 personality tests that were not designed to pick up
22 trauma or address issues of trauma. And he didn't do
23 that.

24 MR. SIMONS: Thank you, your Honor.

25

1 CROSS-EXAMINATION

2 BY MR. SCHNACK:

3 Q. Dr. Salter, first of all, you are not aware
4 of any laws that existed in 1993 that required religious
5 organizations or their ministers to inform members of
6 their congregation of a one-time child molester; is that
7 correct?

8 A. Well, I believe that there was a law in place
9 that required people who were involved with children to
10 report. But it was not specific to the clergy until a
11 later period of time. They didn't single out clergy
12 until a later period of time.

13 Q. Right.

14 So ministers weren't required to report in
15 California until January 1st of '97; is that correct?

16 A. That's correct. There was not a law that
17 specifically addressed ministers.

18 Q. Yeah.

19 The earlier law addressed school teachers and
20 health professionals and things like that. Correct?

21 A. Well, I believe it was a little bit broader.
22 I don't have it in front of me. But there was a section
23 talked about institutions that involved children.

24 Q. Okay. But not ministers or clergy. Correct?

25 A. Didn't exclude ministers or clergy. My

1 belief is that if they probably made it -- singled them
2 out in '97 to make it sure that people understood that
3 ministers and clergy should be reporting child sexual
4 abuse, unless it was in the context of other
5 professions.

6 Q. Well, mandated reporting isn't "should." Is
7 it? It's required. Isn't mandated reporting required?

8 A. Yes.

9 Q. Okay. And clergy and ministers were not
10 required to report until January 1 of '97 in California.
11 Correct?

12 A. Clergies and ministers were not singled out.
13 I think there was a question about whether the case law
14 applies to them, and they certainly made it clear that
15 it applied in 1997.

16 Q. Okay. Let's talk a little bit about the
17 concept of confidentiality.

18 Are you familiar with the concept that
19 ministers who provide spiritual help have an open
20 confidentiality with regard to what they learned in
21 concept with ministers? Are you familiar with that?

22 A. I'm familiar with the concept that they are
23 required to keep things confidential if it is in the
24 form of a discussion.

25 You know, I'll be honest. For instance, the

1 Catholic priest taking confession. I'm not aware that
2 if a minister learns it from any source or in any
3 context, that he is required to keep it confidential.

4 Q. So what is your familiarity with the practice
5 of the Jehovah's Witnesses in that regard?

6 A. Well, their practice is definitely to keep it
7 confidential and not to report it at that time, you
8 know, and keep that safe, not to alert the congregation
9 to the fact that they have a child molester in their
10 midst.

11 Q. My question didn't involve child molesters,
12 ma'am.

13 A. Okay.

14 Q. So are you familiar with the concept of
15 confidentiality within communications that are made to
16 the ministers?

17 A. Yes.

18 Q. And within the Jehovah's Witnesses, how is
19 that done in practice? What is your familiarity with
20 that?

21 A. I can only answer it in relation to child
22 sexual abuse because I didn't study the general policies
23 of the Jehovah's Witnesses. The only material I
24 reviewed was having to do with this case.

25 Q. As a psychologist, do you have an obligation

1 of confidentiality when you learn something in
2 confidence from a patient?

3 A. Yes and no.

4 I reviewed several. The APA Code of
5 Confidentiality. In fact, I looked at the APA American
6 Psychological Association Code in the 1992 ethics code
7 compared to the 2002 ethics code. And what I found was
8 what every psychologist knows and is taught, and that
9 is, you cannot keep everything confidential. You cannot
10 keep things confidential in which the person may harm
11 themselves or may harm someone else.

12 Give me a second. I will find the place
13 where it says that. That is true today. That was also
14 true -- I'm sorry. This is a large ethics section.
15 That was true then and it is true today.

16 I also reviewed the confidentiality codes
17 from some other organizations, and I found the same
18 thing, that there are exceptions to confidentiality and
19 those exceptions have to do if a person is a risk to
20 themselves or a risk to someone else.

21 Q. Let's turn to the publications that you
22 testified about in --

23 Are you finished paging through, ma'am?

24 A. I was trying to find it and I guess I didn't
25 highlight it. But I didn't entirely finish my answer.

1 Q. Well, you were talking about
2 non-psychologists. So that's why I assume you were
3 non-responsive to my question.

4 A. I found it. Please ask your question again.

5 Q. Let's turn to the publications there that you
6 reference in your deposition.

7 You referenced a number of publications on
8 childhood sexual abuse published by religious and other
9 organizations.

10 Do you recall that in your deposition?

11 A. Yes, I do.

12 Q. And you referenced the American Baptist
13 publication in 1993.

14 Do you recall that?

15 A. I recall mentioning the Baptists.

16 Q. Are you paging, still, for the ethics, ma'am,
17 or what are you doing?

18 A. No. I was looking for the actual statement
19 that they made.

20 My memory is that they had a policy that came
21 out in, I believe, '97. But what the policy said was
22 they have been served notice of this problem since '84.

23 Q. And in 1993 did the American Baptists have a
24 policy of informing their congregations about a
25 congregation member who was a one-time child molester?

1 A. Well --

2 Q. Did they? Yes or no, ma'am.

3 A. I am not aware of the policies.

4 Q. And neither did the United Methodists at that
5 time, in 1993, did they?

6 A. I believe they did.

7 Q. Did they have a policy of informing their
8 congregation about a congregation member who was a
9 one-time child molester in 1993?

10 A. Well, in 1988, the policy was to speak out
11 when abuses occurred. And so I take that as a policy --

12 Q. Within the confines of privacy. Correct?

13 A. No.

14 It says, the statement is:

15 "Be it resolved that the United
16 Methodist Church shall uphold the rights of
17 children to speak out when abuses occur and
18 advocate for the strengthening and strict
19 enforcement --"

20 Q. So it advocates for the children to speak
21 out. Correct?

22 A. No.

23 Q. That's what you just read.

24 A. Well, I don't believe so, sir.

25 "Therefore be it resolved that the

1 United Methodist Church shall uphold the
2 rights of children, speak out when abuses
3 occur."

4 It is not the right of children to speak out.
5 It is that the Methodist Church will speak out when
6 abuses occur.

7 Q. You just said to "uphold the rights of
8 children to speak out."

9 A. Well, then I made a mistake. It's:
10 "Uphold the rights of children, speak
11 out when abuses occur, and advocate for the
12 strengthening and strict enforcement of these
13 rights."

14 Q. And did the Unitarians have a policy in 1993
15 that they would inform congregations if there was
16 a one-time child molester within their congregation?

17 A. Their policy was to --

18 Q. Is that a yes or no, ma'am?

19 A. Can I finish my answer?

20 Q. I would appreciate if you just answer the
21 question asked.

22 THE COURT: All right. For just for the
23 minute, Doctor, could you be kind enough, it is a
24 yes-or-no question.

25 Just answer it, and then counsel will go to

1 the next question if we have some time.

2 So for a minute.

3 The question again, counsel, on that.

4 BY MR. SCHNACK:

5 Q. Did the Unitarians in 1993 have a policy of
6 informing their congregations about a congregation
7 member who was a one-time child molester?

8 A. Yes. That's how I interpret the material on
9 that.

10 Q. So read the specific passage.

11 A. Reporting -- they should --

12 Well, let me read the whole passage.

13 "The 1977 General Assembly of the
14 Unitarian Universalist Association urges all
15 persons to support the National Center for
16 Child Abuse and Neglect and state and local
17 programs for child abuse and neglect,
18 specifically, 5, reporting incidents of child
19 abuse and neglect."

20 And then it has several other things,
21 publicizing, finding and utilizing programs.

22 And the last one is:

23 "Promoting and supporting interagency
24 coordination of services by courts, police,
25 legal counsel, social rehabilitation agencies,

1 medical screening facilities, foster family
2 services, and other agencies."

3 When you report that, you make it public.
4 That's my interpretation of what they are recommending.

5 Q. So reporting it to the police is what you are
6 saying? To the authorities?

7 A. Yes. Reporting it and cooperating with other
8 agencies. Cooperation with other agencies to address
9 the problem.

10 Q. Are you aware whether the issue of Jonathan
11 Kendrick's incident of molestation of his stepdaughter,
12 Andrea, in July of 1992, was that ever reported to the
13 police?

14 A. I believe it eventually was reported to the
15 police.

16 Q. And do you know when that happened?

17 A. I don't know when that happened. There are
18 not sufficient criminal records for me to follow them.

19 Q. Well, you stated that you reviewed the
20 Fremont police report from '94.

21 A. I did. So it must have been '94. I won't
22 forget that.

23 Q. And were you aware that Jonathan Kendrick and
24 his wife, Evelyn, were trying to work out their marital
25 issues in connection with that from July forward into

1 early 1994?

2 A. Yes.

3 Q. Where did you learn that?

4 A. I think it was in some -- I don't remember.

5 It was either in deposition or some of the letters. But

6 I believe that's correct information.

7 Q. So in any event, the issue of Jonathan

8 Kendrick was reported to the police in February of 1994.

9 Is that your understanding?

10 A. Yes. I don't believe the Jehovah's Witnesses

11 reported it.

12 Q. But it was reported to the police?

13 A. It was reported, but not by the Jehovah's

14 Witnesses.

15 Q. And it was reported by Andrea's mother

16 Evelyn? Evelyn Kendrick reported it.

17 Is that what your understanding was?

18 A. Yes.

19 Q. And are you aware of whether the police took

20 action in 1994?

21 A. I'm not aware of the outcome of that case.

22 Q. Were you aware that the police recommended

23 charges be brought against Mr. Kendrick as a result of

24 that?

25 A. I'm not remembering the records very well.

1 I'm aware that he went to the police. And I'm
2 aware that --

3 Yes, I do remember that charges were brought.

4 Q. And, indeed, he was convicted; is that
5 correct?

6 A. Yes.

7 Q. That's your understanding, that in 1994 he
8 was convicted?

9 A. I really don't remember the records of what
10 happened to him at that point.

11 Q. Now, with respect to the policies and
12 practices of Jehovah's Witnesses, are you familiar with
13 publications issued by the Jehovah's Witnesses starting
14 in the 1970s regarding child abuse?

15 A. Yes.

16 Q. Okay. And what was the first one that was
17 issued that you are aware of?

18 A. I don't have them in front of me. They
19 issued several publications. The most important one
20 being in 1993, in October, a month before the case came.

21 Q. Are you aware that in July of 1976 the
22 Jehovah's Witnesses published an Awake Magazine article
23 concerning "Child Abuse, What Can Be Done About It?"

24 A. Yes.

25 Q. Would you say that's hushing it up if they

1 publish an article like that?

2 A. Well, the problem is -- wait. They
3 actually --

4 Q. I would ask that you answer my question, and
5 then we can see if you can explain it.

6 THE COURT: And, Doctor, please, yes or no,
7 and then we will see whether the context deserves an
8 explanation.

9 BY MR. SCHNACK:

10 Q. Would you say that publishing an article in
11 July of 1976 called "Child Abuse, What Can Be Done About
12 It," is hushing up the issue of child abuse?

13 A. It isn't hushing up this issue that is at
14 stake. But it isn't hushing up the issue to publish an
15 article that is providing information on child abuse.

16 Q. And that is educating parents who read these
17 articles; is that correct?

18 A. Yes, it is.

19 Q. Educating elders who read the articles?

20 A. Yes.

21 Q. And are you aware of a June 22nd, 1982
22 publication in Awake concerning child abuse?

23 A. Yes.

24 Q. Are you aware that they also published a
25 January 22nd, 1985 child molesting, "You Can Protect

1 Your Child."

2 That is Exhibit 17.

3 Are you aware that they published that?

4 A. Yes.

5 Q. And how about October 8, 1991, Exhibit 29, I
6 believe.

7 A. Yes.

8 Q. Are you aware they published that?

9 A. Yes.

10 Q. And, again, would you consider providing --
11 Do we have the October 8, '91 article up?
12 Are you aware they published that, "Healing
13 The Wounds of Child Abuse"?

14 A. Yes.

15 Q. Then let's go to October 8, 1993, Exhibit 37.

16 A. Yes.

17 Q. Are you aware that was published?

18 A. Yes.

19 Q. And do you know who these articles go to
20 within the Jehovah's Witnesses Church?

21 A. They go to the elders, they go to members of
22 the church.

23 Q. And these are mailed to every church member's
24 household --

25 A. Correct.

1 Q. -- back in the '80s and '90s.

2 Are you aware of that?

3 A. Yes.

4 Q. And do you still say that is hushing up the
5 issue of child abuse?

6 A. My difficulty in answering is, are you
7 talking about hushing up a particular case of an
8 offender or are you talking about hushing up the issue?

9 My testimony has to do with what happens when
10 someone is caught and whether institutions and churches
11 were aware that they should not hush that particular
12 case up. That's a different question than whether they
13 talked about the issue in general.

14 So they didn't hush up the issue in general.
15 I agree with that. The question is: Did they follow
16 their own policies when it actually came to a real case.

17 Q. And then with respect to other organizations,
18 you mentioned the Boy Scouts, wasn't it true that the
19 Boy Scouts had a policy that no scout master should be
20 alone with a child?

21 A. Yes.

22 Q. And you are aware the Scouts have activities
23 in which children are separated from their parents?

24 A. Yes, they do.

25 Q. They have, what, overnight camping --

1 A. Yes.

2 Q. -- that type of thing?

3 A. Yes.

4 Q. And you are also aware that Jehovah's
5 Witnesses do not have any activities in which children
6 are separated from their parents; is that correct?

7 A. They are not separated. It looks to me like
8 they are included in all activities.

9 Q. So the children are always included with
10 their parents in all activities.

11 A. Yes.

12 Q. And are you aware that Candace Conti never
13 attended a Kingdom Hall meeting without either one or
14 both of her parents?

15 A. Actually, I don't know that. Whether she was
16 there or not. I know that her parents were frequently
17 there. I don't know if she ever came on her own.

18 Q. Well, Candace Conti, herself, testified in
19 deposition that that was the case.

20 And you read her deposition, didn't you?

21 A. Yes, I did.

22 Q. Okay.

23 A. I said that, that she said that in her
24 deposition.

25 Q. Okay.

1 A. And I said that.

2 Q. And there was also testimony by her parents
3 that they never were at any church-related activities --
4 that Candace -- Candace was never at any church-related
5 activities unless one or both of them were there.

6 You're familiar with that testimony as well?

7 A. Yes.

8 Q. Now, I'm going to shift gears on you here,
9 just because this is cross-examination. I don't have an
10 outline, necessarily, like Mr. Simons had.

11 With respect to your trainings you conducted,
12 you said they were all for professionals that were
13 people in the field of child sex abuse; is that correct?

14 A. Yes. I don't remember ever training the
15 general public, except for one training for foster care.
16 But that's professionals as well.

17 Q. Okay. And you also commented that the whole
18 issue in the Catholic Church, they were moving priests
19 from one place to another, that type of thing?

20 A. Yes.

21 Q. And you are aware that that's not the
22 situation in this case that we have here today, that
23 Kendrick wasn't moved from one congregation to another?

24 A. No. But it seems very similar to me. The
25 issue was not informing the congregation where the

1 priest would be, and leaving him in the same
2 congregation and not informing them, it seems to me that
3 it has the same impact. The issue wasn't moving.

4 Q. Okay.

5 A. The issue was not informing.

6 Q. Okay. So the issue was not that Kendrick was
7 moving from one to another?

8 A. No, it wasn't.

9 Q. Are you aware when two elders met with Andrea
10 Kendrick and her mother and Jonathan Kendrick in
11 November of 1993, they informed Andrea and Evelyn that
12 they could go to the police?

13 A. Yes.

14 Q. That they had the absolute right to?

15 A. Yes.

16 Q. Do you call that hushing it up?

17 A. They didn't inform the congregation, and they
18 didn't go to the police. And the standards of care at
19 that time, I believe, said that they should have.

20 Q. Now, do you know whether others in the church
21 congregation were informed? The other members of the
22 body of elders, do you know if they were informed?

23 A. I believe the elders were informed, yes.

24 Q. And the elders were parents? Do you know
25 that? Or grandparents?

1 A. I assume many of them were.

2 Q. Now, you mentioned a doctor who was removed
3 from practicing, or his license was revoked or suspended
4 because he had reportedly abused his patients?

5 A. Yes.

6 Q. And was that a situation where the doctor was
7 alone with his patients when he was treating them?

8 A. Yes.

9 Q. And you also -- it sounds like you agreed
10 that children of addicts at least have a higher rate of
11 drug use and drug addiction, that there is some
12 percentage of increase over the normal population?

13 A. Yes.

14 MR. SCHNACK: That's all I have, your Honor.

15 THE COURT: Mr. McCabe?

16 MR. McCABE: Yes, your Honor.

17

18 CROSS-EXAMINATION

19 BY MR. McCABE:

20 Q. You are aware that Mr. Kendrick was not a
21 priest in the Jehovah's Witnesses view of ministers and
22 pastors and things like that?

23 A. Yes, sir.

24 Q. Okay. He was a just a member of the
25 congregation.

1 A. Well, he was a brother. And they called them
2 all ministers. But he was also a publisher. So he was
3 doing church-sponsored activities with children as well.

4 Q. And so was Candace Conti at the time? She
5 was a publisher, isn't that true?

6 A. That's true.

7 Q. And she was a little girl.

8 A. That's correct.

9 Q. And everybody in the congregation is called,
10 who is a member, is a publisher; isn't that correct?

11 A. There is a requirement that they publish,
12 that they go preach in other neighborhoods, yes.

13 Q. Well, whether it was a requirement or not,
14 all the members of the congregation are called
15 publishers; isn't that true?

16 A. I believe the term "publisher" is not
17 equivalent to "brother." That it is conferred on
18 everybody. My understanding is that publishing refers
19 to people who go to neighborhoods and essentially preach
20 the gospel according to the Jehovah's Witnesses.

21 Q. And you understand that men do that?

22 A. Pardon?

23 Q. And you understand the men in the
24 congregation do that?

25 A. Yes.

1 Q. And women do that?

2 A. Yes.

3 Q. And children do that?

4 A. Definitely.

5 Q. So who was not a publisher in the
6 congregation, then, that attends the meetings?

7 A. Well certainly there were people that didn't
8 publish. I don't believe that Candace Conti's mother
9 was publishing.

10 My understanding is that they ask people,
11 require people to publish, but it doesn't look like to
12 me that they all do.

13 Q. But that is no special designation?

14 A. I think it is a special designation. It is a
15 church-sponsored activity that involves the members and
16 the children together. They are not going out on their
17 own and representing themselves. They are representing
18 the church.

19 Q. Okay. And so is going to a meeting, that is
20 a church sponsored activity. Is that true?

21 A. Yes, it is.

22 Q. And the congregation goes to the meetings?

23 A. The congregation goes to the meetings. But I
24 still think the term "publisher" refers to a specific
25 sponsored activity within the Jehovah's Witnesses.

1 Q. I understand what you understand. But I just
2 want you to understand that a publisher is not a priest.

3 Do you understand that?

4 A. I do.

5 Q. Right.

6 And Mr. Kendrick faced some consequences
7 after this meeting with the two elders in 1993; isn't
8 that correct?

9 A. Yes.

10 Q. He was removed from his position as a
11 ministerial servant; isn't that correct?

12 A. Yes.

13 Q. And that was announced to the congregation.

14 A. But not the reason.

15 Q. It was announced to the congregation, wasn't
16 it, Doctor?

17 A. Only that he was removed.

18 Q. Thank you, Doctor.

19 Now, in regards to public notification, that
20 took place in February of 1994; isn't that correct?

21 A. I don't understand what you mean by "public
22 notification."

23 Q. Well, it went to Child Protective Services,
24 didn't it?

25 A. Yes, but not by the Jehovah's Witnesses.

1 Q. Evelyn Kendrick was a Jehovah's Witness,
2 wasn't she?

3 A. Yes.

4 Q. Okay. So she brought it to the police with
5 her daughter, Andrea; isn't that correct?

6 A. Yes, her mother did.

7 Q. And went to the District Attorney's Office
8 after that?

9 A. Yes.

10 Q. Okay. And then it went to court?

11 A. Yes.

12 Q. Okay. So there was public notification
13 within three months of the elders taking the initial
14 report from the Kendrick family; isn't that correct?

15 A. I would not agree with the implication that
16 the Jehovah's Witnesses made this public.

17 The mother went to the police on her own.
18 Jehovah's Witnesses did not, nor did they notify the
19 congregation, nor did they notify later congregations.

20 Q. Well, did the police notify the congregation?

21 A. No.

22 Q. Did the District Attorney's Office?

23 A. No.

24 Q. Did Child Protective Services?

25 A. No.

1 Q. They all knew, didn't they?

2 A. Yes, they did.

3 Q. And they all knew the congregation was
4 involved because in the police reports you read, it was
5 discussed?

6 A. Yes.

7 MR. McCABE: I have nothing further, Your
8 Honor.

9 MR. SIMONS: I have no redirect.

10 THE COURT: Dr. Salton, thank you for your
11 testimony. You are now excused.

12 The jury will take a break until quarter to
13 11.

14 (Break taken)

15 THE COURT: Mr. Simons, your next witness?

16 MR. SIMONS: Candace Conti.

17 THE COURT: Okay. Ms. Conti, come forward
18 and be sworn.

19 CANDACE CONTI

20 WAS DULY SWORN TO TELL THE TRUTH BY THE CLERK

21 AND TESTIFIED AS FOLLOWS:

22 THE CLERK: State your name and spell your
23 first and last name for the record.

24 THE WITNESS: Candace Conti. C-A-N-D-A-C-E.

25 Conti is C-O-N-T-I.

1 DIRECT EXAMINATION

2 BY MR. SIMONS:

3 Q. Ms. Conti, how old are you now?

4 A. I am 26.

5 Q. And where are you living?

6 A. I live in Stockton, California.

7 Q. And you live there with your mother?

8 A. Yes.

9 Q. What is the most important thing for you
10 right now?

11 A. I would say the most important thing right
12 now is my sobriety.

13 Q. And why would you say that?

14 A. Well, my sobriety has offered me to have a
15 new chance at life. I have been able to feel -- have my
16 feelings back again, to experience life, the good and
17 the bad. It has given me better coping skills. Better
18 coping skills with my life.

19 Q. Do you now have a plan that you hope to be
20 able to fulfill to move into your future?

21 A. Yes.

22 Q. What is your plan?

23 A. My hope is for working with animals,
24 specifically with horse and large breed animals. And my
25 goal is to go to school and be a vet tech. That is my

1 passion, and I can't wait to pursue that.

2 Q. And you said you are able to have feelings.
3 Are some of them good?

4 A. Yes.

5 Q. Can you describe some of the good feelings
6 that you now have in your life?

7 A. I have been able to have positive
8 relationships, positive friendships, and express my
9 feelings toward my family. It is a lot different. A
10 lot different.

11 Q. Are some of the feelings that you have now
12 tough to face?

13 A. Very much so.

14 Q. And tell us in what way.

15 A. I think one of the biggest things is that
16 when I was using, my dreams stopped, my nightmares
17 stopped. And when I stopped using, my nightmares
18 returned with a vengeance, I would say.

19 Q. Let's talk a little bit about the years
20 between high school and when you stopped using.

21 What was the date that started your sobriety?

22 A. June 10, 2007.

23 Q. So you are going to be two years here in a
24 couple of weeks.

25 A. Yes.

1 Q. Do you feel you will ever go back?

2 A. One day at a time. But, no. I have too much
3 to live for.

4 Q. Now, you graduated from high school?

5 A. Yes.

6 Q. And in what year?

7 A. 2003.

8 Q. Let's talk about the years between 2003 and
9 June of 2010. You talked about friendships.

10 Did you have friendships during those years?

11 A. I didn't have any friendships that were
12 meaningful in the terms that friendships should be, no.
13 They didn't have any substance. They were all just more
14 casual acquaintances than being real true friends.

15 Q. What did your friendships center around?

16 A. Substance abuse.

17 Q. What about work; did you hold a regular job
18 between high school and June 22nd of 2010?

19 A. I had quite a few jobs, but I don't -- I was
20 never able to really make them last.

21 Q. Why not?

22 A. I think I was having a hard time making a
23 commitment to really -- to really stick it through.

24 Q. How was your relationship with your mother
25 during those years?

1 A. Well, my mother was in Florida since before I
2 graduated high school, so she really wasn't around.

3 Q. And your dad?

4 A. I had no relationship with my dad.

5 Q. How about with your grandmother?

6 A. My nana?

7 Q. Yeah.

8 A. My nana was the only cool person, only family
9 in my life at that time.

10 Q. Was that an emotional relationship between
11 the two of you in those years?

12 A. No, it wasn't.

13 Q. What kind of relationship was it?

14 A. Well, when my parents were starting to
15 separate, my nana -- and I was starting to stay at my
16 nana's more often, she sat me down and said this is
17 going to be our business agreement. So that is kind of
18 how she has treated me. She didn't want the
19 responsibility of me. She figured it should be on my
20 parents.

21 Q. Let's talk about in those years your
22 relationship with yourself.

23 How would you describe that?

24 A. I think I spent a lot of time running from
25 myself.

1 Q. And tell us what you mean.

2 A. Just running from everything that happened in
3 the past. Running from nightmares. Running from my
4 family. Not wanting to confront anything.

5 Q. Before high school, in those, say, five
6 years, your last year in middle school and your four
7 years of high school, tell us a little bit about your
8 life in those years.

9 A. I went to five different high schools. The
10 majority of those were actually home schools. So that
11 made it very difficult. I didn't really stay in one
12 spot long enough. I think I was -- I think I was
13 starting to really start hiding from people.

14 Q. How was your relationship with your mom
15 during that time?

16 A. Very difficult.

17 Q. And why?

18 A. She was still going through a lot of what she
19 was going through, and she wasn't very emotionally there
20 to kind of go through the things that I needed her to go
21 through. She was also using alcohol. So it made it
22 very difficult.

23 Q. And how would you describe your inner
24 feelings during those years as you grew to maturity from
25 junior high to high school?

1 A. Very troubled. I felt like I was going to
2 explode a lot of times. I was trying to keep it all
3 together.

4 Q. When you were 16, do you remember who you
5 were going to for your health care?

6 A. Juliana Wong.

7 Q. Where was she?

8 A. Bay Valley Medical.

9 Q. And one day when you were 16, did you see a
10 different doctor? A Dr. Afruma?

11 A. Yes. Possibly.

12 Q. Do you have any recollection of seeing a Dr.
13 Afruma one time in 2002?

14 A. No.

15 Q. Do you remember telling Dr. Afruma that you
16 had been sexually abused?

17 A. No, I don't.

18 Q. Do you remember telling your parents?

19 A. I told my parents later on when I was almost
20 graduating -- I think I told me dad. And then I told my
21 mom a little bit after I graduated.

22 Q. So that would have been early in 2003?

23 A. Correct.

24 Q. Before telling these people about your abuse,
25 had you told anyone?

1 A. No.

2 Q. Let's talk about while it was happening. Why
3 didn't you tell someone while it was happening?

4 A. I was scared.

5 Q. And what specifically were you scared of?

6 A. I was scared of him.

7 Q. Who?

8 A. Jonathan Kendrick.

9 Q. And what was it about Jonathan Kendrick that
10 you were scared of?

11 A. He seemed like a monster.

12 Q. Did he have a physical intimidating force on
13 you?

14 A. Yes, he did.

15 Q. Describe it.

16 A. He was very big. I was little but he was
17 very big and always very loud and physical. And when he
18 kind of got hold of you, he wouldn't really let go.

19 Q. What did it feel like to you when he would
20 give you a hug?

21 A. Felt like he was crushing the air out of me.

22 Q. Did you feel you could tell your parents in
23 1995 and '96 when this was happening?

24 A. I don't feel that I could.

25 Q. After your parents separated, you were seeing

1 Laura Fraser.

2 Do you remember her?

3 A. Yes.

4 Q. And you saw her deposition here in court?

5 A. Yes, I did.

6 Q. And she looked the same as when you were
7 seeing her?

8 A. Same haircut, everything.

9 Q. And do you remember your very first meeting
10 with Laura Fraser?

11 A. I do.

12 Q. And how did it start?

13 A. It was like, you know, being introduced to
14 somebody new. You know, she made you feel like a
15 friend.

16 Q. Did she talk to you about confidentiality?

17 A. Yes, she did.

18 Q. What did she tell you?

19 A. She actually, I think, had asked my dad to
20 leave the room. And she told me that there were certain
21 things that if, you know, we were to talk about, that,
22 you know, she would have to report them either, you
23 know, if somebody was hurting me and if, you know, if I
24 wanted to hurt myself, those are the things that she
25 would have to tell my parents and she would have to

1 report.

2 Q. And was that a disclosure that you were
3 willing to have happen to you at that time when you were
4 12?

5 A. No.

6 Q. Why not?

7 A. Well, I think the thought of it was just
8 really scary.

9 Q. Now, in your high school years, until you
10 were 16 and talked to Dr. Afruma, you never told anyone.

11 Why not?

12 A. I think I was afraid nobody would believe me.

13 Q. And so as you got into your later teens, you
14 felt you were ready to at least share with some people;
15 is that right?

16 A. I think I was at a point where I was so -- I
17 had so much inside me, that I needed to reach out to
18 somebody. I think I was in a lot of pain, and I needed
19 to reach out to somebody. That's why I eventually told
20 my parents. And I just don't remember talking to the
21 doctor about it, but I remember talking to my parents.

22 Q. What do you remember talking to the doctors
23 at Bay Valley about in those years when you were 15 and
24 16 and 17?

25 A. I was having a lot of problems sleeping, and

1 I would have nightmares. And I would wake up crying and
2 wake up short of breath. And I think that was something
3 that Juliana had tried to help me with.

4 And I think I had -- you know, she was trying
5 to address anxiety that I was feeling and being
6 depressed, being sad.

7 Q. And when you were having those problems and
8 trying to get Dr. Wong's help to address them, is that
9 the same time that you started using illegal drugs?

10 A. It was very shortly after.

11 Q. Now, let's talk about Mr. Kendrick.
12 What is your first memory of him?

13 A. Seeing him at the Kingdom Hall.

14 Q. And how did you know him?

15 A. Just another brother in the Kingdom Hall.

16 Q. Did you know anything about his family at
17 that time?

18 A. Andrea, his daughter, was a little older.
19 But, you know, when we played, he was just a father of
20 another child at Kingdom Hall that I could play with.

21 Q. Did he become friends with your family?

22 A. Eventually, yes, he did.

23 Q. And what do you remember about that?

24 A. I mean, I remember the talk of sports, you
25 know, my dad and he would be talking sports in the

1 Kingdom Hall before and after the meetings. And then I
2 think it kind of progressed into something more that,
3 you know, he would come out and hang around at the house
4 and fiddle around in the garage with my dad.

5 Q. Do you remember that you knew as a child that
6 Mr. Kendrick and his wife, Evelyn Kendrick, were having
7 troubles between them?

8 A. I do. In fact, the last time that I saw
9 them, they were like -- they were in the back of the
10 Kingdom Hall arguing, having a verbal argument, and that
11 was the last time I had ever seen them. They left.

12 MR. SCHNACK: Could you just move a little
13 closer to the microphone? I'm having trouble hearing.
14 I apologize.

15 BY MR. SIMONS:

16 Q. When you remember that argument, and you said
17 you never saw them again, who did you never see again?

18 A. Evelyn or her daughter, Andrea.

19 Q. After you were no longer seeing Evelyn and
20 Andrea at any kind of Jehovah's Witnesses events, did
21 Mr. Kendrick start to pay more attention to you?

22 A. Yes.

23 Q. Tell us what happened.

24 A. He got more physical. It was like he was
25 starting to pay more attention to me. And --

1 Q. How would he show that affection or
2 attention?

3 A. He would come up and give me these hugs and
4 he would just squeeze me. It was like the air being
5 taken out of your body. And then he would just usually
6 say, you know, "who loves you" and he wouldn't let me go
7 until I would say it to him. I guess that's kind of how
8 it started.

9 Q. What would you have to say to him?

10 A. I would have to say, "you are." And then he
11 wouldn't let me go.

12 Q. And did these hugs happen in the Kingdom
13 Hall?

14 A. Yes.

15 Q. And around the Kingdom Hall?

16 A. Yes.

17 Q. We heard Elder Clarke talk a little bit about
18 the time before and after the meetings. I think he used
19 the words "distractions." That there is a lot going on
20 when the service was not actually happening, before and
21 after.

22 Tell us what you remember about what it would
23 be like at the Kingdom Hall before or after a service.

24 A. Well, I was a kid back then, so, you know,
25 the adult talk really didn't interest me that much.

1 So there is -- in the pictures that you saw,
2 there is the assembly hall -- I mean auditorium. And
3 then alongside that, there is a side hall, and there is
4 two back rooms. And us kids would go back there and run
5 amuck, we would play tag and -- you know. Or even, you
6 know, bug our parents, maybe in the main auditorium, and
7 running between the seats and things of that nature.

8 MR. SIMONS: Can we see Exhibit 30?

9 BY MR. SIMONS:

10 Q. When the weather was good, nice weather,
11 where would the kids be before and after the meetings?

12 A. Well, we would play in that front area, like
13 right in front of Kingdom Hall in those first
14 handicapped spots. We didn't really have that many
15 handicapped people in our congregation. And so there
16 was a couple spots right there and we would just run
17 around and play.

18 Also the front is a little bit different than
19 I think it is now. There was a bench right there and a
20 little walkway on the side. You can't really see it,
21 but we would hide behind stuff right there.

22 And you know, sometimes when we would get
23 away with it, you know, which was a lot, we could go run
24 in the parking spots, and then that back area where it's
25 not paved, that's all open.

1 Q. The triangle at the top?

2 A. Yes, that's all open.

3 Q. And were there times that you would see
4 Jonathan Kendrick out there when you were out there with
5 the other kids?

6 A. Yes.

7 Q. And were there times that he approached you
8 when you were out there with the other kids?

9 A. Yes.

10 Q. And can you tell us about what would happen
11 on some of these other occasions?

12 A. I can remember just, you know, be out there
13 and playing with the other kids. And he would -- it was
14 almost like he would single me out. He would come and
15 would grab me. Just along the same lines, I just
16 remember being so scared of him.

17 Q. Do you remember being in the services inside
18 Kingdom Hall with your parents and Jonathan Kendrick
19 being there?

20 A. Yes.

21 Q. And do you remember there were times when he
22 sat with your family?

23 A. Yes.

24 Q. And were there times that you sat next to
25 him?

1 A. Yes.

2 Q. Did you go to the meetings at the Kingdom
3 Hall without at least one of your parents?

4 A. No.

5 Q. So on the meetings that you would go to, the
6 Sunday meetings at the Kingdom Hall, one of your parents
7 would always be there?

8 A. Yes.

9 Q. Did you do field service?

10 A. Yes, I did.

11 Q. Tell us how you became involved in doing
12 field service.

13 A. Well, at that point, I wanted to be the best
14 Jehovah's Witness I could be. So I had made -- I had
15 made the commitment to myself to do a certain amount of
16 hours every month out in field service. And it would
17 range between 15 to 20 hours a month.

18 Q. Now, we have heard that there was a time in
19 1994 and 1995 when your mom started to become very ill.

20 A. Yes.

21 Q. And she didn't come to the Jehovah's
22 Witnesses events anymore.

23 Is that fair?

24 A. That's fair.

25 Q. And your dad still came?

1 A. Yes.

2 Q. Were there times that you went to field
3 service without your dad?

4 A. Yes.

5 Q. And why?

6 A. My dad would stay and take care of my mom,
7 and I didn't want that to get in the way of going out in
8 service, and so that's why.

9 Q. You told us about your commitment to field
10 service.

11 Would it have been pleasant for you to stay
12 home with your parents when things were that bad?

13 A. No.

14 Q. So if you were doing field service without
15 either parent, how did you go?

16 A. Usually, you know, we would have groups,
17 groups that would go. And it was kind of something that
18 we had scheduled. I would go with somebody in the
19 group.

20 Q. And how would you know what group to be in?

21 A. Those were -- are you talking about the
22 actual service meetings?

23 Q. Yes.

24 A. I think those were predetermined by the
25 elders.

1 Q. And how would you know where to go for your
2 service, your field service on any given day?

3 A. Those are usually prescheduled.

4 Q. And who would tell you where to go?

5 A. Well, in that room that I was talking about,
6 usually it was on the board. Anything that was -- you
7 know, it was just paper on the board that the service
8 meetings were scheduled and where they would be held.

9 Q. And that was at the Kingdom Hall?

10 A. That was at the Kingdom Hall.

11 Q. How would you get to Kingdom Hall if your dad
12 wasn't going to go to field service with you?

13 A. I would get a ride.

14 Q. Were there times that he dropped you off?

15 A. Yes.

16 Q. Were there times you got a ride with someone
17 else?

18 A. Yes.

19 Q. Were there times that Jonathan Kendrick
20 volunteered to take you?

21 A. Yes.

22 Q. Were there times that you went out in the
23 field service with Jonathan Kendrick but without either
24 of your parents?

25 A. Yes.

1 Q. Did your abuse by Kendrick occur on some of
2 these occasions?

3 A. Yes.

4 Q. Tell us what would happen.

5 A. Our groups would go out, we would get our
6 territories, and we would go out and service. And we
7 would do door to door.

8 And then there was times when our groups
9 would separate even further. And we would go to, you
10 know, laundry mats or -- and things like that. And
11 sometimes he would take me, he would take me to go do
12 some of these things and then we would end up at his
13 house.

14 Q. He would take you in his --

15 A. In his truck.

16 Q. What do you remember about riding with him in
17 the truck?

18 A. The dog hair.

19 Q. I'm sorry. What?

20 A. A lot of dog hair.

21 Q. What else do you remember?

22 A. The windows. It was an older truck, and
23 the -- the passenger door didn't work. And I was -- I
24 wasn't strong enough to push the button, so he would
25 open it for me, and then I would get in. And then it

1 didn't work, and he would have to let me out. It was a
2 dirty truck.

3 Q. What do you remember besides the dog hair
4 being inside the truck?

5 A. I remember tools being had a multicolored
6 bench seat in his truck, and he had a blanket over it.

7 Q. Did he play music?

8 A. Yes. He listened to classic rock.

9 Q. And what would he say -- well, there were
10 times that he took you to his house?

11 A. Yes.

12 Q. More than once?

13 A. Yes.

14 Q. More than twice?

15 A. Yes.

16 Q. Many times?

17 A. That's what it feels like.

18 Q. And what would he say to you?

19 A. He would just say, "Let's go play."

20 Q. How would he take you from the truck inside
21 his house?

22 A. I could never open the door, so he would come
23 and open the door. And he would lead me to the house
24 and usually with his hands on my shoulders.

25 Q. Now, were Evelyn and Andrea ever in the house

1 when he took you there?

2 A. No.

3 Q. Did you even know they still lived there?

4 A. No.

5 Q. Was anyone ever there?

6 A. No.

7 Q. And did he do things to you there?

8 A. Yes.

9 Q. What did he do?

10 A. It started with him touching me and putting
11 his hand up my shirt and down my pants.

12 Q. Did he remove all of your clothing at times?

13 A. Yes, he did. He would take pictures.

14 Q. Did he remove all of his clothes at times?

15 A. Yes.

16 Q. Did he have you do things orally with him?

17 A. Yes.

18 Q. Did he sometimes do things with some kind of
19 object?

20 A. I was too small. And then it would seem to
21 excite him, and he would use a pen.

22 Q. Where did you go after this was over?

23 A. Maybe to the Kingdom Hall. Maybe to lunch
24 with the rest of the service group.

25 Q. Did you maybe want to show anyone what had

1 happened to you?

2 A. No. I was scared.

3 Q. What did you do to hide it?

4 A. I just tried to act normal. That was the
5 best I could do then.

6 Q. After you no longer were being abused by Mr.
7 Kendrick when you were 12 and 13, did you still from
8 time to time see him in Fremont?

9 A. Yes. I would always be scared by the sound
10 of a truck that was like his.

11 Q. What kinds of occasions would you see him?

12 A. When I still resided in Fremont and my nana
13 liked to go to the Albertson's or Lucky's in
14 Centerville, and I would quite a few times see him there
15 or somewhere in Fremont.

16 Q. What would you feel when you saw him or his
17 truck?

18 A. I was scared.

19 Q. And what would you think of?

20 A. Where can I hide?

21 MR. SIMONS: I have nothing further.

22 THE COURT: Would you like to take a break
23 for a few minutes?

24 Let's take a break until 11:30.

25 (Break taken)

1 THE COURT: All right. Mr. McCabe.

2 MR. McCABE: Thank you, your Honor.

3

4 CROSS-EXAMINATION

5 BY MR. McCABE:

6 Q. When I took your deposition back in August,
7 you mentioned that you were intending to go to Cerritos
8 Junior College.

9 Do you recall that?

10 A. Yes, I do.

11 Q. Did you ever get to attend classes there?

12 A. No, I didn't.

13 Q. And that is down in the Downey, Norwalk area,
14 that college?

15 A. Yes. Down in Los Angeles.

16 Q. When did you move from that area?

17 A. Very recently. It has only been a couple
18 months.

19 Q. And you now live in Stockton?

20 A. Yes. That's correct.

21 Q. You live with your mother?

22 A. Yes, that's correct.

23 Q. Do you live in a house or an apartment?

24 A. In an apartment.

25 Q. Does anyone else make up that household?

1 Just you and your mom?

2 A. Just my mom and I.

3 Q. Do you have any pets?

4 A. I have a hamster.

5 Q. A hamster?

6 And you are interested in being involved with
7 veterinary work; is that correct?

8 A. Very interested.

9 Q. Now, when you informed my clients, Mr. Clarke
10 and Mr. Lamerden about your abuse, where did you meet?

11 A. We met in the back room of the Kingdom Hall
12 in Fremont.

13 Q. Kind of like a library room?

14 A. No. It was the actual school.

15 Q. So next to the library?

16 A. Correct.

17 Q. And you arranged that meeting with them; is
18 that correct?

19 A. It was arranged.

20 Q. Did you call Mr. Clarke and set it up?

21 A. No, I did not.

22 Q. How did you happen to go to the Kingdom Hall
23 and meet them?

24 A. The meeting was arranged by Cliff Williams.

25 Q. And when you met with them, did they pray

1 with you at the start of the meeting?

2 A. Yes, they did.

3 Q. Did they have their Bibles with them.

4 A. Yes.

5 Q. Did you ask them after that meeting to
6 contact your father?

7 A. Did I ask them?

8 Q. Yes.

9 A. I can't recall.

10 Q. Now, your claim against Mr. Clarke and Mr.
11 Lamerden and the representatives of the Fremont
12 Congregation was that they didn't protect you from Mr.
13 Kendrick; is that correct?

14 MR. SIMONS: Objection. Your Honor. I think
15 it is vague and calls for a legal conclusion.

16 THE COURT: Well, I think it certainly might
17 call for a legal conclusion.

18 Counsel, why don't you rephrase it. It
19 doesn't seem to me to be a factual basis for the claim
20 rather than --

21 BY MR. McCABE:

22 Q. Your claim is that my clients were negligent
23 in protecting you; is that correct?

24 MR. SIMONS: Same objection.

25 THE COURT: Same ruling.

1 BY MR. McCABE:

2 Q. All right. You want money damages from the
3 Fremont Kingdom Hall, right?

4 A. Yes. But there's a lot more than that.

5 Q. But you want money damages from the
6 congregation for your pain and suffering; is that
7 correct?

8 A. Yes.

9 Q. And for your past medical expenses and your
10 future medical expenses?

11 A. Yes.

12 Q. And for any other lost economic damages that
13 you have had; is that correct?

14 A. Yes.

15 Q. And you want the same money damages from the
16 Watchtower Bible and Tract Society also, don't you?

17 A. I guess.

18 Q. Okay. And what about Mr. Kendrick, the
19 monster? You want money damages from him as well, don't
20 you?

21 A. I guess.

22 Q. Well, that's what this process is all about;
23 it is about obtaining money for your damages?

24 A. There is more to it than just that.

25 Q. Okay.

1 A. I believe.

2 Q. But money is a factor in this case?

3 A. Yes.

4 Q. Okay. And you want money from the monster,
5 Mr. Kendrick.

6 A. (Witness nods).

7 Q. Is that a yes?

8 A. Yes.

9 MR. McCABE: Your Honor, may we approach
10 please?

11 (Discussion off the record).

12 BY MR. McCABE:

13 Q. Ms. Conti, back on December 28, 2012, did you
14 execute an agreement that basically states that if you
15 got any judgment against Mr. Kendrick in this case, you
16 would not seek to execute on that judgment or obtain the
17 moneys that would be due and owing to you?

18 MR. SIMONS: And the objection is, your
19 Honor, is that it calls for a violation of the evidence
20 code privilege and the settlements and that is
21 irrelevant and factitious.

22 THE COURT: All right. And I will overrule
23 you. But I will allow you to ask questions of your
24 client regarding context.

25 THE WITNESS: The question you are asking,

1 did that agreement ever -- is there an agreement?

2 MR. McCABE: Yes.

3 BY MR. McCABE:

4 Q. Did you have an agreement with Mr. Kendrick
5 in this case?

6 A. Yes, I do.

7 Q. And that agreement is not to seek any money
8 from him if you are awarded it in this case?

9 A. Yes.

10 MR. McCABE: I have nothing further, your
11 Honor.

12 THE COURT: Counsel.

13

14 CROSS-EXAMINATION

15 BY MR. SCHNACK:

16 Q. Do you need another break?

17 A. I'm fine.

18 Q. Do you recall your deposition back in August
19 of 2011?

20 A. Yes.

21 Q. And I didn't attend that; is that correct?

22 A. No.

23 Q. I did not, correct?

24 A. No.

25 Q. Okay. So you testified during that

1 deposition that you never went to Kingdom Hall without
2 one or both of your parents.

3 Do you recall that testimony?

4 A. Yes, I do.

5 Q. And is that still true today, that -- your
6 testimony being you never went to Kingdom Hall without
7 one or both of your parents?

8 A. Yes.

9 Q. So what that means is, you never went to
10 Kingdom Hall by yourself, without either Neal or Kathy
11 Conti. You know those names? Those are both your
12 parents?

13 A. Yes.

14 Q. And you also testified that you sat with your
15 parents at the Kingdom Hall during meetings.

16 Do you recall that?

17 A. Yes, I recall that.

18 Q. Did you ever go to a meeting at the Kingdom
19 Hall where you did not sit with your parents?

20 A. I don't know.

21 Q. You don't remember any. Correct?

22 A. No.

23 Q. Okay. You don't remember any?

24 A. I don't recall.

25 Q. And your testimony was that the first time

1 anything occurred at the Kingdom Hall was in the main
2 auditorium with Mr. Kendrick.

3 Do you recall that testimony?

4 A. Yes, I do.

5 Q. And you said he bear hugged you; is that
6 correct?

7 A. That's correct.

8 Q. Is that the type of hugging you were
9 describing earlier?

10 A. Yes.

11 Q. And you testified that that was in front of
12 others and it happened during meetings?

13 A. Yes.

14 Q. And you also testified that the bear hugs
15 occurred at every meeting you went to at the Kingdom
16 Hall.

17 Do you recall that testimony?

18 A. It felt like that.

19 Q. And do you recall testifying that Mr.
20 Kendrick made you sit on his lap during meetings?

21 A. Yes, I do.

22 Q. Did that occur with your parents right next
23 to you?

24 A. I don't recall.

25 Q. Where in the auditorium did he make you sit

1 on his lap during the meetings?

2 A. It was either -- the only seating in the
3 Kingdom Hall is in the main auditorium or in the back
4 school.

5 Q. But others were always present when he made
6 you sit on his lap; is that correct?

7 A. That's correct.

8 Q. Now, you also testified that his abuse of you
9 started when you were about age nine; is that correct?

10 A. I believe so, yes.

11 Q. And you would have turned nine in November of
12 '94.

13 Do I have the math right on that?

14 A. Yes.

15 Q. And for what period of time did this abuse
16 occur? When did it end?

17 A. It ended when I didn't see him anymore.

18 Q. Do you remember testifying in deposition that
19 it ended right after your parents divorced, when you
20 stopped attending the Kingdom Hall?

21 A. Yes.

22 Q. Do you recall that testimony?

23 A. Yes.

24 Q. Is that when the abuse stopped, then?

25 A. When I stopped going to the meetings.

1 Q. And you stopped going to meetings when?
2 After your parents divorced?

3 A. I couldn't say. Give me -- I couldn't give
4 you a specific time when I stopped going.

5 Q. Well, did you continue to attend meetings
6 after your parents separated in July 1996?

7 A. On and off.

8 Q. You attended with your father at that point;
9 is that correct?

10 A. Yes.

11 Q. And did the bear hugs in the Kingdom Hall
12 after you attended with your father after your mother
13 and father separated?

14 A. If he was there, yes, I believe so.

15 Q. Okay. So after July of '96 there were still
16 incidents involving Jonathan Kendrick and you. Correct?

17 A. It feels that way, yes.

18 Q. And what is your understanding of when your
19 parents actually divorced? Is that July 1997; is that
20 what you remember?

21 A. I think when you are a kid, the divorce might
22 not necessarily be when the court says it is.

23 Q. Okay.

24 A. It is when turmoil is in your family.

25 Q. But you still attended the Kingdom Hall after

1 your parents separated; is that correct?

2 A. Yes.

3 Q. And when your parents separated, did your
4 mother stay in the family home?

5 A. Yes.

6 Q. And that was on El Cajon?

7 A. Yes.

8 Q. And when your parents separated, you moved
9 out of the house right away, right, with your father?

10 A. Yes, for a short time.

11 Q. And you lived at your grandmother's house at
12 that time. Correct?

13 You and your father moved into your
14 grandmother's house, and she moved to another house?

15 A. Correct.

16 Q. And while you were living with your father at
17 your grandmother's house, you still attended meetings at
18 the Kingdom Hall. Correct?

19 A. Yes.

20 Q. And was the abuse by Mr. Kendrick still
21 ongoing then during that time period, after the
22 separation, when you were living at your grandmother's
23 house with your father?

24 A. I can't be for certain.

25 Q. Now, you also testified that at the Kingdom

1 Hall, the only abuse that occurred were these bear hugs
2 and sitting on his lap; is that correct?

3 A. That's correct.

4 Q. None of these other things you talked about
5 with Mr. Simons occurred at the Kingdom Hall. Correct?

6 A. Which part?

7 Q. Well, we will get into the sexual things
8 where he was undressing you, taking photographs, using a
9 pen, those types of things, those all happened at Mr.
10 Kendrick's house; is that correct?

11 A. Yes.

12 Q. None of that happened at the Kingdom Hall?

13 A. No.

14 Q. Do you recall, in the deposition, that you
15 testified that at some point, after he was giving you
16 hugs at the Kingdom Hall and having you sit on his lap,
17 that you said the abuse escalated, and he took you to
18 him home after Sunday meetings at the Kingdom Hall.

19 Do you recall that testimony?

20 A. Yes.

21 Q. When did he start taking you to his house
22 after Sunday meetings?

23 A. I couldn't give you an exact timeline.

24 Q. Would it have been after -- you know, after
25 you were age nine, then, into, like, late '94 into 1995,

1 in that time frame; is that what we're looking at?

2 A. When you are a kid, I don't think you can go
3 by years that much.

4 Q. Okay. So was your mother attending the
5 meetings at the Kingdom Hall when Mr. Kendrick started
6 taking you from the Sunday meetings?

7 A. No.

8 Q. So it was after that time period, at least,
9 correct?

10 Is that correct?

11 A. I believe so.

12 Q. And do you recall testifying that the abuse
13 that occurred at his house, including the use of pens
14 and that, went on for a couple years.

15 Do you recall that testimony?

16 A. Yes, I do.

17 Q. Is that your testimony here today, that that
18 abuse went on for a couple of years?

19 A. Certainly feels like that.

20 Q. And you also testified that it happened
21 several times a month during those couple of years.

22 Do you recall that?

23 A. Yes.

24 Q. And the abuse was always at his house that it
25 occurred. Correct?

1 A. If you are being specific to the things that
2 were later stated, like undressing me and taking
3 pictures, that took place at his house.

4 Q. Okay.

5 A. The squeezing me and bear hugs took place at
6 the Kingdom Hall.

7 Q. Okay. So other than squeezing you with the
8 bear hugs and sitting on his lap, the abuse took place
9 at Jonathan Kendrick's house. Correct?

10 A. Correct.

11 Q. And it always happened on Sundays. Correct?

12 A. I don't think so.

13 Q. That's what you testified back in August.

14 A. I don't believe it only happened on Sundays.

15 Q. How many times did it not happen on Sundays?
16 In other words, how many times did it happen on other
17 days of the week other than Sundays?

18 A. I can't give you an exact answer on that.

19 Q. But your testimony is that it occurred
20 several times a month over, perhaps, a two-year period.
21 Correct?

22 A. That's what it feels like.

23 Q. What do you mean when you say that's what it
24 feels like?

25 A. It felt like it was -- it happened over and

1 over again, and it just didn't stop. It didn't stop.

2 Q. It sounds like you are not certain how many
3 times it happened. Is that a fair statement?

4 A. I believe that's a fair statement.

5 Q. So you are saying it could have happened five
6 or ten times, and that's it?

7 A. It feels like a lot more.

8 Q. But you just cannot be certain?

9 A. I cannot be certain.

10 Q. And your testimony was that neither Andrea
11 nor Evelyn Kendrick were ever at the house at the time
12 that Jonathan Kendrick took you to his house. Correct?

13 A. That's correct.

14 Q. Were they living at the house at the time
15 this abuse occurred?

16 A. They were never there.

17 Q. But do you know whether or not they were
18 living there?

19 A. No, I don't.

20 Q. Now, you also testified that there was an
21 incident on an Amtrak train; is that correct?

22 A. That's correct.

23 Q. Okay. Tell us about that.

24 A. I think we had -- I don't know where exactly
25 we went. But on the way back, it was my dad and

1 Jonathan Kendrick. And they were drinking. And I
2 recall -- I remember that he had grabbed me and put me
3 on his lap and he wouldn't let me go and I was trying to
4 get away.

5 Q. And you testified you had gone to see the
6 movie, "Gone With the Wind," in Sacramento on an Amtrak?

7 A. I believe so.

8 Q. And was that an open Amtrak car that that
9 occurred?

10 A. Yes.

11 Q. Where was your father at the time?

12 A. We were in the dining car, so he was sitting
13 across the way from us.

14 Q. Across from the little table in the dining
15 car?

16 A. Yes.

17 Q. And then you and Kendrick were across from
18 your father?

19 A. I think I was standing, probably running from
20 table to table or something.

21 Q. And then what did Kendrick do to you on that
22 trip?

23 A. He grabbed me and he stuck his hand up my
24 shirt.

25 Q. And do you know when that trip occurred?

1 A. I couldn't give you a time.

2 Q. Was Jonathan Kendrick already in the process
3 of taking you to his house to do these other things you
4 described when that Amtrak trip occurred?

5 A. I don't know.

6 Q. You don't know if it was before or after?

7 A. No.

8 Q. So other than Amtrak and the hugs and sitting
9 on the lap at the Kingdom Hall and what happened at his
10 home, is there any other abuse you are claiming here
11 against Jonathan Kendrick?

12 A. I don't believe so.

13 MR. SCHNACK: Your Honor, this might be a
14 good time to break.

15 THE COURT: I agree.

16 I will look forward to seeing the jury at
17 1:30.

18 Thank you as always for your patience and
19 attention.

20 (Whereupon, the following proceedings
21 were heard outside the presence of jurors)

22 THE COURT: All right. Let's get a couple
23 things on the record.

24 Number 1 is, I allowed into evidence
25 Plaintiff's 55.

1 Counsel -- and I have said this on and off
2 the record -- have been very professional in terms of
3 their dealings with each other during the course of this
4 case.

5 They apparently had an agreement that medical
6 and business records would be admissible, rather than
7 bringing in the custodian of records as to each document
8 and/or exhibit proffered.

9 The court did spend some time with counsel
10 relative to securing an agreement as to joint
11 admissibility, and I agree with both the comment and the
12 agreement to allow the admission of 55 in.

13 I know that under questioning, the plaintiff
14 didn't recall her meeting with the physician, Dr.
15 Afruma, nor whether she reported the abuse and its
16 nature. I just make that comment.

17 Relative to the comment "not to sue," the
18 court was just made aware of the existence of the same.
19 And thought it was a legitimate line of impeachment
20 based upon the question and answer just before I was
21 alerted to its existence.

22 I don't believe it is a settlement agreement
23 per se, because its outline, basically, were plaintiff
24 to secure any judgment, that she would not pursue
25 collection of the same. I will revisit that ruling in a

1 sense, having already allowed it personally, I will say
2 that he can give context to the nature as to the reason
3 for the agreement.

4 If anybody wants to seek to move it into
5 evidence, then I think there may be a need for
6 substantial redactions. Again, I don't have it in right
7 in front of me, but I would highlight that as I sit
8 here.

9 In terms of the progress of the case this
10 afternoon, certainly defense will do whatever
11 cross-examination they continue to do.

12 Mr. Simons may want to be with the plaintiff
13 for a little bit, after which I would dismiss the jury
14 for the day and deal with the number of issues regarding
15 the expert, Dr. Applewhite. And then we will continue
16 going forward.

17 I can't say, and I want to say it now,
18 earlier than later, understanding the schedule for the
19 week, which also includes this judge being in Sacramento
20 for 16 hours of professional education, I have reviewed
21 the proposed instructions, many of which there seems
22 to -- I thought I would direct counsel to meet and
23 confer. There are a number of Casey instructions that
24 are either offered by one or the other that I think with
25 having made a number of rulings I made and whatnot, I

1 would like to think with the quality of lawyers I have
2 here that we could get through much simpler than when
3 they were submitted to me, a number of those
4 instructions based on my motion in limine rulings.

5 I clearly understand, and I will let a record
6 be made, that -- and I expect it, candidly, almost from
7 moment one of the briefings, that we will continue to
8 have some debate about a specific language of the duty
9 instruction.

10 I have also indicated inferentially that the
11 proposed Plaintiff Number 2, as to Kendrick being a
12 volunteer, I am not convinced within the context of this
13 case, because he still was a ministerial servant with
14 whatever attended privilege that attached. So I'm not
15 sure if that portion of Juarez is applicable. I will
16 certainly allow argument on it and context.

17 But what I'm looking for, and I have already
18 said, I am going to give a duty instruction in this case
19 and the issue is the nature and the substance.

20 I have also indicated, and I gave some
21 consideration this weekend as to how it was going to
22 effect this, I am not going to tell the jury that I
23 ruled a certain way. I want to frame what I have done
24 in the context of privilege, communication privilege,
25 and the reference to scripture in the context of what

1 the civil law of California provides without saying I
2 ruled, because I don't want to tilt the balance either
3 way in terms of giving the jury a sense one way or the
4 other.

5 But I am going to do something with the jury,
6 and I'm starting to work on how I'm going to
7 effect that.

8 I got something from Mr. Simons relative to a
9 proposal.

10 So I invite both your meeting and confer on
11 any other circumstance as to dealing with the so-called
12 privilege issue.

13 Now my record at this juncture doesn't have
14 any reference to privilege, and everybody has behaved
15 themselves relative to that.

16 But certainly, I, and we, have a very
17 knowledgeable jury here. So when they start
18 deliberating, I am sure they are going to start to talk
19 about what weight can we give the scriptures and the
20 nature and context of how the information was delivered.
21 So I want to give you a preliminary set of thoughts
22 about that.

23 Then finally, I am going to retire to
24 chambers, and I'm going to work through Mr. Simons'
25 admissibility of statistical evidence or the absence

1 thereof. Nice work.

2 And I also have glued to my work station in
3 there, the motion in limine number nine, I believe, of
4 plaintiff, as to Monica Applewhite.

5 I have a full set of documents from the
6 defense as to Plaintiff's Request to Exclude Portions of
7 Applewhite's Testimony. And I will, as soon as we deal
8 with the witnesses here this afternoon, I will deal
9 with, contextually with the video of Dr. Applewhite so
10 we can be in good order to proceed, I presume, tomorrow
11 morning.

12 And just to kind of cut to the chase, since
13 we adjourned a little earlier, tomorrow I would expect
14 or should expect the video of Applewhite, I presume.

15 Mr. Simons, you will have the psychiatrist
16 also, for the plaintiff.

17 MR. SIMONS: Right. She will be here early.

18 THE COURT: Okay.

19 And then at that point in time, subject to
20 rebuttal, the plaintiff would rest?

21 MR. SIMONS: Yes.

22 THE COURT: And then the defense, tomorrow
23 would intend to have or call upon?

24 MR. McCABE: After Applewhite, Mr. Shuster.
25 And I have three women from the congregation who will

1 testify, and then Mr. Clarke.

2 THE COURT: Okay.

3 All right. And then we will be in session
4 Wednesday. I was trying -- because I'm a script guy, I
5 was trying to figure out when we are going to have that
6 session on instructions.

7 And I'm the problem. And I'm the problem
8 because I will get in my humble vehicle and I will drive
9 to Sacramento for a couple days.

10 And in the sense of thinking of all that, and
11 that's no negative inference to Sacramento, so that's
12 the fact of presenting to judges twice a year, one in
13 Sacramento and one in LA. And negative inference to LA,
14 I spent four lovely years down there.

15 All right. Anything further?

16 MR. SIMONS: Yes, your Honor.

17 Generally speaking, three women from the
18 congregation, there is not a particularly specific
19 identification of who these witnesses would be. And
20 more significantly, whether their testimony is
21 cumulative or even relevant.

22 THE COURT: Well, I will start with names.

23 MR. McCABE: All right. Sylvia Munoz,
24 Bernice Munoz, and Pam Figuerido. They are all going to
25 testify about their observations and observances during

1 the 1993 to 1997 period of time in the North Fremont
2 Congregation.

3 And they are not cumulative because they all
4 have a different view. And I think in view of the
5 number of doctors we had testify from Kaiser and the
6 length of time that my witnesses are going to testify is
7 hardly something --

8 THE COURT: Well, I don't make premature
9 rulings on evidentiary objections.

10 Certainly, Mr. Simons can ring the bell if
11 the story line is the same on the basis of all three.

12 I can think of a number of ways they would
13 not necessarily be duplicative. But I will await their
14 testimony and the ringing of the bell.

15 MR. McCABE: If we finish with the
16 plaintiff's testimony and rebuttal Wednesday morning,
17 would we be able to talk instructions in the afternoon?

18 THE COURT: Oh, absolutely. Absolutely.

19 But the sense I want to give everybody here
20 is, because this has been so well put together by
21 counsel, that you are well ahead of the cliff of time.

22 So there is no hurry way to work with the
23 judge on this one all all in terms of where you are.
24 So, do your work, and if that ends up being the case,
25 the answer is absolutely.

1 MR. SIMONS: Your Honor, if we are -- since
2 we are kind of on schedule, if we are able to resolve
3 all the instruction issues on Wednesday, then it seems
4 to me that we can show Dr. Williams' video Monday
5 morning, and then proceed to instruction and argument,
6 or argument and instructions whichever seems to support
7 follows, but --

8 THE COURT: And I will tell you what I
9 generally do and I would want to do in this case in
10 particular.

11 What I generally do is instruct before
12 closing argument. I have my reasons for it. Some are
13 obvious; some aren't.

14 But in a case like this, and this is a
15 compliment to all of you, is that this is as engrossed a
16 jury as you are going to find. They have been educated
17 in many ways as to many circumstances of the actions of
18 many, forgetting the umbrella of how the pleadings
19 evolved.

20 But in this particular case, it would be my
21 druthers, absolutely, to resolve the instruction aspects
22 and have those ready to give to a jury, as they go in a
23 jury room, with those instructions, and the exhibits go
24 in.

25 And to the extent you are legitimately ready

1 on Monday, I would instruct them and you would argue.

2 But I have found and have assessed the number
3 of cases, the more interesting and complex a case, the
4 more you really want give the instructions before you
5 argue.

6 Because I think the problem is, I already
7 have -- you know, attorney's statement is not evidence.
8 But everybody wants to know what the burden is. I mean,
9 every person, every juror who comes in here, say, I'd
10 like to hear from the judge early on, on what is the
11 burden here. The same thing, I believe most of them say
12 they would like to hear the instructions before.

13 All right. On that high note, I will look
14 forward to seeing everybody at 1:30.

15 (Lunch recess)

16 MR. McCABE: Your Honor, I'm going to discuss
17 the redaction.

18 THE COURT: May I see the redacted version?
19 I understand as redacted.

20 Is that okay with you?

21 MR. SIMONS: The only redaction I think that
22 should be made, your Honor, is Toy Register. Because
23 central to this agreement is that this guy is not going
24 to be coming into court and intimidating and threatening
25 all the witnesses, all the women witnesses. And they

1 all testified except for Toy Register.

2 THE COURT: Okay.

3 And to that specific issue as to whether
4 Kendrick, et al, refraining from contacting and
5 harassing --

6 MR. McCABE: We don't have an objection.

7 THE COURT: Here is the redactions I'm going
8 to direct, that the only thing being redacted from the
9 first page is Toy Register.

10 Now, let's see what else is on the second
11 page.

12 Back to you, Mr. Simons, relative to one
13 paragraph on Page 2.

14 Do you have any objection to that being
15 redacted, understanding I made my ruling?

16 MR. SIMONS: And with that understanding,
17 your Honor, I'm not sure why it would be redacted.
18 There doesn't seem to be anything confidential or
19 misleading there.

20 MR. SCHNACK: Your Honor, we don't have an
21 objection.

22 With that one redaction, we were being overly
23 cautious.

24 THE COURT: All right. I will leave that.

25 MR. SIMONS: And your Honor, in explaining

1 this agreement, part of Ms. Conti's reason and
2 willingness to do this is the criminal system had
3 already dealt with him. He was a registered sex
4 offender and he was convicted in 2004 and she knew that.
5 And therefore, I would suggest that the door has been
6 opened for her to tell why she entered into this
7 agreement.

8 MR. McCABE: Well, that's novel, your Honor.

9 THE COURT: Quite frankly, it is good
10 lawyering, but novel?

11 MR. SCHNACK: Well, novel -- novel after the
12 fact.

13 MR. McCABE: That conviction can't come in.

14 THE COURT: And I agree. I am good one to
15 judge when doors are open and all that. So, I would not
16 agree to the condition of 2004 comes in.

17 MR. SCHNACK: Your Honor, and everything
18 related to it, including the Megan's Law listing,
19 Kendrick being on the website, all of that has to be
20 out.

21 THE COURT: Well, we haven't gone into that
22 yet, and absent some form of really opening the door, we
23 are not going to go into that at this time.

24 I will let you ask her -- I have already told
25 you, you should give context to the circumstance.

1 Now, basically, I ruled it, this is not a
2 civil cell network type of nature that is excludable.
3 And it was, in my view, a legitimate area, based upon
4 the question and the answer.

5 That having been said, I know that you said
6 you have had the door opened in terms of giving context
7 to why she did this.

8 So long as she doesn't refer specifically to
9 the 2004 conviction, we have had a rule of testimony
10 about the 1993 conviction, she can testify truthfully as
11 to whatever she felt about him having been dealt with.

12 But no express duty as to 2004 and all the
13 intended circumstances.

14 MR. SCHNACK: Including names, all websites,
15 all that kind of thing?

16 THE COURT: Correct.

17 MR. McCABE: Okay. And there is one other
18 issue while we're on record.

19 THE COURT: All right, Mr. McCabe, I'll hold
20 you to that.

21 MR. McCABE: For right now.

22 The plaintiff testified several times, when I
23 asked her about money, well, were there other reasons.
24 And I suspect that she -- what her other reasons were
25 something that we heard from her is that she wanted a

1 change of policy. There is no request for injunctive
2 relief in this complaint. I think she needs to be
3 instructed that she can't tell us that she wants us to
4 change our policy in this case, because it is not a
5 remedy that she sought. And I think it should be
6 excluded.

7 THE COURT: Mr. Simons?

8 MR. SIMONS: Well, first of all, Cliff
9 Williams testified that's what she talked to him about
10 before there was a lawsuit --

11 THE COURT: That's the personal thought I
12 had.

13 MR. SIMONS: Secondly, although we have
14 redacted part of it, part of that same sentiment is
15 expressed to the Fremont elders, and that's in evidence
16 in one of the exhibits, and that's all before she
17 brought the lawsuit.

18 THE COURT: I would deny the request of Mr.
19 Williams' testimony.

20 Anything else, counsel?

21 MR. SCHNACK: Not right now.

22 THE COURT: All right. Then that redaction
23 as related in Toy Register is out. Otherwise, it is in.
24 And --

25 MR. McCABE: So that would be Defendant's

1 Exhibit Number 135.

2 THE COURT: Do we agree on that, Mr. Simons?
3 More importantly, Madame Clerk, you and Ms.
4 Kraetsch will read it as Number 135.

5 MR. SIMONS: Thank you, your Honor. Another
6 appropriate exclusion.

7 THE COURT: All right. Then 135 is in.

8 (Whereupon, Defendant's Exhibit Number 135
9 was admitted into evidence)

10 THE COURT: And then put that on your list so
11 we end up with our complete record.

12 MR. McCABE: Your Honor, I think that Mr.
13 Simons would agree, but I could be wrong, we don't want
14 to redact the top line that shows that it was a fax from
15 Linda Kendrick.

16 THE COURT: You do or you don't?

17 MR. McCABE: I do.

18 THE COURT: Well, let me see. I almost hate
19 to ask this question in terms of the lineup here. I
20 heard the name, but I still haven't filled a spot on
21 this.

22 Linda Kendrick is whom to Jonathan?

23 MR. SIMONS: His current wife --

24 THE COURT: Current wife.

25 MR. SIMONS: -- and the grandmother of his

1 2003 victim.

2 THE COURT: We will redact from Linda
3 Kendrick, because they don't know who she is. I'm not
4 sure. I will even do it under a 352 analysis in terms
5 of confusion.

6 MR. McCABE: Thank you, your Honor.

7 (Whereupon, the following proceedings
8 were heard in the presence of jurors)

9 THE COURT: Okay, Mr. Schnack.

10 MR. SCHNACK: Thank you, your Honor.

11

12 CROSS-EXAMINATION

13 BY MR. SCHNACK:

14 Q. Ms. Conti, let's go back, briefly, to your
15 August 25, 2011 deposition that was taken in your
16 attorney's office.

17 Do you remember that?

18 A. Yes.

19 Q. Do you remember the admonitions that were
20 given to you prior to your testimony by Mr. McCabe?

21 A. Do you mean the rules of the --

22 Q. Yeah. The rules of the road for depositions,
23 what was going to happen, what you had a right to do.

24 Do you recall that?

25 A. I can honestly say that I remember getting

1 those. As far as singling them out, I don't know.

2 Q. Okay. Well, let's go through at least a
3 couple of them.

4 Let's turn to page 8, line 1 of her

5 Can you see that there?

6 MR. SCHNACK: Your Honor, may I approach?

7 THE COURT: You may.

8 MR. SCHNACK: And, your Honor, may I just
9 stand here and read with her?

10 THE COURT: Well, I think with that -- up
11 there.

12 BY MR. SCHNACK:

13 Q. So Mr. McCabe asked you, he said:

14 "And I will assume if you answer my
15 question that you understand the question, but
16 I'm just here to get your testimony. I'm not
17 going to try to get any trick questions or
18 anything like that. So if I ask you a
19 question that's unintelligible to you or you
20 don't understand, please ask me to rephrase it
21 or tell me you don't understand so I can try
22 to do that. Is that fair to say?"

23 And your answer here was what?

24 A. Yes.

25 Q. And Mr. McCabe said:

1 "Whatever you testify to here today
2 will be put in a booklet form, and it is a
3 booklet form like this that is in my hand.
4 And it reads like a script in a play
5 sometimes, and it will be presented to you to
6 read and sign. You are free to make changes
7 in the transcript if you feel that there is a
8 material mistake being made in the transcript.
9 But if you do make changes, that can be
10 commented upon by me or someone else and
11 affect your credibility in a future
12 proceeding. Do you understand that?"

13 Your answer was?

14 A. Yes.

15 Q. And then Mr. McCabe said:

16 "So what I'm saying, we just want
17 your best testimony today, your best
18 recollection. I don't want you to guess about
19 anything. If you don't know, that is
20 certainly an acceptable answer. Do you
21 understand that?"

22 And your answer was a simple yes; is that
23 correct?

24 A. That's correct.

25 Q. Now, in your deposition you never mentioned

1 that you were taken by Jonathan Kendrick from field
2 service; is that correct?

3 A. That's correct.

4 Q. Shifting gears.

5 Do you have information -- or back in
6 February of this year, did you have any information
7 about Jonathan Kendrick's financial status at all?

8 A. No.

9 Q. No?

10 A. No.

11 MR. SCHNACK: That's all I have, your Honor.

12 THE COURT: Okay. Mr. Simons.

13

14 REDIRECT EXAMINATION

15 BY MR. SIMONS:

16 Q. Your Honor, I'm showing Exhibit 18, which is
17 Exhibit 106.

18 Now, you were here when the elders testified
19 about your meeting with them in 2009, the Fremont
20 elders.

21 Do you remember being here for that
22 testimony?

23 A. Yes.

24 Q. In their letter of your meeting --

25 MR. SCHNACK: Your Honor, this is beyond the

1 scope of direct or cross. He had the opportunity to
2 bring this up in his direct.

3 THE COURT: Overruled.

4 BY MR. SIMONS:

5 Q. You were asked if you wanted to confront
6 Jonathan Kendrick, and you said what?

7 A. I said no.

8 Q. And in that meeting, what did you tell the
9 elders in Fremont was your biggest concern?

10 A. I wanted to protect other children.

11 Q. Did you ask for any money?

12 A. No.

13 Q. And we heard Cliff Williams come up and
14 testify about the meeting that you had with him down in
15 Los Angeles.

16 Do you remember that meeting?

17 A. Yes, I do.

18 Q. And there were two telephone calls as well
19 over a period of a year.

20 Do you remember that?

21 A. Yes, I do.

22 Q. And Mr. Williams told us that you had talked
23 to him about changing the policy so that children would
24 be protected.

25 Was that testimony that he gave true?

1 A. Yes, it was.

2 Q. And did you that conversation with Elder
3 Williams that you wanted to have policies changed so
4 that children would be protected?

5 A. That was my main concern. That was the whole
6 reason why I talked to them.

7 Q. Did you ask for any money?

8 A. No.

9 Q. In any of these meetings did any of the
10 elders that you talked to ever express any interest in
11 helping you change the policies so that children could
12 be protected in the future?

13 A. No. In fact, it was quite the opposite.

14 Q. If the witnesses had agreed to change their
15 policy of secrecy involving children and sex abuse,
16 would you have ever brought this lawsuit?

17 A. No.

18 Q. Why not?

19 A. Because I don't want to have to go through
20 this.

21 Q. Now, with regard to your agreement with
22 Mr. Kendrick, did you feel that the civil court was
23 really the right place to deal with Mr. Kendrick?

24 A. No.

25 Q. You knew you had to name him because he was

1 the perpetrator; isn't that right?

2 A. Yes, it is.

3 Q. And where did you feel was the right place to
4 deal with Mr. Kendrick?

5 A. Criminally.

6 Q. And have you reported to the Fremont Police
7 Department that Jonathan Kendrick abused you when you
8 were a child?

9 A. Yes, I have.

10 Q. Did that matter -- well, let me ask you this:
11 Have you met with the Fremont Police Department?

12 A. I have met with both a sergeant and gave the
13 report to the sergeant, and the sergeant felt that it
14 was an adequate story or allegation to bring in an
15 investigator. And I sat down with the investigator on a
16 separate occasion.

17 Q. What do you understand is the status of that,
18 as far as you have been told?

19 A. It is a very active investigation.

20 Q. Now, there were some other terms in this
21 agreement that you made to me through Mr. Kendrick,
22 weren't there?

23 A. Yes.

24 Q. And one of them was that he would not harass,
25 molest, intimidate, contact or annoy you during any of

1 the proceedings related to this lawsuit.

2 Do you remember that term?

3 A. Yes, I do.

4 Q. Was that important to you?

5 A. That was very important to me.

6 Q. And that if Mr. Kendrick was subpoenaed by
7 either side, he should still have to come to court?

8 A. Yes.

9 Q. And not just you, but Mr. Kendrick agreed to
10 refrain from contacting and intimidating and annoying
11 and harassing the other women, witnesses in this case,
12 including Evelyn Kendrick. Correct?

13 A. Correct.

14 Q. And Andrea Becerra?

15 A. Yes.

16 Q. And Claudia Francis?

17 A. Yes.

18 Q. And your mother, Kathleen Conti?

19 A. Yes.

20 Q. And Carolyn Martinez?

21 A. Yes.

22 Q. Was that an important part of the agreement
23 to you?

24 A. That was a very important part.

25 Q. And why?

1 A. I felt that -- I'm sure that, you know, for a
2 lot of reasons, they are not as scared of him as I am,
3 but I know that for the sake of this case, for people to
4 come forward and be completely honest, that it was
5 important for them to not feel his presence.

6 Q. And lastly, you were asked about not
7 mentioning the field service in your deposition.

8 Were you asked about field service in your
9 deposition?

10 A. No, I was not.

11 Q. When you met with Dr. Williams, who was the
12 mental health examiner hired by the defendants to
13 conduct an examination, did you tell him about the field
14 service?

15 A. Yes, I did.

16 MR. SIMONS: That's all the redirect, your
17 Honor.

18 THE COURT: Okay. Mr. Schnack.

19 MR. SCHNACK: Thank you, your Honor.

20

21 CROSS-EXAMINATION

22 BY MR. SCHNACK:

23 Q. Ms. Conti, you mentioned aspects where you
24 agreed to not take any money from Mr. Kendrick no matter
25 what this jury does.

1 You said it was important that Mr. Kendrick
2 not harass these other people.

3 Was that important to you prior to
4 February 28th of 2012?

5 A. What is the significance of February?

6 Q. That's when you signed the agreement. Prior
7 to that, he supposedly could have harassed all these
8 people.

9 A. He very well could have.

10 Q. Yeah.

11 So why in late February of 2012 did that
12 become important enough to you to sign an agreement?

13 A. I felt that for this case, for people to be
14 able to testify to the truth of what happened, that if
15 his presence was here, that people might be scared or
16 intimidated by that fact.

17 Q. But the agreement says also not to show up at
18 depositions and things like that.

19 And this case was filed in early 2011, wasn't
20 it?

21 A. Yes.

22 Q. So why wasn't that important when depositions
23 were being taken? Your deposition was taken in
24 August of 2011, other depositions were taken in 2011.

25 So why wasn't that important then?

1 A. I think when this case was started, it has
2 been a fear of mine that he be around.

3 Q. But nonetheless, you have a very explicit
4 agreement not to take any money from Mr. Kendrick no
5 matter what this jury does; is that correct?

6 A. Yes. But there is more to that.

7 Q. Excuse me?

8 A. There is more to that. There was a reason
9 for that.

10 Q. And you have explained that. Correct?

11 A. Correct.

12 Q. But again, you are not going to take any
13 money from Mr. Kendrick no matter what this jury does.

14 A. No.

15 MR. SCHNACK: Nothing further, your Honor.

16 MR. McCABE: May I have just a moment, your
17 Honor.

18 I have nothing further.

19 MR. SIMONS: May we approach?

20 (Sidebar discussion)

21 THE COURT: To give the jury some context, on
22 January 12, 2012, Mr. Kendrick defaulted in attending
23 this proceeding. And I entered an order setting that
24 aside, allowing him to come forward within this
25 proceeding, on January 19, 2012. I'm telling you that

1 only to give you context, okay.

2 MR. SIMONS: Okay. Thank you, your Honor.
3 Nothing further.

4 MR. McCABE: Nothing further, your Honor.

5 MR. SCHNACK: Nothing further, your Honor.

6 THE COURT: All right. Ms. Conti, thank you
7 very much for your time.

8 MR. SIMONS: Your Honor, with the exception
9 of Dr. Lynn Ponton, who has been arranged in advance to
10 appear tomorrow morning, the Plaintiff rests.

11 THE COURT: Okay. To the jury, I'm going to
12 excuse you now. I'm going to --

13 You have a sense of this because you have
14 seen this judge at work.

15 I'm going to make another series of decisions
16 that will continue to frame the presentation to you of
17 evidentiary issues that have been presented on an
18 ongoing basis to me.

19 That will allow us, with one minor exception
20 and perhaps a little or some of both --

21 You would have one more expert tomorrow, Mr.
22 Simons, is that --

23 MR. SIMONS: Yes, your Honor.

24 THE COURT: Okay. The defense would then
25 commence the defense case. And we talked about that

1 also.

2 And please understand the context. A lot --
3 and forgetting there have been a couple interruptions in
4 this matter. But the timing of the case proceeds on a
5 day-to-day basis, and oftentimes in response to
6 decisions that I make as a jurist. I make all forms and
7 types of decisions. So this case --

8 Well, for instance, on Wednesday -- and I
9 told counsel, they are well ahead of the time schedule
10 to you, I will be very much more demonstrative late
11 tomorrow afternoon to see where we are. But the goal,
12 of course, is to get, understanding my educational
13 issue, is to allow each side to present their evidence
14 fairly within the time agreed, and to submit it to you
15 for decision, legitimately and as early as we can.

16 So I will see you tomorrow at 8:30. I will
17 take my time to listen to argument and make another
18 series of decisions, and then I will really be able to
19 assess late tomorrow afternoon where we are and what
20 time burdens will be on you.

21 But I'm going to look at you collectively in
22 the eye and tell you that we continue to be ahead of a
23 tough calendar judge's schedule, very legitimately in
24 terms of quality and collaboration of all counsel here.
25 So I will look forward to seeing you here tomorrow at

1 8:30.

2 (Break taken)

3 (Whereupon, the following proceedings
4 were heard outside the presence of jurors)

5 THE COURT: All right. Let's talk about
6 Dr. Applewhite's depo. I'm going to be as simple as
7 this judge can be.

8 There are a number of the objections, I do
9 believe go more to weight than admissibility. I am very
10 expressed about a couple of them.

11 I don't want any reference by Dr. Applewhite
12 to remain about the duty to inform nonexisting religious
13 organizations in 1993, particularly in connection with
14 how I am intending to instruct as to general civil duty.

15 So I just want you, as best, to -- I'm not
16 looking at that vision -- but her comments to say duty
17 to warn did not exist at that time. I understand what
18 she was saying, but the jury very well may not. And
19 there may be some confusion there.

20 As Opinion Number 9, privacy and
21 confidentiality considerations, most of that is okay
22 with me, except it appears she started talking about the
23 vast part of the law for a reason, dot, dot, dot.

24 Mr. Simons, what did she dot, dot, dot with,
25 relative to that?

1 "And so I recognize that it is part
2 of the code of ethics for a reason, that's
3 part of the law for a reason, and that's part
4 of what religious organizations across the
5 board talk to their leaders about."

6 I think that's the answer we --

7 MR. SCHNACK: Your Honor, we have that
8 deposition loaded if you --

9 THE COURT: I'm concerned about that sentence
10 talking about the law and now religious leaders. Okay,
11 I think that can be problematic.

12 MR. SCHNACK: Page 36, line 22 to page 37,
13 line 14, is what is referenced in Plaintiff's motion.

14 (Whereupon, video recording was played)

15 BY MR. McCABE:

16 Q. Was part of your opinion that confidentiality
17 religious organizations and other organizations that you
18 worked with, was that a good thing or bad thing?

19 A. It is not part of my opinion to say whether
20 it is a good thing or a bad thing. I just know that
21 with counseling, with social work, or therapists, with
22 religious leaders and pastoral counselors, there is a
23 trust relationship that is built, and when people need
24 to go to someone for help, they need to feel that they
25 are going to disclose information, and the person they

1 disclose to is going to be trustworthy. They are not
2 going to gossip about them, and they are not going to be
3 reckless and share information.

4 And so I recognize that that's part of the
5 codes of ethics for a reason, that is part of the law
6 for a reason, and it is part of what religious
7 organizations across the board talk to their leaders
8 about.

9 (Whereupon, video recording was stopped)

10 THE COURT: Okay. Her voice just dropped
11 down for the last part of that sentence.

12 MR. SIMONS: "What religious organizations
13 across the board talk to their leaders about."

14 THE COURT: Okay.

15 I'm inclined to strike that sentence,
16 because, particularly in this case, we have got
17 information they talked to lawyers back in New York, and
18 all sorts of stuff.

19 But it also starts to meddle with what the
20 law applies as to confidentiality. And I don't want
21 confusion with that jury as to "the law" because I'm
22 going to set forth a standard of care that they are
23 going to interpret and apply. And I don't want them to
24 have a sense that, again, that's an expert saying what
25 the law is.

1 And so is that saying to religious leaders
2 across the board, the understanding is they are
3 following the law?

4 MR. SCHNACK: So you are taking out a couple
5 sentences out?

6 THE COURT: She ran them together. I am
7 taking the sentence that started with, "That's part of
8 the law for a reason."

9 And it sounds to me like it was a full
10 sentence. And that's why religious leaders rely on --
11 you know, I couldn't tell as a matter of sentence
12 structure whether that was a one long sentence or were
13 two sentences with appropriate grammatic structure.

14 TECHNICIAN: Your Honor, do you want to hear
15 that last part one more time?

16 THE COURT: Yeah, I do.

17 (Whereupon, video recording was played)

18 A. "That was part of the code of ethics for a
19 reason, that is part of the law for a reason, and that
20 is part of what religious organizations across the board
21 talk to their leaders about."

22 (Whereupon, video recording was stopped)

23 THE COURT: Yeah, she took a pause, "that's
24 part of the law for a reason," but it is still
25 connecting notwithstanding the law, the response to what

1 religious leaders across the board for a reason is, and
2 it could be linked up because that's what the law
3 provides. But whether there are two sentences or one --
4 I don't want that in there.

5 MR. McCABE: So starting with, "That's a part
6 of the law --"

7 THE COURT: Right.

8 MR. McCABE: -- for the rest of the answer.

9 THE COURT: And those would be my ruling
10 about Dr. Applewhite.

11 MR. SIMONS: All right. So 8 is out, and 9
12 is the last sentence.

13 THE COURT: Modified as related.

14 MR. SIMONS: Okay.

15 THE COURT: And the rest of the objections
16 are overruled. I think they do, again, largely go to
17 the weight and -- I'm not privy, but I certainly will be
18 tomorrow. It is a vigorous cross-examination of
19 plaintiff's counsel vis-a-vis the nature of those
20 objections and substance.

21 MR. SIMONS: And so, your Honor, when we were
22 showing some of the videotape depositions of the health
23 care providers, counsel courteously agreed that we would
24 just edit out the objections that were in there.

25 THE COURT: I do that almost case-to-case, so

1 we have a clean tape.

2 MR. SIMONS: Yeah.

3 I preserved my objections with the motion, so
4 they can be edited out of the deposition.

5 THE COURT: Okay.

6 MR. SCHNACK: Your Honor, one final thing.
7 During his brief cross-examination of Ms. Applewhite, he
8 asked whether one of her partners in another business
9 entity had been -- faced charges of sexual harassment
10 back in the 1990s. And --

11 THE COURT: Well, to me, that shows a lawyer
12 doing his work. Thorough investigation.

13 MR. SCHNACK: I'm not sure it comes in at
14 trial, your Honor, so --

15 THE COURT: I got your drift on that. We
16 could play that. Was there any more link-up as to
17 potential bias as to the expert, other than whatever the
18 width and breadth was of a department getting sued for
19 harassment?

20 MR. SCHNACK: He just asked her if she was
21 aware that that charge had been made, and she said yes.

22 MR. SIMONS: Well, no. I asked a little bit
23 more than that.

24 MR. SCHNACK: Well, let's see it. Let's play
25 it.

1 It was at the very last part of the
2 deposition. Literally, the last paragraph.

3 THE COURT: The stinger paragraph?

4 (Whereupon, video recording was played)

5 BY MR. SIMONS:

6 Q. During that time you were sending
7 representatives off to potential clients as an
8 organization that could effectively provide certainty --

9 (Whereupon, video recording was stopped)

10 MR. SIMONS: We are talking about during the
11 time of the proceeding. So I'm already in the subject
12 matter here.

13 (Discussion off the record)

14 (Whereupon, video recording was played)

15 BY MR. SIMONS:

16 Q. Do you do business as Monica Applewhite?

17 A. I do business as Monica Applewhite, but I
18 also have a limited liability corporation called
19 Confianza.

20 Q. And before that did you have a partnership
21 called Presidium?

22 A. Yes. I was a partner in Presidium.

23 Q. And during what years were you a part in
24 Presidium?

25 A. Well, when we started the company, it was

1 called Child Safe Environments, but they kept getting us
2 mixed up with playground equipment and things of that
3 nature. So we also began working with organizations
4 that serve adults, like adults with autism. So we
5 ultimately changed the name to Presidium in 1994. And I
6 worked with Presidium as a cofounder and an owner until
7 2009.

8 Q. During the time that you were a partner, was
9 there a partner named Richard Dengel?

10 A. Yes. Richard Dengel was one of the partners
11 that I had at Presidium.

12 Q. And is it true that Presidium -- how many
13 total partners were there during the time that you and
14 Mr. Dengel were partners?

15 A. It's Dr. Dengel. But there were four of us
16 to begin with. There was Dr. Richard Dengel, Dr. Wayne
17 Duehn. And there was -- D-U-E-H-N.

18 And then there was Mr. Ted Blevins and
19 myself.

20 And we began with four partners. And Ted
21 Blevins left early on in the partnership. And then
22 Richard Dengel and I brought out the shares of the stock
23 in the company from Dr. Duehn.

24 And then it was just Dr. Dengel and I for
25 most of the time. We did the majority of the work at

1 Presidium and supervised and brought all the employees
2 and grew the company.

3 Q. And during that time, Presidium represented
4 itself to its potential clients as an organization that
5 could effectively provide services in the field of
6 prevention and education of sexual abuse and sexual
7 harassment. Correct?

8 A. It began with all forms of abuse, because we
9 dealt a great deal in the early years with physical
10 abuse as well, working in foster care and residential
11 treatment. But over time, sexual abuse became the
12 primary focus.

13 Q. And is it true that during the time you and
14 Mr. -- excuse me -- Dr. Dengel were partners, that he
15 was suspended in 1996 for a semester from his faculty
16 position at the University of Texas without pay for the
17 sexual harassment of a student?

18 A. That's my understanding.

19 Q. You knew about that at the time?

20 A. Yes.

21 Q. I don't have any other questions.

22 (Whereupon, video recording was stopped)

23 THE COURT: Any further argument?

24 MR. SIMONS: I would say, your Honor, it goes
25 to her qualifications as an expert in sexual abuse

1 prevention. She didn't know her partner was one.

2 MR. SCHNACK: The question, your Honor, dealt
3 with sexual harassment. And when he asked whether they
4 provided prevention -- prevention policies, et cetera,
5 it dealt with sex abuse, not sexual harassment. It's
6 not related to anything in the case.

7 MR. McCABE: In addition, your Honor, it was
8 at the University of Texas, and not in connection with
9 his work at the Presidium. He was suspended for a
10 semester from the University of Texas.

11 THE COURT: I got that. And I made the
12 judicious decision not to -- but that rule will stick on
13 the last two lines as to Professor Dengel. I love that
14 argument. But as to Dr. Dengel, we will leave that out.

15 Any further circumstances to deal with,
16 counsel?

17 MR. SIMONS: Not at this time.

18 MR. McCABE: Not at this time.

19 THE COURT: Be prepared. We are moving along
20 well. To the extent -- I guess -- well, and again, get
21 your case and take care of it, and at least be prepared
22 this afternoon to do jury instructions if we can.

23 Okay. Thank you, counsel.

24 (proceedings were adjourned at 2:12 p.m.)

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REPORTER'S CERTIFICATE

I, KATHRYN LLOYD, CSR No. 5955, Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witnesses were put under oath by the court clerk;

That the testimony of the witnesses, the questions propounded, and all objections and statements made at the time of the examination were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or employee of any attorney of the parties, nor financially interested in the action.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

Dated this ____ day of _____, 2012.

KATHRYN LLOYD, CSR 5955